

## NOTICE REGARDING CHILD SUPPORT REQUIREMENTS FOR VICTIMS OF DOMESTIC VIOLENCE

If you are a Temporary Assistance (TA) client and a victim of domestic violence (DV), please carefully read the following information about Child Support Enforcement (CSE) services **before** you request a waiver from the child support cooperation requirement.

1. As a TA client, you are required to cooperate with child support to establish paternity and establish, modify or enforce a child support order for any child for whom you are applying or receiving TA.
2. It is your right, however, to request a temporary waiver from child support cooperation requirements if you believe that any or all child support cooperation requirements may make it more difficult for you and your children to escape from DV or may subject you or your children further to the risk of DV.
3. You also have the right to request a “good cause exemption” if you feel that cooperating with child support will cause serious physical or emotional harm to you or your child. Good cause for non-cooperation with child support may be found to exist in the following circumstances:
  - Cooperation is expected to result in physical or emotional harm of a serious nature to the child for whom support is sought;
  - Cooperation is expected to result in physical or emotional harm of a serious nature to the parent/caretaker relative/grantee sufficient to impair the caretaker’s ability to care for the child adequately;
  - The child was conceived as a result of incest or forcible rape; or
  - Adoption of the child is pending before a court, or the caretaker is receiving pre-adoption counseling services (for up to three months after the child’s birth).
4. Cooperation with child support means providing information about yourself, your child and the non-custodial parent including name, social security number, date of birth, address and employer’s name and address. It also may mean going to court, submitting to genetic tests (where paternity needs to be established by the court) and testifying at paternity and support hearings.
5. Child support services include:
  - **Location Investigation:** CSE staff attempt to ascertain the whereabouts of the non-custodial parent through inquiries at the last known address and place of employment, and through other local efforts. Additionally, the resources of both the State and Federal Parent Locator Services (PLS) are utilized in an effort to obtain an address for the non-custodial parent. Each PLS conducts a computer match of absent parent names and social security numbers with the files of state and federal agencies. Any address developed as a result of those matches is then verified automatically through use of a computer generated postal clearance letter.
  - **Paternity Establishment:** CSE workers conduct interviews with the applicant/recipient and non-custodial parent and gather evidence, including genetic test results, which support the allegation of paternity. When paternity is contested, and a petition seeking

an order of filiation has been filed in the local family court, a LDSS or County attorney will appear in court on behalf of CSE. The applicant/recipient may or may not be required to appear in court at the time of a hearing, depending on the facts and circumstances of the case. When paternity is not contested, the procedure for obtaining paternity acknowledgments provides for an administrative process, which eliminates the need for court appearances for all parties involved. This option is made available to unwed parents beginning in the hospital with the birth of the out of wedlock child.

- **Financial Investigation:** In order to determine the extent of an individual's ability to pay support, CSE and the Support Collection Unit (SCU) staff through inquiries to employers and banks initiate local efforts. Also, a search of the files of the State Wage Reporting System (WRS) and the New Hires Reporting System (New Hires) is conducted through CSMS. The WRS file contains wage data and employer identification for all persons for whom New York State income tax is withheld by their employer. New Hires provides the name and employer of all recently hired workers in New York State. The Internal Revenue Service also provides information pertaining to an individual's assets and earnings. Wages and health insurance information are verified automatically through the use of a computer generated wage and health benefits report.
- **Support Establishment:** CSE workers file petitions with the Family Court requesting the entry of an order of support. All information regarding the non-custodial parent's ability to pay is presented to the court for use in determining the support amount in accordance with the child support standards. The non-custodial parent may be entitled to some financial information about the applicant/recipient, if he or she is employed. However, CSE or its attorney should request that any location or employer information be edited. The applicant/recipient may or may not be required to appear in court at the time of a hearing, depending on the facts and circumstances of the case. Voluntary agreements to pay support can be converted to a court order by a hearing examiner without the need for a proceeding.
- **Support Collection:** Once an order of support has been obtained, the SCU establishes an account that will reflect the amount of the support obligation and the frequency of payment required, and issues an immediate income execution if the non-custodial parent's employer is known. *The income execution process is an automated administrative process of deducting support payments from a non-custodial parent's wages or other income including unemployment insurance benefits.* The employer then deducts the support payment from the non-custodial parent's wages and remits it to the SCU. If an employer is not known, and thus an income execution not issued, a computer-produced billing statement is mailed to the non-custodial parent advising the dates and amounts that scheduled payments are due.
- **Support Enforcement:** On a daily basis, each Child Support Management System (CSMS) account is reviewed automatically by the system to determine if payment was due and if so, if it was received. When a payment is due but not made, the system automatically records the non-payment as a delinquency and maintains a delinquency balance. Appropriate enforcement action is then initiated by the CSMS to secure payment. These actions include the following:
  - Issuing income execution notices (wage withholding) to employers

