

Voluntary Acknowledgment of Paternity and Required Data Elements for the Paternity Establishment Affidavit

**OMB Information Collection Request
0970 - 0171**

Supporting Statement Part A - Justification

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Submitted By:
Office of Child Support Enforcement
Administration for Children and Families
U.S. Department of Health and Human Services

SUPPORTING STATEMENT A – JUSTIFICATION

This request is for an extension of an approved information collection: Voluntary Acknowledgement of Paternity and Required Data Elements for the Paternity Establishment Affidavit (OMB #0970-0171). The Office of Child Support Enforcement (OCSE) is proposing minor changes to the burden estimate as last approved in 2017.

Please note: In the past, OCSE submitted the Voluntary Acknowledgment of Paternity (OMB 0970-0175) and Required Data Elements for Paternity Establishment Affidavits (OMB 9070-0171) as separate information collection requests. Since they were both related to the voluntary acknowledgment of paternity process and processed within the same PRA timeframes, OCSE decided to consolidate and submit them as one information collection request in 2017. As such, the current information collection request is titled, Voluntary Acknowledgement of Paternity and Required Data Elements for the Paternity Establishment Affidavit (OMB #0970-0171).

1. Circumstances Making the Collection of Information Necessary

Section 331 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193) amended section 466(a)(5) of the Social Security Act (Act) to impose new statutory requirements for a voluntary paternity acknowledgment process. It requires the Secretary to promulgate regulations governing voluntary paternity establishment services and identify the types of entities other than hospitals and birth record agencies that may be allowed to offer voluntary paternity establishment services. States are required to adopt laws and procedures that are in accordance with statutory and regulatory provisions.

45 CFR 303.5(g)(2)(i)(A) requires hospitals, birth record agencies, and other entities participating in the state's voluntary paternity establishment program to provide written materials about paternity establishment to both the mother and alleged father, if he is present. Section 303.5(g)(5)(i) of the regulations requires the state to provide to all hospitals, birth record agencies, and other entities participating in the state's voluntary paternity establishment program written materials about paternity establishment.

Section 304.20(b)(2) establishes that the services and activities for which federal financial participation will be available are those pursuant to the approved title IV-D state plan which are determined by the Secretary to be necessary expenditures attributable to the Child Support Enforcement program. These necessary expenditures include the costs of developing and providing to hospitals, birth record agencies and other entities participating in the state's voluntary paternity establishment program written and audiovisual materials about paternity establishment and documents necessary to voluntarily acknowledge paternity.

Prior to the passage of PRWORA, the Omnibus Budget Reconciliation Act of 1993 required states to pass laws ensuring a simple civil process for voluntarily acknowledging paternity under which the state must provide that the rights and responsibilities of acknowledging paternity are explained. However, there was no specific requirement that these rights be explained in writing.

Section 452(a)(7) of the Act requires the Secretary of the Department of Health and Human Services to specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the Social Security Number of each parent. In addition, section 466(a)(5)(C)(iv) of the Act requires states to enact laws requiring the development and use of an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 452(a)(7) and to give full faith and credit to such an affidavit signed in any other state according to its procedures. The minimum data elements the Secretary is specifying are:

- Current full name of the mother, father, and child;
- Social Security Number of the mother and father;
- Date of birth of mother, father, and child;
- Address of the mother and father;
- Birthplace of the child (city, county, and state);
- Brief explanation of the legal significance of signing a voluntary paternity affidavit and a statement that both parents have 60 days to rescind the paternity acknowledgment affidavit;
- A clear statement signed by both parents indicating they understand that signing the paternity acknowledgment affidavit is voluntary and that they understand what their rights, responsibilities, alternatives, and consequences are;
- Signature lines for mother and father; and
- Signature lines for witnesses or notaries.

2. Purpose and Use of the Information Collection

The state-developed affidavit is to be used by hospitals, birth record agencies, and other partners participating in a state's voluntary paternity establishment program. The required data elements included on the affidavit provide information which will be used to establish child support orders and locate parents for purposes of collecting child support. There is no requirement that this information be reported in any form to the Federal government.

Entities participating in a state's voluntary paternity establishment program have been able to help parents of newborn and older children establish paternity. OCSE's FY 2019 preliminary data report indicate that there were 1,433,606 non-marital births in 2019. In that same year, there were 1,043,911 paternitys voluntarily established. This means that putative fathers voluntarily acknowledged paternity in approximately 73 percent of non-marital births.

3. Use of Improved Information Technology and Burden Reduction

The statute does not dictate the format states must use for the affidavit. The required data elements can be collected electronically or in paper form. The paternity affidavit may be transmitted electronically or in paper form, according to state policy and procedure. Note that the signature(s) of the paternity affidavit has to be witnessed.

4. Efforts to Identify Duplication and Use of Similar Information

The use of the affidavit is not duplicative. It is used to establish paternity in situations where paternity has not otherwise been determined for a child. States must ensure that their existing affidavits contain the minimum required data elements and any optional elements the state may choose. If the necessary information to inform mothers and putative fathers of their rights already exists in another format, states do not need to develop new information.

