

830 CMR 18.18A.1: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

18.18A.1: Cooperation by Applicants for and Recipients of Public Assistance with Efforts by the Child Support Enforcement Division of the Department of Revenue to Establish Parentage and Establish, Modify and Enforce Child Support Orders

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(1) Statement of Purpose, Effective Date, Outline of Topics.

(a) Statement of Purpose.

1. The purpose of 830 CMR 18.18A.1 is to implement M.G.L. c. 18, § 18A, which requires the Child Support Enforcement Division of the Department of Revenue to issue determinations to the Department of Transitional Assistance as to whether applicants for or recipients of public assistance have cooperated with efforts by the Department of Revenue to establish parentage and establish, modify and enforce child support orders.

2. The goal of 830 CMR 18.18A.1 is to obtain information that will enable the Department of Revenue to identify noncustodial parents who owe a duty of support to their children and to enable the Department of Revenue to establish, modify and enforce child support orders. The Department of Revenue and the applicant for or recipient of public assistance each have a role to play in ensuring that children receive the support to which they are entitled. The role of applicants and recipients is to provide information about the identities of the noncustodial parents of their children and to cooperate with the Department of Revenue in its efforts to establish parentage and establish, modify and enforce child support orders. The role of the Department of Revenue is to conduct research based upon the information provided in an effort to identify noncustodial parents, and take action to locate noncustodial parents, establish parentage and establish, modify and enforce child support orders.

3. Establishing parentage and child support orders is essential to satisfying compelling state interests such as affording the children of the Commonwealth important benefits arising from identification of both parents. These benefits include child support, health care coverage, access to medical history, survivor's and pension benefits, inheritance, the opportunity to establish a relationship with both parents, and the opportunity to establish extended family ties. Establishing parentage and child support orders benefits the state and the custodial parent by contributing to the custodial parent's financial independence and self-sufficiency. Establishing parentage and child support orders also benefits the state by placing primary responsibility for bearing the costs of raising a child on the parents of the child.

(b) Effective Date. 830 CMR 18.18A.1 is effective July 20, 2001.

(c) Outline of Topics. 830 CMR 18.18A.1 is organized as follows:

1. Statement of Purpose, Effective Date, Outline of Topics.
2. Definitions.
3. Good Faith Effort Required.
4. Good Cause Exception.
5. Requirement of Additional Cooperation.

(2) Definitions. For purposes of 830 CMR 18.18A.1, the following terms shall have the following meanings:

Applicant. a person who has applied for public assistance, is the parent of the dependent child or children seeking to receive public assistance, and is eligible for IV-D services.

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DOR. the Department of Revenue, which is the single state agency for the Commonwealth of Massachusetts responsible for establishing parentage and establishing, modifying and enforcing child support orders pursuant to Title IV, Part D of the Social Security Act, 42 U.S.C. 651 *et seq.*, and M.G.L. c. 119A. The Child Support Enforcement Division is a division contained within DOR.

DTA. the Department of Transitional Assistance, which is the state agency for the Commonwealth of Massachusetts responsible for administering public assistance programs pursuant to Title IV, Part A of the Social Security Act, 42 U.S.C. 601 *et seq.*, and for imposing sanctions for noncooperation pursuant to M.G.L. c. 18, § 18A.

Good Cause. good cause is defined at 106 CMR 203.700 *et seq.*

Noncustodial Parent. a noncustodial parent is an individual, or the estate of a decedent, who owes or may owe a duty of support, or who is liable under a child support obligation, or who is alleged, by sworn statement, to be the parent of a child to whom a duty of support is owed. *See* M.G.L. c. 119A, § 2.

Public Assistance. Transitional Assistance to Families with Dependent Children (TAFDC) or any Transitional Assistance to Needy Families (TANF) program administered by DTA pursuant to Title IV, Part A of the Social Security Act, 42 U.S.C. § 601 *et seq.* *See* 106 CMR 203.000 *et seq.*

Recipient. a person who is currently receiving public assistance, is the parent of the dependent child or children receiving public assistance, and is eligible for IV-D services.

