



Christopher C. Harding
Commissioner

Michele A. Cristello
Deputy Commissioner

The Commonwealth of Massachusetts
Department of Revenue
Child Support Enforcement Division
P.O. Box 9561
Boston, MA 02114-9561

August 15, 2019

Submitted via Email to ocse.dpt@acf.hhs.gov

Office of Child Support Enforcement
Administration for Children and Families
Department of Health and Human Services
OMB #0970-0085

RE: Proposed Information Collection Activity; 45 CFR 303.7—Provision of Services in
Intergovernmental IV-D; Federally Approved Forms (OMB #0970-0085)
Federal Register Vol. 84, No. 117, page 28304 (June 18, 2019)

Dear Sir or Madam:

The Child Support Enforcement Division of the Massachusetts Department of Revenue (DOR) submits these comments on the Proposed Information Collection Activity establishing new federally approved forms published at 84 Fed. Reg. 28304 on June 18, 2019. While we agree that most of the changes are technical, the proposed change to Section V of the Declaration in Support of Establishing Parentage to allow an agency or tribunal representative to sign the form is a substantive change which will result in the Declaration being legally insufficient as a basis for obtaining an order for genetic marker testing (GMT) or establishing paternity in Massachusetts. Additionally, while not a proposed change, DOR would like to point out a privacy concern with the Letter of Transmittal Requesting Registration.

Revision to Signature Section of Declaration in Support of Establishing Parentage

The proposed change to allow an agency or tribunal representative to sign the Declaration in Support of Establishing Parentage will prevent the responding agency from using the Declaration as the basis for establishing paternity. The stated intention of the change is to bring the Declaration in line with the General Testimony form, but the Declaration requires information that an agency or tribunal representative would have no personal knowledge of and, therefore, could not attest to.

Federal law requires states to have statutes setting out the process for establishing paternity; among the requirements each state must include in its statute is a provision for genetic marker testing. The GMT must be based on a sworn statement by a party setting out the requisite sexual contact between the parties. 42 U.S.C. § 666(a)(5). As mandated, Massachusetts law requires “[a]n affidavit by the mother or the putative father alleging that sexual intercourse between the mother and the putative father occurred during the probable period of conception” for a court to order GMT.

M.G.L. c. 209C, § 17. A similar affidavit is required for DOR to issue an administrative GMT order. M.G.L. c. 119A, § 3A.

Massachusetts courts are strict on what evidence is sufficient to obtain a GMT order and will not issue such an order without the required affidavit or testimony from the mother or putative father. On occasions where the parties submitted to GMT voluntarily, courts have declined to admit the test results into evidence without the affidavit or testimony to serve as a foundation.

Allowing an agency or tribunal representative to sign the Declaration will only create unnecessary delay and additional work for the responding state. The representative would not have personal knowledge of facts sufficient to serve as the basis for GMT or establishing paternity. Instead of being able to rely on the Declaration, the responding state would need to contact the initiating state to obtain an affidavit that meets the legal requirements for GMT.

For these reasons, we suggest that the signature line for an agency or tribunal representative not be added to the Declaration in Support of Establishing Parentage.

Section III of the Letter of Transmittal Requesting Registration

While not a proposed change, DOR would like to raise our privacy and data security concerns with having a data field for the obligor's Social Security number in Section III of the Letter of Transmittal Requesting Registration. Any IV-D case will provide this information as part of the Child Support Agency Confidential Information Form. DOR is unaware of the added benefit of requiring the field in the Letter of Transmittal and is concerned that it may result in inadvertent disclosure. Given that it is in an easily-overlooked place, the data field invites human error and unintentional disclosure—particularly as every state has different and potentially incompatible redaction rules.

For this reason, we recommend that OSCE consider removing the obligor's Social Security number in Section III of the Letter of Transmittal Requesting Registration.

Conclusion

Thank you for your consideration of our comments. If you have any questions or need further information, please contact Dolores O'Neill at (617) 626-4208 or via email oneilld@dor.state.ma.us.

Sincerely,

A handwritten signature in cursive script, reading "Michele Cristello".

Michele Cristello
Deputy Commissioner