

Notice of Proposed Rule

DEPARTMENT OF REVENUE

Division of Child Support Enforcement

RULE NOS.:RULE TITLES:

- 12E-1.006 Request for Reconsideration
- 12E-1.011 Lottery Intercept
- 12E-1.012 Consumer Reporting Agencies
- 12E-1.021 Case Closure
- 12E-1.023 Suspension of Driver License; Suspension of Motor Vehicle Registration
- 12E-1.028 Garnishment by Levy
- 12E-1.032 Electronic Remittance of Support Payments
- 12E-1.036 Administrative Establishment of Paternity and Support Obligations
- 12E-1.039 Request for Services
- 12E-1.040 Intergovernmental Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12E-1.011, 12E-1.012, 12E-1.023, 12E-1.028, 12E-1.036, 12E-1.039, and 12E-1.040, F.A.C., is to incorporate current procedures related to an applicant or public assistance recipient's requirement to provide information needed for the Department to provide services. The purpose of the proposed amendments to Rules 12E-1.006, 12E-1.021, and 12E-1.032, F.A.C. is to incorporate forms and updated materials by reference.

SUMMARY: The proposed amendments to Rules 12E-1.011, 12E-1.012, 12E-1.023, 12E-1.028, 12E-1.036, 12E-1.039, and 12E-1.040, F.A.C., clarify the information required to obtain child support services from the Department and the actions that may be taken when the required information is not provided, and incorporate changes to written notices to obligors with delinquent child support to provide information on the Department's webpage dedicated to information on how an obligor can seek modification of a child support order and how to access employment services from CareerSource Florida and other organizations. The proposed amendments to Rules 12E-1.006, 12E-1.021, and 12E-1.032, F.A.C., clarify how to provide a sample for genetic testing and the sanctions for failure to cooperate; reflect the current process to request an administrative hearing for reconsideration regarding collection and distribution of child support payments; and incorporate updated forms and materials, by reference, regarding when a child support case may be closed and the electronic remittance of child support payments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences regarding rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person wishing to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 61.1354(5), 409.2557, 409.2557(3), 409.2557(3)(h), 409.2557(3)(i), 409.2557(3)(p), 409.256(17), 409.25633(9), 409.25656(11) FS.

LAW IMPLEMENTED: 24.115(4), 61.13016, 61.1354, 88.3111(2), 88.3071(1)(a), 322.058, 409.2557, 409.256, 409.2563, 409.25633, 409.25656, 409.2567 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Bobby York at (850) 617-8037.. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bobby York, Government Analyst II, Child Support Program, Department of Revenue, P.O. Box 8030, Mail Stop 2-4464, Tallahassee, Florida 32314-8030, Telephone: (850) 617-8037.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT PROGRAM
AMENDING RULES 12E-1.006, 12E-1.011, 12E-1.012, 12E-1.021, 12E-1.023, 12E-1.028, 12E-1.032, 12E-1.036,
12E-1.039, AND 12E-1.040

12E-1.006 Request for Reconsideration.

(1) No change

(2) Requests for reconsideration shall be made on the Request for Reconsideration (CS-POF4), Form CS-POF4, (<http://www.flrules.org/Gateway/reference.asp?No=Ref->), is incorporated herein by reference effective xx/xx. If the request concerns information reported by the department on a collection notice, the request for reconsideration form must be received by the department within 60 days of the mailing date of the collection notice. If the request concerns collection or distribution information not referenced on the most recent collection notice, the request for reconsideration form must be received by the department within 60 days of the date the form is provided to the recipient.

(3) and (4) No change.

(5) On request, the department will provide the recipient one free copy of case file information that directly relates to the issue being reviewed, ~~FLORIDA~~ system information that directly relates to the issue being reviewed, and a non-certified depository history if on line access and printing capability is available in the local child support enforcement office, with the exception of any information whose release is prohibited by state or federal law. Additional copies are subject to copying costs pursuant to section 119.07(1)(a), F.S.

(6) No change.

(7) A regional manager or contract equivalent must issue a final decision regarding the reconsideration within 25 days of the receipt of a complete request for reconsideration. The decision must be in writing and must include:

(a) through (d) No change.

(e) Notice of the right to request a hearing before a hearing officer regarding the reconsideration decision within ~~45~~30 days of the date of the written decision.

(8) and (9) No change.