(3) Good Faith Effort Required.

(a) To cooperate, an applicant or recipient shall make a good faith effort as outlined in 830 CMR 18.18A.1(3). An applicant or recipient who has not provided the information specified in 830 CMR 18.18A.1(3)(b) shall be provided an opportunity to make a good faith effort by providing all the information he or she has or can reasonably obtain as required by 830 CMR 18.18A.1(3)(c).

(b) 1. An applicant or recipient shall provide to DOR a sworn statement setting forth sufficient verifiable information about the noncustodial parent for each child for whom the applicant or recipient seeks assistance. The sworn statement may be provided to DOR on a signed Client Application Child Support form (CA/CS) completed by the applicant or recipient with DTA staff or on any other form as provided by DOR.

2. Information is sufficient if it is listed in 830 CMR 18.18A.1(3)(b)2.:

a. The noncustodial parent's full name and Social Security number; or

b. The noncustodial parent's full name and at least two of the following items:

i. The noncustodial parent's date of birth,

ii. The noncustodial parent's address,

iii. The noncustodial parent's telephone number,

iv. The name and address of the noncustodial parent's employer,

v. The names of the parents of the noncustodial parent,

vi. The manufacturer, model and license (registration) number of any motor vehicle owned by the noncustodial parent; or

c. The noncustodial parent's full name and additional information which DOR determines to be reasonably equivalent to the information listed in 830 CMR 18.18A.1(3)(b)2.a. or b., because it leads to the identifiers listed in 830 CMR 18.18A.1(3)(b)2.a. or b.

3. Information is verifiable if, using reasonable efforts, DOR confirms that it is current and accurate. Reasonable efforts shall include the following, as DOR, in its sole discretion, deems appropriate: a review of databases available to DOR to follow up on information available on the databases, 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.

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(c) An applicant or recipient who has not provided the information specified in 830 CMR 18.18A.1(3)(b)2.a. or b. or reasonably equivalent information as described in 830 CMR 18.18A.1(3)(b)2.c. shall be deemed to be cooperating in good faith if he or she satisfies the requirements of 830 CMR 18.18A.1(3)(c). To satisfy the requirements of 830 CMR 18.18A.1(3)(c), an applicant or recipient must provide all of the following information that he or she has or can reasonably obtain that may lead to the identifiers listed in 830 CMR 18.18A.1(3)(b)2.a. or b.:

1. In cases in which parentage has not been established, a sworn statement on a form provided by DOR that sexual intercourse between the noncustodial parent and the applicant or recipient occurred during the probable period of conception;
 2. A statement or statements as to the identity or location of the noncustodial parent from individuals other than the applicant or recipient who have personal knowledge of such information;
 3. Records, or information as to the whereabouts of records, from law enforcement, social service, or other agencies, courts or offices regarding the identity or location of the noncustodial parent;
 4. Utility bills, parking tickets, credit card receipts or other personal records or effects that contain information regarding the identity or location of the noncustodial parent;
 5. Telephone numbers or addresses of individuals who, if contacted, may be able to provide information as to the identity or location of the noncustodial parent;
 6. Signed releases for DOR to obtain evidence to corroborate that the information provided is accurate and that all information about the noncustodial parent available to or reasonably obtainable by the applicant or recipient has been provided;
 7. A sworn statement on a form provided by DOR documenting with specificity efforts undertaken and obstacles encountered by the applicant or recipient in pursuit of information regarding the noncustodial parent, with any documentation supporting the sworn statement attached; and
 8. Any other information or documentation that may assist DOR in identifying or locating the noncustodial parent, establishing parentage or establishing, modifying or enforcing a child support order.
- (d) 1. If an applicant or recipient is uncertain as to which of two or more individuals might be the noncustodial parent of a single child, the applicant or recipient shall provide the information required by 830 CMR 18.18A.1(3) about at least one such person at the time of application or redetermination of eligibility for public assistance or upon the request of DOR.
2. If the applicant or recipient has more than one child, the applicant or recipient shall provide the information required by 830 CMR 18.18A.1(3) about at least one possible noncustodial parent for each child at the time of application or redetermination of eligibility for public assistance or upon the request of DOR.
3. If the information regarding the noncustodial parent of any child does not satisfy the requirements of 830 CMR 18.18A.1(3), or if the applicant or recipient has provided information about an individual who is found not to be a noncustodial parent by court order or genetic marker testing, the applicant or recipient shall provide information about any additional possible noncustodial parents for that child. If DOR finds that the applicant or recipient has not provided information which satisfies this section about the noncustodial parent of each child, DOR shall issue a notice to the applicant or recipient stating that the applicant or recipient may be subject to a determination of noncooperation and has 14 calendar days from the date of the notice to take specific actions consistent with 830 CMR 18.18A.1, as stated in the notice. If the applicant or recipient fails to take such specified actions within such 14 day period, DOR shall issue a determination of noncooperation to DTA and notify the applicant or recipient of the determination and the grounds therefor.