- Federal and State tax refund offset
  - Unemployment Insurance Benefits intercept
  - Lottery intercept
  - Credit Reporting
  - Suspension of Driving Privileges
  - Bank account seizure
  - Referral to the State Tax Department
  - US Passport Denial
  - Intercept of Personal Injury Settlements /Workers Compensation Benefits
- **Modification:** When circumstances change, a petition may be filed by the LDSS requesting family court to modify an existing order of support. Modifications are normally sought to request an increase in the amount of support ordered payable, usually due to an increase in the non-custodial parent's income.
  - **Cost of Living Adjustment:** Child support orders which are at least two years old are eligible for review for a cost of living adjustment (COLA) based upon the annual average changes in the Consumer Price Index for Urban Consumers as published by the United States Department of Labor. COLA reviews are conducted automatically by the SCU for all eligible cases. In TANF cases COLA adjustments are made automatically, in non-TANF cases adjustments are made upon request from either party. When a COLA is warranted, the SCU issues the adjusted order to the parties and provides a copy to the court.

6. If you want child support services but are afraid, the child support program can work with you to ensure your safety and confidentiality. Child support may:

- Remove your location or employment information from petitions, notices or any required financial disclosure, subject to the approval of the court; **\*While your address can be suppressed from all forms it is not always possible to suppress the name of the county CSE or the court that issued the order.**
- Request that the court not disclose your location or employment information;
- Request that the court order for any laboratory appointments for genetic testing to establish paternity be done on separate dates; and
- File paternity and support petitions on your behalf without requiring you to appear in court with the abuser. Not call you to testify at the hearing or, if your testimony is required, request that the court make adequate provision for your safety while in court;
- Provide all of the enforcement services without your involvement; and
- Review periodically the child support order and applying the COLA automatically.

7. If you have an **existing support order** and you are being screened and assessed for DV or a full Child Support Enforcement waiver has been granted, Child Support will suspend and/or stop enforcement of the order. The Support Collection Unit will continue to process any payments it receives. Please be aware that while Child Support will stop enforcing the order if there is a full waiver, the support order

will continue to be in effect and arrears will continue to accrue. When the waiver period ends, the Child Support program, based on notification from the Domestic Violence Liaison, will proceed to collect and enforce your order, unless the waiver is extended. **It is your responsibility to contact the Domestic Violence Liaison to extend your waiver.**

8. If you **do not have an existing support order**, Child Support Enforcement will file a support petition to establish an order of support unless a full Child Support waiver is granted. If a waiver is granted, Child Support Enforcement will not file a petition to establish an order. However, once the Domestic Violence Liaison notifies Child Support Enforcement that the waiver has ended, they will proceed to establish a support order if you remain on TA.
9. **When your TA case closes**, TA staff will automatically notify Child Support of the closing. The Child Support program will automatically send you a “Continuation of Child Support Services” notice that advises you that Child Support activities will continue unless you request that services be terminated. However, if a waiver from child support cooperation is in effect when your TA case closes, you will be advised in this notice to contact the Child Support Enforcement in writing stating “Yes, I want you to begin or resume child support services”, or “No, I do not want you to begin or resume child support services”. If you do not respond to the notice within 30 days the child support program will take necessary actions to close your case unless you have arrears. Note: if your Temporary Assistance case reopens or if you are in receipt of other assistance from the department, (i.e. Medicaid, Child Care and/or Foster Care) child support enforcement activities may automatically begin. In this situation you also have the right to request a good cause exemption.

You should know that a support order would remain in effect until the court terminates it. You should also know that if there are any arrears due to the department based on the assignment of support rights, it is the department’s right to pursue collection of those arrears. If you think pursuing these arrears will put you or your children at risk, you should contact the Child Support Enforcement staff.

**Please consult your DVL regarding any questions you may have about this notice or any child support requirements.**

**Remember:**

- **The FVO is a voluntary and confidential program.**
- **It is your responsibility to contact the DV Liaison to extend a waiver.**
- **You have the right to claim good cause.**
- **If you have an existing support order and are granted a full child support waiver, arrears will continue to accrue.**
- **When a waiver ends or your TA case closes, CSE will begin collection on any arrears due to the department, including the period of the waiver. It will be your responsibility to contact child support if you think pursuing these arrears will put you or your children at risk.**