

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 18: Confidentiality and Security</b>	<b>Effective Date: 10/31/2022</b>
	<b>Section 2: Confidentiality as it Relates to the Title IV-D Program</b>	<b>Version: 1.1 Revision Date: 10/31/2022</b>

**BACKGROUND**

N/A

**POLICY**

1. General Rules of Confidentiality

All information in Title IV-D files and Title IV-D cases in the statewide child support system is confidential.

The Title IV-D program (the Title IV-D program is collectively comprised of the Child Support Bureau (CSB), Title IV-D Prosecutor’s Office, and Clerk of Courts) shall observe safeguards for protecting confidential information, with the minimum standard for the safeguards being the federal regulations governing the safeguarding of information.<sup>1</sup>

Federal law requires the Title IV-D program have in effect safeguards against unauthorized use or disclosure of information relating to proceedings to establish paternity, or establish, modify, or enforce a child support order.<sup>2</sup> This includes, but is not limited to:

- a. Having procedures for determining, in a case where the family violence indicator (FVI) has been entered, whether disclosure of information concerning a party or child(ren) could be harmful to the party or child(ren);<sup>3</sup>
- b. Prohibitions against the release of information on the location of a party or child(ren) to another party against whom a protective order has been entered;<sup>4</sup> and
- c. Prohibitions against the release of information on the location of a party or child(ren) to another party if the Title IV-D program has reason to believe the release of information may result in physical or emotional harm to the party or child(ren).<sup>5</sup>

2. Exceptions to Rules Against Disclosing Confidential Information

<sup>1</sup> IC 31-25-4-21(a); 45 C.F.R. § 303.21(b)

<sup>2</sup> 42 U.S.C. § 654(26)(A)

<sup>3</sup> 42 U.S.C. § 654(26)(E); 45 C.F.R. § 303.21(e)

<sup>4</sup> 42 U.S.C. § 654(26)(B)

<sup>5</sup> 42 U.S.C. § 654(26)(C)

The general rule is that the Title IV-D program may not disclose any confidential information, obtained in connection with performance of Title IV-D functions, to anyone or any agency that is not engaged in a Title IV-D function.<sup>6</sup> However, the Title IV-D program may release confidential information in the following instances:

- a. Upon request, confidential information may be disclosed to other State agencies to assist them in carrying out their duties under Titles IV, XIX, or XXI of the Social Security Act and the Supplemental Nutrition Assistance Program (SNAP) including:<sup>7</sup>
  - i. Any investigation, or criminal or civil proceeding conducted in connection with the administration of the program;<sup>8</sup> and
  - ii. Information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child which indicate a child's health or welfare is threatened.<sup>9</sup>
- b. Upon request, confidential information in the State Directory of New Hires (SDNH) may be disclosed for purposes of income and eligibility verification.<sup>10</sup>

Disclosures to these agencies shall not include confidential information from the Federal Parent Locator Service (FPLS), which includes the National Directory of New Hires (NDNH) and the Federal Case Registry (FCR), or the Internal Revenue Service (IRS) unless the information is also obtained and verified through a second source, also known as independently verified.<sup>11</sup>

No financial institution data match (FIDM) information may be disclosed outside of the Title IV-D program.<sup>12</sup>

### 3. Disclosing Information to Parties of the Case

The Title IV-D Prosecutor's Office may release confidential information to a party to the case, or the party's attorney, pursuant to a court order. The Title IV-D Prosecutor's Office may choose to appeal the order if it wishes to do so.

The Title IV-D Prosecutor's Office or Clerk of Court may release confidential information to a party to the case, or to the party's attorney, outside of the formal discovery process, and that information pertains specifically to that party.

For example, the Title IV-D Prosecutor's Office may tell the non-custodial parent's (NCP's) attorney the name and address of the NCP's employer to whom an income withholding order was sent but cannot tell the custodial party (CP) or the CP's attorney that information.

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<sup>6</sup> 45 C.F.R. § 303.21(c)

<sup>7</sup> Title IV includes Title IV-A Temporary Assistance for Needy Families (TANF), Title IV-D Child Support, and Title IV-E Foster Care. Title XIX includes Medicaid. Title XXI includes the State Children's Health Insurance Program (CHIP).

<sup>8</sup> 45 C.F.R. § 303.21(d)(1)(i)

<sup>9</sup> 45 C.F.R. § 303.21(d)(1)(ii)

<sup>10</sup> 45 C.F.R. § 303.21(d)(2)

<sup>11</sup> IC 31-25-4-21(b); 45 C.F.R. § 303.21(d)(3)

<sup>12</sup> 45 C.F.R. § 303.21(d)(3)

Certain FTI regarding the NCP's tax offset may be disclosed to the CP. For further information, see FAQ number 1 below.

A party may serve a discovery request on the Title IV-D Prosecutor's Office for information in the Title IV-D file.<sup>13</sup> The Title IV-D Prosecutor's Office shall comply with the discovery request to the extent of all applicable Indiana Trial Rules and Rules of Professional Conduct.

Additionally, local court rules may require parties exchange certain information. The Title IV-D Prosecutor's Office may encounter this situation when establishing or modifying a child support order and the parties are providing pay stubs. In situations such as this, the Title IV-D Prosecutor's Office is strongly encouraged to remind the parties that it does not represent either party, but is also a party to the case, and that it may be required to exchange the documentation with the other party. Care should be taken that only the necessary information is exchanged and all other confidential information, such as addresses or Social Security numbers, is redacted.

In the absence of a court order, discovery request, or court rule, if the Title IV-D Prosecutor's Office believes that the exchange of confidential information between the parties is necessary, the Title IV-D Prosecutor's Office may ask each party to give the information directly to the other party. The Title IV-D Prosecutor's Office may not provide the information directly to the other party without express consent of the party to whom the information belongs.