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- (e) 1. If, after making reasonable efforts to identify the noncustodial parent based on the information provided by an applicant or recipient, DOR determines that the applicant or recipient failed to provide the information specified in 830 CMR 18.18A.1(3)(b) and also failed to provide all the information he or she has or can reasonably obtain, then DOR shall determine that the applicant or recipient has failed to make a good faith effort to cooperate. If DOR determines that the applicant or recipient has failed to make a good faith effort to cooperate, DOR shall issue a notice to the applicant or recipient stating that the applicant or recipient may be subject to a determination of noncooperation and has 14 calendar days from the date of the notice to take specific actions consistent with this regulation, as stated in the notice. If the applicant or recipient fails to take such specified actions within such 14 day period, DOR shall issue a determination of noncooperation to DTA and notify the applicant or recipient of the determination and the grounds therefor. If, however, subsequent to the issuance of a determination of noncooperation, the applicant or recipient begins cooperating, DOR shall promptly issue a notice of cooperation to DTA.
2. DTA shall, upon receipt of a determination of noncooperation from DOR, impose a sanction for noncooperation in accordance with M.G.L. c. 18, §18A and 106 CMR 203.700 *et seq.*, unless the applicant or recipient claims that he or she has good cause not to cooperate, and DTA determines that the applicant or recipient has such good cause. If DTA imposes a sanction for noncooperation, DTA shall provide the applicant or recipient with an opportunity to challenge the imposition of the sanction at a hearing in accordance with 106 CMR 343.000 *et seq.* and 106 CMR 203.770.
3. Unless DOR determines that the applicant or recipient failed to provide the information specified in 830 CMR 18.18A.1(3)(b) and also failed to provide all the information he or she has or can reasonably obtain, the applicant or recipient shall be deemed by DOR to be cooperating and DOR shall not issue a notice of noncooperation to DTA. If DTA does not receive from DOR a notice of noncooperation regarding an individual applicant or recipient, DTA shall presume that such applicant or recipient is cooperating until it receives notice otherwise.
- (4) Good Cause Exception.
- (a) An applicant or recipient may claim good cause for noncooperation at any time with DTA.
- (b) DOR shall provide written notice to each applicant or recipient informing him or her of the right to claim good cause with DTA, the bases for a good cause claim and how to claim good cause with DTA.
- (c) If an applicant or recipient informs DOR of facts that may give rise to a claim of good cause not to cooperate, DOR shall suspend action on the case for 14 days to provide the applicant or recipient an opportunity to claim good cause with DTA. If the applicant or recipient claims good cause with DTA within 14 calendar days, DOR shall not initiate any further action to establish parentage or establish, modify and enforce a child support order unless DTA notifies DOR that it has made a determination that good cause not to cooperate does not exist or that good cause does exist but that DOR may proceed with child support enforcement efforts without the cooperation of the applicant or recipient. If, however, the applicant or recipient does not claim good cause with DTA within 14 calendar days, DOR may resume processing the case.
- (d) If, at any time, DOR receives notice from DTA that an applicant or recipient has claimed good cause, DOR shall not initiate any further action to establish parentage and establish, modify and enforce a child support order unless DTA notifies DOR that it has made a determination that good cause not to cooperate does not exist or that good cause does exist but that DOR may proceed with child support enforcement efforts without the cooperation of the applicant or recipient.