(10) The department's reconsideration decision informs the parent or caregiver how to request an administrative hearing if they disagree with the decision. A request for an administrative hearing must be received within 45 days of the date of the reconsideration decision, which is the date it is mailed to the parent or caregiver. Hearings are conducted by the Appeal Hearings Section of the Department of Children and Families. A recipient who is dissatisfied with the reconsideration decision has the right to a fair hearing. The department's reconsideration decision shall notify the recipient of the right to request a hearing and how to request a hearing. A request for a hearing must be made within thirty (30) days of the date of the written reconsideration decision. Hearings will be held by the Office of Public Assistance Appeal Hearings of the Department of Health and Rehabilitative Services as long as they are willing to conduct such hearings for the department. Rules of the Department of Health and Rehabilitative Services for the conduct of hearings shall apply. In the event the Department of Health and Rehabilitative Services is no longer willing to conduct such hearings, requests for hearing will be referred to the

~~Division of Administrative Hearings in accordance with Chapter 120, F.S. Rules of the Division of Administrative Hearings shall govern hearings conducted by the division.~~

Rulemaking Authority 409.2558(6), FS. Law Implemented 409.2558(6) FS. History—New 1-11-76, Formerly 10C-25.04, Amended 2-18-86, 6-17-92, 7-20-94, Formerly 10C-25.004, Amended 8-19-96, _____.

12E-1.011 Lottery Intercept.

(1) through (3) No change.

(4) Notification of Intercept.

(a) The Department will notify the obligor by regular U.S. mail, that the prize money is being intercepted and will be applied to the balance of past-due support. The Notice of Intent to Deduct Lottery Winnings (CS-EF160), incorporated herein by reference, effective 07/22+1/20, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____+2331) will be sent to the address provided by the obligor to the Department of the Lottery. The obligor may request an administrative hearing as set forth in Chapter 120, F.S., to contest a mistake of fact about the amount of past-due support or the identity of the obligor.

(b) and (c) No change.

(5) No change.

Rulemaking Authority 409.2557(3) FS. Law Implemented 24.115(4) FS. History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.008, Amended 1-23-03, 9-17-18, 11-12-20, _____.

12E-1.012 Consumer Reporting Agencies.

(1) through (3) No change.

(4) Notice and Right to Hearing.

(a) Before releasing a report or providing information concerning an obligor under this section the Department shall send the obligor by regular mail to his or her last known address a Notice of Intent to Report to Consumer Reporting Agencies, Form CS-EF32, incorporated herein by reference, effective 07/22+1/20, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____+2332). The notice must inform the obligor that:

1. The Department will report the amount of overdue support to the consumer reporting agencies,

2. The Department will report an update of the overdue support amount each month,

3. Reporting overdue support to consumer reporting agencies may affect the obligor's ability to obtain credit,

4. The obligor may avoid the initial report by paying the full amount of the overdue support within 20 days after the date the notice is mailed,

5. The obligor may request the Department to enter into a written agreement that establishes a payment plan to avoid reporting the overdue support; and,

6. By requesting an informal review, the obligor may contest the information proposed to be released if the overdue support amount is incorrect or the obligor is not the individual obligated to pay support.

(b) No change.

(5) and (6) No change.

Rulemaking Authority 61.1354(5), 409.2557 FS. Law Implemented 61.1354 FS. History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.009, Amended 10-22-00, 10-30-06, 9-19-17, 11-12-20, 11-21-21, _____.

12E-1.021 Case Closure.

(1) Cases are closed in accordance with federal regulation 45 CFR 303.11, (June 9, 2020), incorporated herein by reference, effective 10-1-20 ~~under subsection 12E 1.002(1), F.A.C., of this rule with an effective date of June 1994.~~

(2) No change.

Rulemaking Authority 409.026 FS. Law Implemented 409.2561 FS. History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.018, Amended _____.

12E-1.023 Suspension of Driver License; Suspension of Motor Vehicle Registration.

(1) through (3) No change.

(4) Notice to Obligor of Intent to Suspend Driver License; Notice to Suspend Motor Vehicle Registration.

(a) In accordance with Section 61.13016(1), F.S., the Department shall send to the obligor by regular mail a Notice of Intent to Suspend Driver License and Motor Vehicle Registration(s), Form CS-EF55, incorporated herein by reference, effective 07/22+1/21, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____+13850), Notice shall be mailed to the obligor's address of record with the Department of Highway Safety and Motor Vehicles.

(b) and (c) No change.

(5) through (8) No change.

Rulemaking Authority 409.2557(3)(i) FS. Law Implemented 61.13016, 322.058 FS. History—New 7-20-94, Formerly 10C-25.020, Amended 3-6-02, 9-19-17, 3-25-20, 11-12-20, 11-21-21, _____.

