

| # | Date Submitted | State / Entity |
|---|----------------|----------------|
| 1 | 7/13/2023 | Virginia |
| 2 | 7/28/2023 | Massachusetts |
| 3 | 7/28/2023 | Massachusetts |

3 7/28/2023 Massachusetts

8/8/2023 Indiana

4
8/16/2023 Colorado

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8/25/2023 Tennessee

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8/25/2023 Tennessee

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8/25/2023 Oregon

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8/25/2023 Oregon

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8/25/2023 Arizona

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8/25/2023 Arizona

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8/28/2023 Washington

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8/28/2023 Washington

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Comment

Virginia does not have any comments.

In general, we believe the current data elements properly balance between providing a well-defined voluntary acknowledgment establishment while providing information necessary to the proper performance of the child support agency.

We write to suggest that [OCSS] consider amending the current data requirements to include gender neutral terminology to provide equal access to establish legal parentage.

Diverse families represent an increasing segment of the child support agency's caseload across the country. The Massachusetts Supreme Judicial Court in *Obergefell v. Hodges*, 135 U.S. 2584 (2015) also recognized the right to same-sex marriage under the United States Constitution. In judicial action many states have expanded legal parental status to individuals in familial configurations not originally required data elements back in 1998. For example, seven states have enacted versions of the most recent Uniform Parentage Act, including Massachusetts.

While the courts provided couples with a means to define a legal relationship between each other, scientific advances have provided individuals with the means to become a parent in a multitude of ways. The biological parent may serve as a surrogate mother, with no intention of becoming a legal parent. Conversely, legal parentage may be established for a non-biological connection to the child. Recently, the Massachusetts Supreme Judicial Court strongly reaffirmed this in *J.M v. C.G.*, without a biological connection can establish paternity through the acknowledgment process. Some states and the District of Columbia allow two parents can be named legal parents. These social and scientific advances force states to examine the underlying assumptions of current practices may not adequately serve the needs of children brought into a diverse family structure. **(Con't bel**

(Con't from above)

In *Partanen v. Gallagher*, 475 Mass. 632 (2016), the Massachusetts Supreme Judicial Court was asked to determine if a biological connection to two children could establish legal parentage under the non-marital children statute, Massachusetts General Laws Chapter 263A, § 27B, if the children together for years but never formalized legal parentage through marriage, adoption, or court action. The court held that as the phrase "adjudication of paternity" was gendered and the statute provides a "means for establishing parentage" suggested that a voluntary acknowledgment of parentage process may be available to a same-sex couple to establish legal parentage if the couple had no biological relation to the children. In response, Massachusetts developed and implemented a new gender-neutral parentage form that provides equal access for same sex couples to establish legal parentage.

As the number of diverse families increase, states are faced with challenges to the traditional concept of establishing legal parentage through acknowledgment. State courts and legislatures are recognizing that a broader concept of voluntarily acknowledging parentage is in the best interests of children. Amending the data elements from the historical mother father relationship to gender neutral terminology and a voluntary acknowledgment process is inclusive of all families and will safeguard the rights of some of our most vulnerable children.

In Indiana, you can prove paternity by either DNA testing or Paternity Affidavit. In Indiana, both are considered conclusive. Paternity affidavits are often unexplained at the hospitals, or people want to establish, knowing the father is not (or may not be) the biological father. Because paternity is not to be a “rebuttable” presumption, it should not be conclusive.

Otherwise, paternity affidavits work well in the state.

We suggest OCSS take this opportunity to recommend updating the language used in the current data requirements to support all families to have equal access to secure legal parentage. The GLBTQ Legal Advocates & Defenders (GLAD) states that states that have already expanded the types of parentage that may be established through voluntary acknowledgment of parentage. Colorado updated our regulations, Voluntary Acknowledgement of Parentage (AOP), and AOP manual accordingly. This update is in the spirit of equity in the Uniform Parentage Act of 2017 and lends support to the states yet to adopt it.

- The Department specifically submits comments on the below optional data elements seen below:
 1. Daytime phone number
Response: Not necessary.
 2. Birthplace – mother and father
Response: Yes, it is necessary and practical.
 3. Hospital of Birth
Response: Not necessary.
 4. Gender of Child
Response: Not necessary. Gender is determined by the individual. The sex of the child at the time of birth is important.
 5. Father’s Employer
Response: Not necessary.
 6. Ethnicity of Father
Response: Not necessary.
 7. Medical Insurance
Response: Not necessary. **(Con't below.)**

(con't from above)

8. Maiden Name of Mother

Response: Not necessary.

9. Place Where Acknowledgment or Affidavit was Completed

Response: Not necessary.

10. Offer of Name Change

Response: Yes, this is helpful for the parents. However, this would require a date range for use of the VAO P for sp

11. Minors: Signature Line for Guardian Ad Litem or Legal Guardian

Response: Yes, it is necessary and practical.

12. Three-Way Signature Offered on Form

Response: Yes, it is necessary and practical.

13. An advisory to parents that they may wish to seek legal counsel or obtain a genetic test before signing.

Response: Not necessary.

14. A statement concerning the custody status of the child vis-à-vis State law

Response: Not necessary.

In general, we believe the current data elements properly balance a well-defined voluntary acknowledgment procedure with the need for appropriately collecting information child support programs and partner agencies use in our daily work.

We suggest OCSS take this opportunity to update the language used in the current data requirements to include gender-neutral language providing all families equal access to securing legal parentage.

