



Office of Children and Family Services

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Administrative Directive

Transmittal:	23-OCFS-ADM-19
To:	Local Departments of Social Services Commissioners Voluntary Authorized Agencies Executive Directors Voluntary Authorized Adoption Agencies Executive Directors
Issuing Division/Office:	Division of Child Welfare and Community Services
Date:	October 24, 2023
Subject:	Updates to the Putative Father Registry and Chapter 828 of the Laws of 2022 Changes to Unmarried Parent’s Consent and Notification Rights
Suggested Distribution:	Social Services Directors Child Protective Services Supervisors Child Welfare Supervisors Foster Care Supervisors Adoption Supervisors
Contact Person(s):	See section VII.
Attachments:	OCFS-2723, Notice of Intent to Claim Parentage of a Child Born Out of Wedlock (Rev. 09/2023) OCFS-2724, Notice of Intent to Claim Paternity of a Child Born Out of Wedlock (Rev. 09/2021) OCFS-2725, Response/Request for Name and/or Address of Parent of Child Born Out of Wedlock (Rev. 07/2021) OCFS-2726, Report to New York State Court Determination of Parentage (Rev.12/2021) OCFS-3780, Instrument to Acknowledge Paternity of a Child Born Out of Wedlock (Rev. 09/2021) Pub. 5040, What Unwed Fathers/Parents Need to Know: New York State Putative Father Registry (Rev. 09/2023)

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			Social Services Law §§372-c, 383-c, 384, 384-a, 384-b and 384-c; Domestic Relations		

			§§111 and 111-a; Public Health Law §4135-B; Family Court Act Article 5-C; Part L of Chapter 56 of the Laws of 2020 and Chapter 828 of the Laws of 2022		
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I. Purpose

The purpose of this Administrative Directive (ADM) is to notify local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of the provisions of Chapter 56 of the Laws of 2020 that broaden the scope of information recorded in the Putative Father Registry, and of the provisions of Chapter 828 of the Laws of 2022 that expand the categories of unmarried parents whose consent to the adoption of a child in foster care is required, and changes to the notification and collection of information provisions with respect to certain child welfare proceedings.

II. Background

On April 3, 2020, Ch. 56 of the Laws of 2020 (the Child-Parent Security Act [CPSA]) was signed into law. The CPSA legalizes gestational surrogacy and provides a path to establish legal parental rights for parents who rely on assisted reproduction technology to have children. The CPSA also amended the Social Services Law (SSL) §372-c (1) to require that the registry now include any person adjudicated by a court of this state to be the parent of a child born out of wedlock.

Prior to February 15, 2021, the Putative Father Registry was a confidential record of fathers of children born out of wedlock. The registry maintained the names and addresses of fathers who (1) filed a notice to claim paternity, (2) acknowledged paternity of the child, or (3) have been determined by a court to be the father of a child.

As of February 15, 2021, the Putative Parent Registry, formally known as, the Putative Father Registry will also include information on parentage¹. The CPSA amended the SSL §372-c(1) to require that the registry now include any person adjudicated by a court of this state to be the parent of a child born out of wedlock. Additionally, the registry will include any person who has filed a notice of intent to claim parentage of a child with the registry, before or after the birth of a child out of wedlock. This means that the registry will no longer contain only the information of putative fathers. Individuals listed on the registry may receive legal notice of court proceedings, which include foster care, guardianship, custody, and, in limited circumstances, adoption of the child. The following persons may sign an acknowledgement of parentage:

¹ OCFS recognizes expansion of the Putative Father Registry to include persons other than fathers with in the registry no longer limits the Registry to fathers. An official name change will require statutory changes and until such time OCFS will unofficially refer to the Putative Father Registry as the Putative Parent Registry.

- An unmarried person who gave birth to a child and another person who is a genetic parent.
- A married or unmarried person who gave birth to a child and who is an intended parent, under the Family Court Act (FCA) §581-303, of a child conceived through assisted reproduction.