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(5) Requirement of Additional Cooperation.

(a) Regardless of whether an applicant or recipient has provided all of the information listed in 830 CMR 18.18A.1(3), he or she is required to continue to make a good faith effort to cooperate with DOR to establish paternity and establish, modify and enforce child support orders. Additional cooperation may include, but is not limited to, appearing for appointments to provide additional information possessed by or reasonably obtainable by the applicant or recipient, authorizing DOR to obtain pertinent information from third parties, appearing as a witness in a judicial or other proceeding, appearing for genetic marker tests and paying to DOR any support payments received after making an assignment of child support to DTA.

(b) If an applicant or recipient fails to make a good faith effort to cooperate as required by 830 CMR 18.18A.1(5), provided that the applicant or recipient has not failed to appear in court as provided in 830 CMR 18.18A.1(5)(c), DOR shall issue a notice to the applicant or recipient stating that the applicant or recipient may be subject to a determination of noncooperation and has 14 calendar days from the date of the notice to take specific actions consistent with 830 CMR 18.18A.1, as stated in the notice. If the applicant or recipient fails to take such specified actions within such 14 day period, DOR shall issue a determination of noncooperation to DTA and notify the applicant or recipient of the determination and the grounds therefor.

(c) If an applicant or recipient fails to appear in court, and such failure to appear precludes DOR from proceeding in an action to establish paternity or establish, modify or enforce a child support order, DOR shall issue a determination of noncooperation to DTA and notify the applicant or recipient of the determination and the grounds therefor. If, however, the applicant or recipient contacts DOR on or before the court date and specifies emergency circumstances that prevent the applicant or recipient from appearing in court, DOR shall not issue a determination of noncooperation, but shall proceed in court in the absence of the applicant or recipient, if possible, or reschedule the court date, if necessary. DOR may require the applicant or recipient to provide documentation about such emergency circumstances.

(d) If, subsequent to the issuance of a determination of noncooperation, the applicant or recipient begins cooperating, DOR shall promptly issue a notice of cooperation to DTA.

(e) If, subsequent to the imposition of a sanction following a determination of noncooperation, DTA notifies DOR in writing that an applicant or recipient is willing to cooperate, DOR shall, within ten calendar days of receipt by DOR of notice from DTA, issue a notice to the applicant or recipient specifying the action the applicant or recipient must take to establish or resume cooperation. If the action the applicant or recipient must take requires the applicant or recipient to appear in court, appear for genetic marker paternity tests, or appear for a meeting with DOR staff, DOR shall reschedule the court date or appointment to a date within 60 calendar days of the date DOR sends such notice to the applicant or recipient. DOR shall notify the applicant or recipient of the rescheduled court date or appointment. If the court date or appointment is not rescheduled within 60 calendar days of DOR's notice to the applicant or recipient specifying the action the applicant or recipient must take to establish or resume cooperation, DOR shall deem the recipient to have cooperated and shall issue a notice of cooperation to DTA; provided that DOR shall issue a determination of noncooperation to DTA if the recipient does not appear for the rescheduled court date or appointment.

REGULATORY AUTHORITY

830 CMR 18.18A.1: M.G.L. c. 14, § 6(1); c. 62C, § 3; c. 18, § 18A.

NON-TEXT PAGE