12E-1.028 Garnishment by Levy.

(1) through (5) No change.

(6) Notice of Intent to Levy.

(a) The Department sends a Notice of Intent to Levy (CS-EF122) by certified mail, return receipt requested to the obligor providing notice of its intent to levy on the obligor's personal property. The Notice of Intent to Levy (CS-EF122) is incorporated herein by reference, effective 07/22+1/20, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____+12343).

(b) No change.

(7) through (14) No change.

Rulemaking Authority 409.2557(3)(i), 409.25656(11) FS. Law Implemented 409.25656 FS. History—New 4-3-02, Amended 4-16-20, 11-12-20, 11-21-21, _____.

12E-1.032 Electronic Remittance of Support Payments.

(1) through (4) No change.

(5) Procedures for Payment.

(a) through (f) No change.

(g) All ACH credit transfers must be in the NACHA Cash Concentration and Disbursement Plus "CCD+" or NACHA Corporate Trade Exchange "CTX" format containing an Accredited Standards Committee (ASC) X12 820 Payment Order/Remittance Advice Transaction Set with associated addenda record(s) for child support, in the format specified by NACHA guidelines as referenced herein. The Department uses NACHA guidelines to govern the formats and specifications for the electronic remittance of support payments and the electronic submission of associated case data, which are contained in the User Guide For Electronic Child Support Payments, Using The Child Support Application Banking Convention, Version 9.0 6-1, revised February 24, 2017 ~~October 9, 2007~~, incorporated in this rule by reference. ~~Members of the public may obtain a~~ A copy of the NACHA guidelines may be obtained at by writing to the Florida Department of Revenue, Child Support Enforcement Program, Attn: Forms Coordinator, P.O. Box 8030, Tallahassee, Florida 32314 8030, or by accessing <https://fl.smartchildsupport.com/http://www.nacha.org/>. The employer, employer's financial institution, or the employer's processor providing ACH services may contact the State Disbursement Unit at www.fl.smartchildsupport.com to determine the formats, standards, and technical requirements to implement this provision.

(h) through (i) No change.

(6) No change.

(7) Waiver From Electronic Filing Requirements. The Department is authorized to waive the requirement that an employer or employer's processor pay support and provide associated case data through electronic means, if the employer or employer's processor is issued a waiver by the Department from the requirement to electronically file tax returns under section 213.755 or 443.163, F.S. or the employer or employer's processor is unable to comply with the requirements of section 61.1824(6), F.S., and this rule.

(a) No change.

(b) The Department shall review the information submitted by the employer or employer's processor and respond in writing regarding the decision to grant or deny such waiver. The Department will use the following forms for this purpose.

1. Form CS-FM43, Electronic Remittance of Child Support Payments Waiver Approval Notice, revised February 2008, incorporated in this rule by reference. Form CS-FM43 states: that the waiver is approved for a

specific period; the Department will remind the employer of the waiver expiration date no less than sixty (60) days before it expires; and, before the current waiver expires, the employer may apply for another waiver if he or she is unable to comply with the requirements of section 61.1824(6), F.S., and this rule. The Department will use ~~the Form CS-FM48~~, Electronic Remittance of Child Support Payments Waiver Expiration Notice (Form CS-FM48), ~~revised February 2008, incorporated in this rule by reference,~~ as the reminder notice. Form CS-FM48, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____), is hereby incorporated by reference, effective xx/xx.

2. No change.

(c) through (f) No change.

Rulemaking Authority 61.1824(6), 409.2557(3)(o) FS. Law Implemented 61.1824(6) FS. History–New 5-31-07, Amended 9-18-08,_____.

12E-1.036 Administrative Establishment of Paternity and Support Obligations.

(1) through (4) No change.

(5) Obtaining Cooperation from the Mother or Caregiver.

(a) If a case is eligible for establishment of an administrative paternity order, the Department must obtain cooperation from the mother or caregiver before serving notice on the respondent. To obtain cooperation, the Department mails Form CS-OP05, Requirement to Provide Sample for Genetic Testing, hereby incorporated by reference, effective xx/xx-01/22, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____~~13856~~), by regular mail to the mother or caregiver. The CS-OP05 informs the mother or caregiver where and when to appear to provide a sample for genetic testing, and it also informs the mother or caregiver to bring the child(ren) named on the form to be tested.

(b) and (c) No change.

(6) through (21) No change.