On December 30, 2022, Chapter 828 of the Laws of 2022 (Chapter 828) was signed into law. Chapter 828 amends sections of the Domestic Relations Law (DRL)² and the Social Services Law (SSL),³ which expands the categories of parents whose consent is required for the adoption of children born out of wedlock and who are in foster care. Chapter 828 also eliminated mandatory notification of consent fathers in adoption proceedings and proceedings involving the execution or approval of SSL §383-c surrenders. In addition, Chapter 828 added requirements for the collection of information to the extent available concerning any person entitled to consent to the adoption of a child. This law does not change the current consent requirements for private adoptions and only applies to consents involving children in the custody and guardianship of an authorized agency, either an LDSS or a VA.

III. Program Implications

Child-Parent Security Act (CPSA) and Changes to the Putative Parent Registry

To accommodate the inclusion of parentage information recorded in the registry, the New York State Office of Children and Family Services (OCFS) provides the following three forms:

- OCFS-2725, *Response/Request for Name and/or Address of Parent of Child Born Out of Wedlock* (Rev. 7/2021)
- OCFS-2723, *Notice of Intent to Claim Parentage of a Child Born Out of Wedlock* (09/2021)
- OCFS-2726, *Court Determination of Parentage* (Rev.12/2021)

Response/Request for Name and/or Address of Parent of Child Born Out of Wedlock (OCFS-2725)

This form is used by LDSSs, VAs, and courts requesting a search of the registry. Prior to February 15, 2021, this form was used exclusively to identify fathers registered in the registry. **This form will now provide the requestor with information on any parent who has registered in the registry for the child and parent identified on form LDSS-2725.**

Revisions made to this form include:

- **Other Parent** replaces **Father's Name**
- **Birth Parent** replaces **Mother's Name**

Notice of Intent to Claim Parentage of a Child Born Out of Wedlock (OCFS-2723)

This form is **new** and is to be submitted by an individual who believes they are the parent of, but not the father of, a child born – or to be born – out of wedlock. Completion of this

² 111 and 111-a.

³ 383-c, 384, 384-a, 384-b, 384-c.

form will result in a record established in the registry. The *Notice of Intent to Claim Parentage of a Child Born Out of Wedlock* should be provided upon request to individuals, **other than fathers**, who wish to provide notice to OCFS of their intent to claim parentage on the registry. Consistent with the law, this intent **may not** be revoked, unless done so by court order

Court Determination of Parentage (OCFS-2726)

This form is submitted by a court for the purpose of establishing a record in the registry based on an Order of Filiation or other court order establishing parentage. Dependent on the court order, parentage may be adjudicated for one or both parents. Revisions to this form were made in collaboration with the Office of Court Administration and the New York State Office of Temporary and Disability Assistance. This form now includes instructions on the back of the form.

Two additional OCFS forms will continue to reference only paternity and will continue to be used to create records for the registry. These forms have been updated:

- OCFS-2724, *Notice of Intent to Claim Paternity of a Child Born Out of Wedlock*
- OCFS-3780, *Instrument to Acknowledge Paternity of a Child Born Out of Wedlock*

Chapter 828 of the Laws 2022

Consent to Adoption of a Child in Foster Care

Chapter 828 amended multiple sections of the DRL⁴ concerning whose consent is required to the adoption of children born out of wedlock where custody and guardianship of the child was transferred to an authorized agency, foster parent, or relative pursuant to SSL §384-b or to an authorized agency pursuant to a SSL §383-c surrender. An authorized agency for the purpose of Chapter 828 includes either an LDSS or a VA. The rights of such persons are conditioned upon the person taking the specified action **prior to** either:

- the filing of a petition to terminate the parental rights to the child pursuant to SSL §384-b,
- an application to execute a judicial surrender of the child pursuant to SSL §383-c, or
- the application for the approval of an extra-judicial surrender of the child executed pursuant to SSL §383-c.

