

i. A certification documenting unsuccessful efforts to locate a party shall be documented and provided to the court when appropriate before any adverse action is taken based on failure of the party to respond to a notice.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a)2, inserted "by regular mail" following "notice" in the introductory paragraph, and substituted "documented and provided to the court when appropriate" for "provided to the court" following "shall be" in i.

10:110-10.3 Diligent efforts to serve process in establishment and enforcement actions

Diligent efforts to serve process in establishment and enforcement actions means making inquiries that may include, but are not limited to, the U.S. Postal Service, the Motor Vehicle Commission, the Department of Labor and Workforce Development, the Department of Corrections, and the Division of Taxation in the Department of the Treasury, to obtain adequate identifying information and other information to attempt service of process or the periodic repeating of service of process attempts, in cases in which previous attempts to serve process have failed.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

Amended by R.2009 d.135, effective April 20, 2009.
See: 40 N.J.R. 5501(a), 41 N.J.R. 1861(a).

Substituted "Motor Vehicle Commission" for "Division of Motor Vehicles in the Department of Transportation"; and inserted "and Workforce Development".

SUBCHAPTER 11. LOCATION

10:110-11.1 General location statement

(a) Within no more than 75 calendar days of the determination that location is necessary, all appropriate location sources shall be accessed in an attempt to locate non-custodial parents or alleged fathers and/or their assets.

1. In these location investigations:

i. All appropriate local, State, and Federal resources available shall be utilized in accordance with 45 CFR 303.3(b);

ii. Location efforts in intergovernmental cases (cases in which one party does not live in New Jersey) shall be coordinated; and

iii. Cases, when appropriate, shall be referred to the Federal Parent Locator Service (FPLS).

2. Where adequate identifying information exists but location attempts have failed, repeat location attempts shall be made quarterly or immediately upon receipt of new information which may aid in the location, whichever occurs sooner. Quarterly attempts shall be limited to auto-

mated sources that shall include State employment security files.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "all appropriate location sources shall be accessed in an attempt" for "investigations shall be conducted" following "necessary," in the introductory paragraph.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), inserted "in accordance with 45 C.F.R. 303.3(b)" in li and rewrote 2.

Amended by R.2012 d.144, effective August 6, 2012.
See: 44 N.J.R. 334(a), 44 N.J.R. 2057(b).

In (a)li, inserted a comma following "State" and substituted "CFR" for "C.F.R."; and in (a)lii, substituted "intergovernmental" for "interstate".

10:110-11.2 Location sources

(a) In accordance with 42 U.S.C. § 653A(b)(1), a New Hires Directory shall be maintained. All employers and labor organizations doing business in the State shall report to the Department or its designee:

1. The hiring of, or contracting with, any person who works in this State and to whom the employer anticipates paying earnings, including contractors and independent contractors as defined herein; and

2. The re-hiring or return to work of any employee, contractor and/or independent contractor of the employer who is laid off, furloughed, separated, granted a leave without pay, or terminated from employment in this State.

(b) Information in (a) above shall be reported within 15 days of the hiring, re-hiring, or return to work of the employee, contractor or independent contractor, if the employer reports electronically or magnetically, and 20 days if the employer utilizes another form of reporting.

(c) The report in (a) above shall contain:

1. The employee's, contractor's or independent contractor's name; address; Social Security number; date of hire for employees or the date of service for either type of contractor; and date of birth; and indicate which of the following Federal Forms the employer completes for the individual:

i. The Federal Form (W-4) for an employee; or

ii. The Federal Form (1099 "Miscellaneous") for contractors or independent contractors providing a service when the payment for service is \$600.00 or greater; and the contractor's/independent contractor's Federal tax identification number; and

2. The employer's name, address, the state of hire or the state of contract, and employer's Federal tax identification number (FEIN).

i. In the event the reported address of the employer is different than the payroll address needed for wage

withholding purposes, both addresses should be submitted by the employer.

(d) An employer, who fails to report as required, shall be given a written warning of non-compliance by the Department for the first violation and shall be subject to a civil penalty:

1. Which shall not exceed \$25.00 per violation; or

2. If the failure to report is the result of a conspiracy between the employer and employee, contractor, or independent contractor to not supply the required report or to supply a false and incomplete report, the employer shall be subject to a civil penalty which shall not exceed \$500.00.

(e) Payment of the penalty shall be waived if, in response to the imposition of the penalty, the person or entity complies with the reporting requirement.

(f) No civil penalty shall be imposed upon an employer or labor organization who reports the hiring of, or contracting with, the re-hiring or return to work of any employee, contractor or independent contractor consistent with the Federal requirements which include, the employee's, contractor's or independent contractor's name, address and Social Security number; and the employer's name address and Federal tax identification number, when the employee's, contractor's or independent contractor's date of birth is unavailable to the employer or labor organization.