Rulemaking Authority 409.2557(3)(p), 409.256(17), 409.25633(9) FS. Law Implemented 409.256, 409.2563, 409.25633 FS. History–New 4-5-16, Amended 9-19-17, 1-17-18, 9-17-18, 8-28-19, 11-12-20, 11-21-21,_____.

12E-1.039 Request for Services.

(1) through (5) No change.

(6) Application and Referral Review.

(a) The Department will review applications submitted by an individual who does not receive temporary cash assistance or food assistance to determine whether the application is complete.

1. No change.

2. If the application is complete, the Department will send Form CS-ES55, Response to Request for Services and/or Information Request, to the applicant informing them the application was received. When additional information is required for the Department to proceed, the CS-ES55, will instruct the applicant to provide the required information within 30 days after the date of the notice. Form CS-ES55, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____~~13869~~), is hereby incorporated by reference, effective xx/xx 12/21.

3. No change.

(b) The Department will review public assistance referrals received from the Florida Department of Children and Families to determine whether additional information or documents are required to provide services.

1. The Department will send the Information Needed to Provide Services, Form CS-ES56, to the public assistance recipient informing them a request to open a child support case was received and additional information is required for the Department to proceed. Form CS-ES56, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____~~13870~~), is hereby incorporated by reference, effective xx/xx 12/21.

2. and 3. No change.

Rulemaking Authority 409.2557(3)(h), (i) FS. Law Implemented 409.2567 FS. History–New 9-19-17, Amended 8-28-19, 11-12-20, 11-21-21,_____.

12E-1.040 Intergovernmental Forms.

(1) No change.

(2)(a) The Department uses the Information Needed to Establish a Support Order in Another State (CS-IS72) and Information Needed for Support Order Review in Another State (CS-IS75) forms to obtain information needed to prepare the General Testimony (CS-IS21) for the petitioning parent. Form CS-IS72, (effective xx/xx), (<http://www.flrules.org/Gateway/reference.asp?No=Ref->_____), is hereby incorporated by reference in this rule. Form CS-IS75, (effective xx/xx), (<http://www.flrules.org/Gateway/reference.asp?No=Ref->_____), is hereby incorporated by reference in this rule.

(b)(2) The Department uses the General Testimony (CS-IS21) form to obtain a ~~sworn~~ statement under penalty of perjury about the information and facts of the case from a person seeking establishment of paternity, support, or paternity and support in an intergovernmental case. The Department provides the CS-IS21 to the other government's child support program. Form CS-IS21, (effective 09/19/2017), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08662>), is hereby incorporated by reference in this rule. When the petitioning parent does not receive public assistance, the Department prepares the General Testimony (CS-IS21) and mails it to them for review, correction as needed, and signature. The petitioning parent must complete the form and return it to the Department within 30 days after the date the form is mailed to them. If the petitioner is receiving temporary cash assistance for the child, the Department prepares the General Testimony (CS-IS21) for the petitioner.

(c)(3) The Department uses the Declaration in Support of Establishing Parentage (CS-IS26) form to obtain a paternity affidavit from a person seeking establishment of paternity or paternity and support in an intergovernmental case. The Department provides the CS-IS26 to the other government's child support program. Form CS-IS26, (effective 09/19/2017), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08663>), is hereby incorporated by reference in this rule. The CS-IS26 is mailed to the parent for completion and signature along with Review and Sign Forms Needed to Obtain a Child Support Order (CS-IS73) and Review and Sign Forms Needed to Review a Child Support Order (CS-IS74), which provides instructions for reviewing and completing CS-IS26. The parent has 30 days from the date form CS-IS26 is mailed to them to complete it and return it to the Department. Form CS-IS73, (effective xx/xx), (<http://www.flrules.org/Gateway/reference.asp?No=Ref->_____), is hereby incorporated by reference in this rule. Form CS-IS74, (effective xx/xx), (<http://www.flrules.org/Gateway/reference.asp?No=Ref->_____), is hereby incorporated by reference in this rule.

(3)(a) If the petitioning parent returns forms CS-IS21 and CS-IS26 timely, the Department requests services from the child support agency in the state with personal jurisdiction over the responding parent.

(b) If forms CS-IS21 and CS-IS26 are not returned timely, the Department initiates case closure if the petitioning parent does not receive public assistance. If the petitioner receives Medicaid or food assistance, the Department reports noncooperation to the Department of Children and Families as required by section 409.2572 F.S., and initiates case closure.

Rulemaking Authority 409.2557 FS. Law Implemented 88.3111(2), 88.3071(1)(a), 409.2557, 409.2561 FS. History–New 9-19-17,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bobby York

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 26, 2022 and February 25, 2022