Chapter 828 amended DRL §111 to add the following individuals whose consent is required in the case of the adoption of a child born out of wedlock who is in foster care subject to the conditions noted above. They include any person who:

- was adjudicated by a court of this state or a court of any other state or territory of the United States to be the father of the child;
- filed a petition in a court in New York State seeking to be adjudicated the father of the child, provided that the parentage petition has been resolved in the favor of the

⁴ DRL 111-a(1).

petitioner or remains pending at the time of the conclusion of the Termination of Parental Rights (TPR) or the SSL §383-c surrender proceeding;

- has executed an acknowledgment of parentage, provided that such acknowledgement has not been vacated;⁵ or
- filed an unrevoked notice of intent to claim parentage of the child.⁶

The consent of any person or authorized agency having lawful custody or guardianship of the child is also required for children in foster care. The consent provisions in DRL §111 that apply to children born out of wedlock and either are less than 6 months of age or more than 6 months of age at the time of placement for adoption no longer apply to the adoption of a child in foster care. They remain in effect for private adoptions.

Chapter 828 also amended SSL §383-c to require the parent executing the surrender to provide information, to the extent known, regarding any person who would be entitled to consent to the adoption of the child. In addition, SSL §384-a was amended to require the LDSS accepting a voluntary placement agreement to obtain information, to the extent known, of any person who would be entitled to consent to the adoption of the child.

Notification

Chapter 828 amended the DRL and the SSL⁷ relating to notification of certain child welfare proceedings impacting fathers of children born out of wedlock.

Prior to Chapter 828 of the Laws of 2022, the following persons were entitled to notification of child welfare proceedings including adoption, surrenders, and TPR proceedings:

- Any person adjudicated by a court in this state to be the father of the child.
- Any person adjudicated by a court of another state or territory of the United States to be the father of the child, when a certified copy of the court order has been filed with the Putative Father Registry.
- Any person who has filed a timely unrevoked notice of intent to claim parentage of the child.⁸
- Any person who is recorded on the child's birth certificate as the child's father.
- Any person who is openly living with the child and the child's mother at the time the proceeding is initiated and is holding themselves out as the child's father.
- Any person who has been identified as the child's father by the mother in a written sworn statement.
- Any person who was married to the child's mother within six months subsequent to the birth of the child and prior to the execution of a surrender or initiation of a TPR proceeding.

⁵ SSL 111-k, FCA 516-a, PHL 4135-b.

⁶ SSL 372-c.

⁷ SSL 383-c, 384, 384-a, 384-b.

⁸ SSL 372-c.

- Any person who has filed with the Putative Father Registry an instrument acknowledging parentage of the child.⁹

As of December 30, 2022, the individuals listed above are no longer entitled to mandatory notification of child welfare proceedings involving adoptions, TPRs, or extra-judicial or judicial SSL §383-c surrenders. While notification is no longer mandated, the court maintains the ability to order notification of such individuals if it so chooses. The individuals listed above remain entitled to notice in child welfare proceedings involving voluntary placement agreements and SSL §384 surrenders.

It is important to note that this law did not eliminate the requirement for an LDSS to identify, notify, and engage non-respondent parents and relatives during a FCA Article 10 abuse or neglect removal.¹⁰

IV. Required Action

Putative Parent Registry

Upon issuance of this policy, LDSSs and VAs are required to use all updated forms related to the Putative Parent Registry attached to this policy, including the revised OCFS-2725 form when submitting a request for a search of the Putative Parent Registry.

To request a search of the registry, mail one copy of the completed OCFS-2725 to:

New York State Office of Children and Family Services
Bureau of Permanency Services/Putative Father Registry
52 Washington St., 332 North
Rensselaer, NY 12144

Chapter 828 of the Laws of 2022

LDSSs or VAs, as applicable, must provide the *What Unwed Parents Need to Know: New York State Putative Father Registry* (Pub. 5040) to all unwed respondent and nonrespondent parents at the time of their child(rens) placement into foster care via an Article 10 abuse or neglect proceeding.

V. Systems Implications

There are no system implications.

VI. Additional Information

OCFS is in the process of evaluating the use of an electronic process for submission of search requests and responses to expedite the process.

⁹ DRL 111-a(2) and SSL 384-c(2).

¹⁰ FCA 217.

VII. Contacts

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

Buffalo Regional Office – Amanda Darling (716) 847-3145

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Rochester Regional Office – Chris Bruno (585) 238-8201

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VIII. Effective Date

This ADM is effective upon issuance.

/s/ Gail Geohagen-Pratt

Issued by:

Name: Gail Geohagen-Pratt

Title: Acting Deputy Commissioner

Division/Office: Division of Child Welfare and Community Services