(g) All penalties assessed under this section shall be paid to the State Treasurer and may be recovered in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

(h) New hire information may be disclosed to:

1. The National Directory of New Hires;

2. Agencies responsible for the administration of a program under Title IV-A, Title XIX, Title I, Title XIV or Title XVI;

3. The agency responsible for administration of the NJ SNAP program; and

4. The agency operating the unemployment insurance benefit and workers' compensation programs.

(i) Any employer or labor organization doing business in this State who has employees (including contractors and independent contractors) who are employed in two or more states, and has designated a state other than this State for reporting new hire information, in accordance with 42 U.S.C. § 453A, shall be deemed in compliance with P.L. 1998, c.1.

(j) The State Parent Locator Service (SPLS) shall be established to perform parent locator services.

(k) Through the automated child support system, location referrals to the Federal Parent Locator Service (FPLS) shall be submitted electronically.

1. Submission of the FPLS referrals, and the distribution, security and use of the returned information shall be in accordance with Federal requirements contained in 45 C.F.R. 303.70, with instructions issued by the Federal Office of Child Support Enforcement, and in accordance with N.J.A.C. 10:110-1.

2. FPLS requests made by an individual meeting the criteria of an authorized person in non-IV-D locate-only cases referenced at N.J.A.C. 10:110-3.2(f) 2 and (g)1 is limited by 42 U.S.C. § 653. No information shall be disclosed to any person for the reasons of domestic violence, confidentiality of census data, or when disclosure would contravene national policy or the security interests of the United States, in accordance with 42 U.S.C. § 653.

(l) In accordance with N.J.A.C. 10:110-1.7, the OCSS shall have access, including automated access when feasible, to the following resources, if appropriate, for child support enforcement purposes:

1. Records of other state and local government agencies including, but not limited to:

i. Bureau of Vital Statistics in the Department of Health and Senior Services;

ii. Division of Taxation in the Department of the Treasury;

iii. Records concerning real and titled property;

iv. Records of occupational, professional, recreational and sporting licenses;

v. Records concerning the ownership and control of corporations, partnerships, and other business entities;

vi. Records of the Department of Labor and Workforce Development;

vii. Records of agencies administering public assistance programs;

viii. Records of the Motor Vehicle Commission;

ix. Records of the Department of Corrections, including records relating to State-sentenced inmates and parolees; and

2. Records held by private entities, including information on the assets and liabilities of individuals held by financial institutions and the names and addresses of individuals and the names and addresses of the employers of the individual appearing in customer records of public utilities and cable television companies in accordance with N.J.A.C. 10:110-5.2.

(m) Personal sources, such as the relatives, friends, employers and landlords, may be contacted in order to obtain location information.

(n) The use and disclosure of information obtained through the sources identified in this section shall be in accordance

with the rules contained herein, and as detailed at N.J.A.C. 10:110-1.7.

(o) Location resources may be used, when necessary, to also locate the custodial party for purposes of child support only.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (h); and added (n).

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

Amended by R.2009 d.135, effective April 20, 2009.

See: 40 N.J.R. 5501(a), 41 N.J.R. 1861(a).

In (l)lvi, inserted "and Workforce Development"; and in (l)lviii, substituted "Motor Vehicle Commission" for "Division of Motor Vehicles in the Department of Transportation".

Amended by R.2012 d.144, effective August 6, 2012.

See: 44 N.J.R. 334(a), 44 N.J.R. 2057(b).

In (h)3 and (h)4, substituted "The agency" for "Agency"; and in (h)3, substituted "NJ SNAP program" for "Food Stamp Program".

SUBCHAPTER 12. PATERNITY ESTABLISHMENT

10:110-12.1 Identification of the alleged father

(a) Provided that an allegation of paternity is made as provided in this subchapter, paternity shall be established or service of process completed as necessary to commence proceedings to establish paternity within no more than 90 calendar days of locating the alleged father.

(b) Before initiating proceedings to establish paternity, an allegation of paternity shall be obtained. Provided that the child's age is no more than five years past the age of majority, the allegation may be made by:

1. The child's mother;
2. The custodial parent, if the custodial parent is not the mother;
3. A man alleging himself to be the child's biological father; or
4. The child.

(c) In cases where there are multiple alleged fathers, the CWA/CSU shall:

1. Initiate paternity establishment proceedings against all alleged fathers named by the client. If one of the alleged fathers is excluded through genetic testing or if the court rules that he is not the father, the complaint shall be amended removing that individual as a defendant and the complaint shall proceed against the remaining defendants or the defendant whose genetic test established at least a 95 percent probability of paternity.

2. A consent order will be attempted in accordance with individual county procedures prior to the scheduled court date.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (a) and (c).

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (c), substituted "CWA/CSU" for "CWA/CSP unit" in the introductory paragraph.

10:110-12.2 Voluntary acknowledgment of paternity

(a) The OCSS shall establish and operate a voluntary acknowledgment of paternity program that shall be known as the Paternity Opportunity Program (POP). POP will allow for the voluntary acknowledgment of paternity through the execution of a Certificate of Parentage, which shall have the same force and effect as a court order, or judgment of paternity.

(b) In all cases in which sufficient information is available to initiate paternity establishment proceedings, the parties, including an un-emancipated minor, shall be offered the opportunity to voluntarily sign a Certificate of Parentage (COP). If another man is presumed to be the child's father pursuant to N.J.S.A. 9:17-43 et seq., acknowledgment may be effected only if an affidavit of denial in accordance with N.J.A.C. 10:110-12.7(b)2 is signed by the presumed father, and the biological father and mother sign a COP.