5. Impact on Small Businesses or Other Small Entities

This collection of information does not impact small businesses. The information being requested has been held to the absolute minimum required by the statute and regulations.

6. Consequences of Collecting the Information Less Frequently

The statute requires states to enact laws ensuring a simple civil process for voluntarily acknowledging paternity via an affidavit. The state must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and putative father must be given “notice, orally or through the video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity” (45 CFR 303.5(g)(2)(i)(C)). One affidavit needs to be filled out for each paternity established and the information cannot be provided any less frequently than once to each mother and putative father. The development and use of an affidavit for the voluntary acknowledgment of paternity would include the minimum requirements specified by the Secretary and to give full faith and credit to such an affidavit signed in any other state according to its procedures.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

There are no special circumstances regarding the collection of this information.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), ACF published a notice in the Federal Register announcing the agency’s intention to request an OMB review of this information collection activity. This notice was published on August 4, 2020, Volume 85, Number 150, page 47216, and provided a sixty-day period for public comment. During the notice and comment period, we received four comments (see Attachment: OCSE Pater Est Data Elements (0970-0171) - Comments to 60 day notice 2020).

ACF received comments during the initial comment period related to the establishment of parentage for children born to same sex couples. Addressing the comments on this topic may necessitate statutory changes to federal law and corresponding regulatory amendments. Since the last review of this information collection, the Uniform Law Commission has revised and approved the Uniform Parentage Act (UPA), as a result of recent case law related

to same sex families, and four states have enacted the revised act.

We are requesting approval of the current information request without making the above described change. Assessing potential statutory changes will require analysis and consultation with various stakeholders to determine if changes should be proposed. If permitted under federal law, and once more states have adopted and implemented the revised UPA, we may propose changes to the affidavit and data elements and request public comments under the Paperwork Reduction Act.

Also, there have been three adjustments made to the burden table as compared to the first *Federal Register* notice published in August 2020. First, on the row for the data elements, the “average annual burden hours per response” was erroneously listed as 54 instead of one hour. (Fortunately, the calculation in the first notice was based correctly on one hour and not 54, so the error did not affect the burden calculation.) In addition, between the publication of the first notice and the second notice, we updated the number for non-marital births, which is used in the burden calculation for paternity acknowledgment services. In the first notice we used data on the FY 2018 preliminary data (1,471,079), but we were able to update this date to the latest available on the FY 2019 preliminary data report (1,433,606). Finally, we slightly adjusted the total number of partners from the first notice of 2,693,695 to the second notice of 2,693,693 to accurately reflect the sum of all the possible partner entities. These changes have been noted in the 30-day Federal Register Notice.

9. Explanation of Any Payment or Gift to Respondents

There are no payments or gifts to respondents proposed for this collection of information.

10. Assurance of Confidentiality Provided to Respondents

State law and practice address keeping the information on the acknowledgments private to the extent permitted by law. Therefore, information collected as part of the voluntary acknowledgment of paternity or paternity establishment affidavit will have the same protections afforded by each state to other documents containing similarly sensitive and private data.

11. Justification for Sensitive Questions

The affidavit to acknowledge paternity contains several data elements related to personal information about the parents and child. These questions are asked specifically to collect information that could be used to identify and locate the noncustodial parent if that becomes necessary to collect child support at a later date.

12. Estimates of Annualized Burden Hours and Costs

To explain how we determined the burden estimate, we first describe how we determined the number of partners that participate in the voluntary acknowledgment of paternity program. Following that, we explain the burden under the four activities for this information collection

request: training, paternity acknowledgment services, the required data elements, and ordering the brochures to share with applicants.

Number of Partners:

In order to calculate the burden, we first need to determine the number of organizational partners or entities involved in paternity acknowledgment activities. Below are the types and number of possible partners:

- The American Hospital Association reports that there were 6,146 registered hospitals in 2020.
- In 2020, there were 3,141 counties in the 50 states, according to the U.S. Geological Society.
- The American Bar Association reports that there were 1,352,027 licensed lawyers in the country in 2019.
- The Federation of State Medical Boards reports that in 2018, there were 985,026 actively practicing licensed doctors in the country.
- According to the 2017 Child Care Licensing Study, there were 342,644 licensed facilities in the United States.
- We used the number of Supplementary Feeding Programs for Women, Infants and Children (WIC clinic sites) as an estimate of the number of public health clinics. According to the USDA, FNS, WIC At-A-Glance website, there are 1,900 WIC clinic sites.
- According to the National Head Start Association website, there are 2,809 Head Start Grantees.

In sum, there are approximately 2,693,693 possible partners. We estimate that 5 percent or fewer of the potential partners will provide voluntary paternity establishment services, for a total of no more than approximately 134,685 partners.

Training:

The first area of burden is training. Participating partners described above train staff to inform parents of their rights and responsibilities under the paternity acknowledgment program. Some hospitals have regularly scheduled training classes. Some states and localities have developed more elaborate training materials for hospital personnel, while other hospitals rely on informally training staff as turnover requires and use informal resources to provide the training. Based on a discussion with one of our partners, we estimate that training takes approximately one hour and is updated when the states make changes to the affidavits or processes. Given the small size of some partner locations, we assume a state will choose to invite staff from several sites to some central location for training.