In 2017, the Supreme Court held that a state may not deny married same-sex couples' inclusion on their children's birth records over opposite-sex couples. *Pavan v. Smith*, 137 S. Ct. 2075 (2017). For years, voluntary acknowledgments of paternity have been available to a biological parent. Amending the current data requirements to include gender-neutral language eases the way for states to expand birth records to include OCSS's support for providing services to diverse families is demonstrated in PIQ-22-02. The PIQ highlighted that states can support same-sex parents by adopting voluntary acknowledgments of parentage that are gender neutral. The GLBTQ Legal Advocacy Institute states that have already expanded the types of parentage that may be established through voluntary acknowledgment. Updating language at the federal level aligns with recommendations from the Uniform Parentage Act of 2017 and legal precedents. As the number of diverse families increases, states are faced with challenges to the traditional concept of establishing legal parentage through acknowledgment. State courts and legislatures are recognizing that a broader concept of voluntarily acknowledging parentage serves the interests of children. Amending the data elements from the historical mother-father relationship to gender-neutral language in the acknowledgment process is inclusive of all families and will safeguard the rights of some of our most vulnerable children. This, in turn, makes child support services more accessible.

1. Request that Daytime Phone number and Hospital of Birth for the child be moved to mandatory fields, not optional.

2. Would like to see the daytime phone number and Hospital of Birth (child) as a required field.

Comments on whether the proposed collection of information is necessary for the proper performance of the function and whether the information shall have practical utility

1. Yes.

2. The proposed collections of information assists the state of AZs HPP team with making sure that Birth's are proper and complete as possible. This in turn assists DCSS by having the best information available if one of the parents files for

Comments on the accuracy of the OCSS estimate of the burden of the proposed collection of information.

1. In the state of AZ we have shown that by having a dedicated team work with the Bureau of Vital Records to have accurate information and by obtaining accurate information at birth has lead to ease of the Child Support Application Process. Where one the other hand is spending less time when a child support case needs to be opened because there is no need to wait quicker with less back and forth.

Comments on the quality, utility, and clarity of the information to be collected.

1. In AZ we work with the Bureau of Vital Records to train hospital birth recorders and midwives on what needs to be done for the Acknowledgement of Paternity. We have a dedicated team phone number and email address that is provided to them so there are questions they can be answered quickly.

2. The info needs to be clear and complete to process the affidavit.

Comments on ways to minimize the burden of the collection of information on respondents, including through the use of electronic forms of information technology.

1. The suggestion is fine, but the information they8/28/ want to automate needs to be necessary and complete to file for

2. I don't see this as a burden. We have a solid process in AZ that creates ease for Child Support case managers when they process more cases in less time.

The State of Washington believes that these forms and the corresponding data elements meet our needs to provide child support services to the families we serve. We strongly support the proposal in the Federal Register.

We are taking this opportunity to encourage the Office of Child Support Services (OCSS) to use gender-neutral language throughout OCSS rules and guidance whenever possible.

Under the leadership of Governor Jay Inslee and DSHS Secretary Jilma Meneses, we are working every day to be more inclusive and important work. I see firsthand how this work is benefitting our clients and the communities we serve. I know you

This is why I am especially proud of our state taking a leadership role in the adoption of the Uniform Parentage Act. We have reformed outdated language with more appropriate, gender-neutral language. It also ensured that our state's voluntary acknowledgment process is available to all parents. Washington is one of 11 states to adopt these changes and we look forward to more states

As focus on diverse families continues to grow, strong leadership at the federal level makes a huge difference for these efforts. Adopting gender-neutral language in the data elements at the federal level will also ensure that the process is inclusive of all families. Some of our most vulnerable children will have their rights protected through this change. A voluntary acknowledgment process. This will make child support services more effective and accessible for everyone

OCSS Response

Thank you for your comment.

Thank you for your comment.

The commenter discusses new developments in federal and state law related to equal access to same-sex marriage and parentage establishment, including that several states have adopted the Uniform Parentage Act and other states have pending legislation on this act. Along with MA, three other states (CO, OR, and WA) suggested OCSS revise the data elements to include gender-neutral terminology.

In response, OCSS notes that current OCSS policy guidance, PIQ-22-02, Same-Sex Parents and Child Support Program Requirements, clarifies that states are not precluded from adopting their own gender-neutral acknowledgment process: "States may adopt a single set of gender-neutral voluntary acknowledgment or parentage provisions consistent with title IV-D, including a gender-neutral acknowledgment process and forms, provided such provisions, process and forms also encompass the voluntary paternity acknowledgment procedures under title IV-D." Due to this policy flexibility and that OCSS has upcoming proposed regulatory activity on the topic of parentage in child support, we conclude it is not necessary or timely to make changes to the terminology during this 3 year review of the data elements. In addition, all the commenters who responded to this PRA request for comments noted that the current data elements are generally an effective part of the voluntary acknowledgment process.

Action: No Change

n/a

Response: Thank you for your comments about voluntary paternity establishment where an acknowledgment may be "unexplained at the hospital." Under 45 CFR 303.5(g), the state must establish a voluntary paternity establishment program where both the mother and alleged father are informed of the "alternatives to, the legal consequences of, and the rights...and responsibilities of acknowledging paternity." This issue is separate from, and does not affect, the data elements themselves.
Action: No change.

See response to item 3 above.

The commenter indicated that the following optional data elements are necessary: Birthplace - mother and father, Minors: Signature Line for Guardian Ad Litem or Legal Guardian, and Three-Way Signature Offered on Form. The commenter suggested the "Offer of Name Change" would also be helpful for parents if there was also a data range. Since these elements are optional, the state may use elements that are necessary to their process.
Action: No change.

n/a

Thank you for your comment.

See response to item 3 above.

Since the elements are optional, the state may use elements that are necessary to their process.
Action: No change.

Thank you for your comment.

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See response to item 3 above.