(c) Prior to the parties signing the COP, both the custodial parent and the alleged father shall be notified of the legal consequences associated with signing the COP, their rights in the COP process, and the alternatives to signing the COP.

1. The notice shall be given orally, or through the use of video or audio equipment, and in writing.

2. The notice shall specify that:

- i. Either party may rescind the COP within 60 days of the date of signing, or by the date of establishment of a support order whichever date is earlier. Additionally, the notice shall provide instructions on the manner in which the COP may be rescinded.

- ii. Each attempted acknowledgment, whether or not effective, shall be kept on file by the State IV-D Agency or its designee, and shall entitle the person who filed it to notice of all proceedings concerning parentage and adoption of the child, as provided pursuant to N.J.S.A. 9:3-45 and C. 9:17-47.

- iii. A signed COP, that is not rescinded as specified in (c)2i above, shall be considered a legal finding of paternity.

- iv. Either party may request genetic testing before signing the COP.

- v. Should both parents sign the COP, the alleged father shall obtain standing in any adoption or custody proceeding involving the child and may seek visitation rights.

vi. By signing the COP, the alleged father shall become responsible for child support and health care coverage for the child, and the OCSS may seek, modify and enforce orders regarding support issues.

(d) The COP shall serve to satisfy the method of collection of Social Security numbers as required pursuant to N.J.S.A. 26:8-28c. The COP shall contain, at a minimum, the following information:

1. Current full name of mother, father and child;
2. Date of birth of mother, father and child;
3. Address of mother and father;
4. Birthplace of child;
5. Brief explanation of the legal significance of signing the COP and a statement that both parents have 60 days to rescind the COP;
6. A sworn statement by the father that he is the natural father of the child;
7. The Social Security numbers, except in those cases in which a person is ineligible to apply for one, and addresses of the father and mother;
8. The signature of the mother and father authenticated by a witness or notary; and
9. Instructions for filing the COP with the agency designated by the State IV-D Agency.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), substituted "OCSS" for "OCSPP"; in (b), added the last sentence; in (c), added a new 2ii, recodified former 2ii through 2v as 2iii through 2vi, substituted "(c)2i" for "(b)2i" in 2iii and substituted "OCSS" for "OCSPP" in 2vi.

10:110-12.3 Contested paternity

(a) If the parties will not sign a COP and no complaint has been filed, a complaint to establish paternity and support obligations shall be filed in a court of competent jurisdiction.

1. The complaint shall be filed and service of process necessary to commence proceedings to establish paternity completed within no more than 90 calendar days of locating the alleged father.

2. The parties shall be required to submit to genetic testing, unless there is good cause for refusal in accordance with N.J.A.C. 10:110-9.2 through 9.5 and 10:90-16.2 through 16.5, if:

- i. The party alleging paternity requests genetic testing and completes a sworn statement setting forth facts that establish a reasonable possibility that the parties had the requisite sexual contact during the probable period of conception; or

ii. The party denying paternity requests genetic testing and completes a sworn statement setting forth facts that establish a reasonable possibility that the parties did not have the requisite sexual contact during the probable period of conception or has reason to believe he is not the biological father.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (a).

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Amended the N.J.A.C. references.

10:110-12.4 Genetic testing

(a) A list of approved genetic testing laboratories shall be developed through the competitive procurement process. The State shall award a contract to each laboratory on the list.

(b) If the CWA/CSU determines that genetic tests should be required, or if a party requests genetic tests before signing the COP, or if the court orders genetic tests, the CWA/CSU shall schedule the genetic test at a State-approved facility.

(c) The CWA shall provide initial payment for all costs associated with the genetic testing, including, but not limited to, costs related to performing the tests and costs related to analyzing the test results. The CWA/CSU shall ask the court to stipulate that the CWA be reimbursed the cost for genetic testing by either of the parties involved as determined by the practice of the court, unless:

1. The court declares that the alleged father is not the biological father and specifies that the alleged father is not financially responsible; or

2. The court declares the alleged father to be indigent, in which case the alleged father may be held liable for the cost and possible future payment.

(d) If genetic test results show the alleged father meets the 95 percent or higher threshold of probability, a rebuttable presumption of paternity is created and is the basis for entry of a judgment of paternity.

(e) Either party may object to the genetic test results by sending a written objection to the appropriate county child support agency within 10 calendar days of receipt of the results. If no complaint has been filed, the written objection shall be filed with the CWA/CSU. If a complaint has been filed, the written objection shall be filed with the court and the CWA/CSU.

1. The party objecting to the genetic testing results shall be responsible for advance payment of any additional genetic testing.

(f) In order for a county to receive Federal reimbursement for genetic testing fees, it must choose a laboratory from the list of laboratories awarded a contract by the State to perform parentage testing. This list shall be provided to the county CWA/CSUs by the OCSS. The county shall use the State contract with the chosen laboratory and may only negotiate