Based on historical data, we estimate that staff in the partnering agencies and entities will need to be trained annually. Per partner, the average time it takes to conduct training is one hour. (The one-hour estimate for these training sessions is per entity, not per disclosure). Since there are approximately 134,685 partners providing annual training of one hour, the annual burden is 134,685 hours.

Paternity Acknowledgment Services:

The second burden area, paternity acknowledgment services, describes the process for partners to inform parents of their rights and responsibilities, provide written materials, and witness the signatures on a completed affidavit. In discussions with our state partners and providers of in-hospital voluntary paternity establishment services, we estimate that it takes approximately 10 minutes (.17 hours) to provide these services. According to OCSE’s FY 2019 Preliminary Data Report, approximately 1,433,606 children were born to an unmarried mother. Therefore, to calculate the burden for paternity acknowledgment services, we multiplied the number of non-marital births by .17 hours, resulting in 243,713 annual burden hours.

Data Elements:

The next area of burden are the data elements. The Secretary of Health and Human Services has defined one set of data elements that all 54 states are required to use. It takes one hour to create the state affidavit. This equates to 54 annual burden hours.

Ordering Brochures:

The final area of burden is the ordering of brochures about the voluntary acknowledgment program. We do not have data on the number of brochures that are ordered each year. We believe that some disclosers (large hospitals) may place orders once or twice a year for brochures, while most community-level agencies obtain free copies of these previously-produced brochures over time. To estimate the number of copies of brochures ordered, we used the total number of partners (2,693,693, as detailed above). We estimate approximately 5 minutes to order the brochures on average. This equates to 215,495 annual burden hours.

| Information Collection Title | Annual Number of Respondents | Annual Number of Responses Per Respondent | Average Annual Burden Hours Per Response | Annual Burden Hours | Average Hourly Wage | Total Annual Cost |
|---------------------------------------|------------------------------|---|--|---------------------|-------------------------------------|---------------------|
| Training | 134,685 | 1 | 1 | 134,685 | \$45.34 | \$6,106,618 |
| Paternity Acknowledgment Process | 1,433,606 | 1 | .17 | 243,713 | \$45.34 | \$11,049,947 |
| Data Elements | 54 | 1 | 1 | 54 | \$45.34 | \$2,448 |
| Brochures | 2,693,693 | 1 | .08 | 215,495 | \$45.34 | \$9,770,543 |
| Estimated Annual Burden Total: | | | | 593,947 | Estimated Annual Cost Total: | \$26,929,556 |

The cost to respondents was calculated using the Bureau of Labor Statistics (BLS) job code for Community Health Workers [21-1094] and wage data from May 2019, which is \$22.67 per hour. To account for fringe benefits and overhead the rate was multiplied by two, which is \$45.34. The estimate of annualized cost to respondents for hour burden is \$45.34 times 593,947 hours or \$26,929,557 (on the chart it is \$26,929,556 due to rounding differences). <https://www.bls.gov/oes/current/oes211093.htm>

13. Estimates of Other Total Annual Cost Burden to Respondents and Record Keepers

Another area of cost burden is the cost to the states of creating brochures about the voluntarily paternity acknowledgment program. As a conservative estimate, the number of possible partners rounded to the nearest hundred thousand is 2,700,000. We estimate that state offices provide 2,700,000 copies of the affidavit to acknowledge paternity brochure to partners at an average cost of \$.40 each, totaling \$1,080,000.

14. Annualized Cost to the Federal Government

Federal Financial Participation (FFP) is available at a rate of 66 percent to partially reimburse states for the cost of various expenditures related to child support enforcement. Sixty-six percent of \$26,929,556 (total annual burden cost) is \$17,773,507. There is also a cost of \$20 paid for each paternity established. In 2019, the number of paternities established was 1,433,606 times \$20 results in a cost of \$28,672,120. Adding these two costs together results in a total annual cost to the federal government of \$46,445,627.

15. Explanation for Program Changes or Adjustments

In the last review of this information collection in 2017, OCSE calculated the burden to be 782,003 hours annually. In this information collection, we estimate the burden to be 593,947 hours annually. This adjustment is due to several factors.

To start, since 2017, there has been an increase in the estimated number of partners involved in the voluntary paternity acknowledgment program by about 87,000 entities. This increase affects the burden in the rows for training and for brochures on the burden table.

However, this increase is offset by a change in the method of calculating the paternity acknowledgment services activity. In this request, to estimate the number of services provided, we used the number of non-marital births (approximately 1.4 million), while in the 2017 estimate we used the universe of possible entities that could provide the service (approximately 2.7 million). While using the number of non-marital births is more accurate, it is a big decrease in burden, more than offsetting the increase described in the previous paragraph.

16. Plans for Tabulation and Publication and Project Time Schedule

Not applicable.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

Not applicable because there is no Federal form.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.