#### 4. Safeguarding Confidential Information

The Title IV-D program shall have safeguards in effect concerning the integrity, accuracy, completeness of, access to, and use of data in the statewide child support system.<sup>14</sup>

These safeguards shall include:

- a. Written policies concerning access and sharing data;<sup>15</sup>
- b. Access controls, such as passwords or blocking certain fields, to ensure adherence to written policies;<sup>16</sup>
- c. Routine monitoring, such as audit trails and feedback mechanisms, of access to and use of the statewide child support system to guard against and promptly identify unauthorized access or use;<sup>17</sup>
- d. Procedures to ensure all personnel with access to confidential data are informed of applicable requirements and penalties and are trained in security procedures;<sup>18</sup> and

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<sup>13</sup> Ind. Trial Rule 26

<sup>14</sup> 42 U.S.C. § 654a(d); 45 C.F.R. § 307.13(a)

<sup>15</sup> 42 U.S.C. § 654a(d)(1)

<sup>16</sup> 42 U.S.C. § 654a(d)(2)

<sup>17</sup> 42 U.S.C. § 654a(d)(3); 45 C.F.R. § 307.13(b)

<sup>18</sup> 42 U.S.C. § 654a(d)(4); 45 C.F.R. § 307.13(c)

- e. Administrative penalties, including dismissal from employment, for unauthorized access to, or disclosure or use of, confidential data.<sup>19</sup>

The written policies shall include:

- a. Access to and use of data is only permitted to the extent necessary to carry out Title IV-D functions;<sup>20</sup>
- b. The personnel permitted access to such data;<sup>21</sup> and
- c. The policies and procedures which relate to the security background check.<sup>22</sup>

## REFERENCES

- [IC 31-25-4-21](#): Confidential information; safeguards; necessary disclosures
- [Ind. Rules of Trial Procedure Rule 26](#): General provisions governing discovery
- [42 U.S.C. § 654](#): State plan for child and spousal support
- [42 U.S.C. § 654a](#): Automated data processing
- [45 C.F.R. § 303.21](#): Safeguarding and disclosure of confidential information
- [45 C.F.R. § 307.13](#): Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997
- [IRS Publication 1075](#): Tax Information Security Guidelines for Federal, State and Local Agencies: Safeguards for Protecting Federal Tax Returns and Return Information
- [IRS Use of Federal Tax Information \(FTI\) for Child Support Enforcement Purposes - Matrix](#)

## PROCEDURE

N/A

## FORMS AND TOOLS

N/A

## FREQUENTLY ASKED QUESTIONS

1. Q. What information about a federal tax offset payment may the Title IV-D Prosecutor's Office, the Clerk of Courts, or CSB give a party to the case?
  - A. The Title IV-D Prosecutor's Office, Clerk of Courts, or CSB may disclose to either party or the party's attorney:
    1. The date of the payment;
    2. The amount of the payment;
    3. The source of the payment;

<sup>19</sup> 42 U.S.C. § 654a(d)(5)

<sup>20</sup> 42 U.S.C. § 654a(d)(1)(A)

<sup>21</sup> 42 U.S.C. § 654a(d)(1)(B)

<sup>22</sup> Publication 1075, Section 2.C.3

4. That the payment may be held up to six (6) months; and
5. The date that the payment was disbursed.<sup>23</sup>

The Title IV-D Prosecutor's Office, Clerk of Courts, or CSB may disclose information about the payment to the CP only after the payment is received by the Title IV-D agency.<sup>24</sup> The Title IV-D Prosecutor's Office, Clerk of Courts, or CSB may disclose to the CP that the payment is being held, but not why the payment is being held other than that the payment is subject to federal distribution rules and may be subject to adjustment.<sup>25</sup>

The Title IV-D Prosecutor's Office, Clerk of Courts, or CSB may discuss any FTI of the NCP with the NCP.<sup>26</sup>

2. Q. May the Title IV-D Prosecutor's Office release confidential information to the criminal division of the prosecutor's office?
  - A. The answer to this question depends on the purpose for which the information is given to the criminal division of the prosecutor's office.

If the purpose for providing the confidential information is to investigate or prosecute a case within the scope of Title IV-A TANF, Title IV-D Child Support, Title IV-E Foster Care, Medicaid, State Children's Health Insurance Program (CHIP), or SNAP, then, yes, the information may be provided. Any information provided is to be limited to the extent of the information needed for the investigation.

An example of when the information may be provided is when the Title IV-D Prosecutor's Office would like to refer a case to the criminal division of the prosecutor's office for a criminal non-support case. Additionally, the Title IV-D Prosecutor's Office may disclose information to the criminal division of the prosecutor's office, only to the extent necessary, to report a crime that is discovered in the ordinary course of the child support case.

If the purpose for providing the confidential information is for any other reason, then disclosing the information to the criminal division of the prosecutor's office is prohibited absent a court order to disclose the confidential information.

## RELATED INFORMATION

1. For the most current information on FTI safeguards, see the Internal Revenue Service's website [www.irs.gov/privacy-disclosure/safeguards-program](http://www.irs.gov/privacy-disclosure/safeguards-program).

## REVISION HISTORY

<sup>23</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes - Matrix

<sup>24</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes - Matrix

<sup>25</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes - Matrix

<sup>26</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes - Matrix

<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	05/08/2019	Final approved version
Version 1.1	12/02/2019	Added or revised FAQs to take into account IRS matrix which allows certain tax offset information to be provided to the custodial party
Version 1.1	10/31/2022	Updated hyperlinks; Reviewed for consistency; Renumbered section; Updated Publication 1075 information