

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 19: Deceased Participants</b>	<b>Effective Date: 12/14/2021</b>
	<b>Section 1: Non-Custodial Parent</b>	<b>Version: 1.2 Revision Date: 12/14/2021</b>

**BACKGROUND**

N/A

**POLICY**

Upon verifying the death of a non-custodial parent (NCP) in a Title IV-D case, the Title IV-D Prosecutor’s Office verifies the date of death has been entered into the statewide child support system. The date of death is the initial trigger in the case closure process.<sup>1</sup>

If a Petition to Establish Paternity is to be filed, the statute of limitations requires that it be filed no later than five (5) months after the death of the alleged father.<sup>2</sup> The death of the mother does not bar an action to establish paternity.<sup>3</sup>

The death of a parent obligated to pay child support does not automatically terminate the child support order.<sup>4</sup>

The Title IV-D Prosecutor’s Office is strongly recommended to initiate a review whenever the Title IV-D Prosecutor’s Office learns that a substantial and continuing change of circumstances has occurred in a Title IV-D case.<sup>5</sup>

The Title IV-D Prosecutor’s Office should not be involved in opening an estate as that is not one of the services that the Title IV-D office provides.<sup>6</sup>

**REFERENCES**

- [IC 31-14-5-5](#): Action to be filed during lifetime or within five months of death of alleged father
- [IC 31-14-5-8](#): Action not barred by child’s death or stillbirth or mother’s death
- [IC 31-16-6-7](#): Effect of child’s emancipation or death of parent obligated to pay support
- [IC 31-25-4-17](#): Support related duties of bureau
- [42 U.S.C. § 654](#): State plan for child and spousal support

<sup>1</sup> Chapter 17: Case Closure, Section 2: Non-Custodial Parent Deceased (CDIE)

<sup>2</sup> IC 31-14-5-5(2); Chapter 9: Paternity Establishment

<sup>3</sup> IC 31-14-5-8(2)

<sup>4</sup> IC 31-16-6-7(a)(2)

<sup>5</sup> Chapter 13: Review and Adjustment/Modification of the Child Support Order, Section 2: Review and Adjustment Procedures

<sup>6</sup> IC 31-25-4-17; 42 U.S.C. § 654

- [45 C.F.R. § 303.11](#): Case closure criteria

## PROCEDURE

The Title IV-D Prosecutor's Office may wish to file a notice with the Court informing the Court of the NCP's death.

After reviewing the circumstances of the case, the Title IV-D Prosecutor's Office may petition the Court to modify or terminate the current child support order and establish an arrearage. The Court may modify or terminate the child support order as appropriate based on the circumstances of the parent's assets or estate.<sup>7</sup> If the Court modifies or terminates the child support order in an open Title IV-D case, the Title IV-D Prosecutor's Office ensures the following is completed in the statewide child support system:

1. Verify the current child support order, either modified or terminated, is correctly entered; and
2. Verify all subaccount balances are correct.

The Title IV-D Prosecutor's Office is strongly encouraged to determine whether any assets or estate exists which could be levied to collect child support or arrears.<sup>8</sup> The Title IV-D Prosecutor's Office will need to file a claim against any assets or with the estate to collect current support and any arrears.

## FORMS AND TOOLS

N/A

## FREQUENTLY ASKED QUESTIONS

1. Q. If the notice of intent to close the case is sent and the Title IV-D Prosecutor's Office learns an estate has been opened for the deceased NCP, should the Title IV-D Prosecutor's Office cancel the close or let the case close and then reopen it as needed?

- A. The Title IV-D Prosecutor's Office is strongly encouraged to cancel the close when the Title IV-D Prosecutor's Office learns an estate has been opened for the deceased NCP and there is money owed on the Title IV-D case. This will prevent the case from being reviewed for auto closure for one year while the Title IV-D Prosecutor's Office attempts to collect child support or arrears from the estate.

If a case is allowed to close, the case can be reopened only under very limited circumstances such as if a party applies for services or for a payment to be processed.

2. Q. If the NCP has applied for Title IV-D services to establish paternity and the NCP dies

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<sup>7</sup> IC 31-16-6-7(b)

<sup>8</sup> 45 C.F.R. § 303.11(b)(4)

prior to paternity establishment, how should the Title IV-D Prosecutor's Office proceed on the case?

- A. The Title IV-D Prosecutor's Office is strongly encouraged to contact the custodial party (CP) to determine if the CP would like to proceed with establishing paternity. If the CP wishes to proceed, the Title IV-D Prosecutor's Office proceeds with preparing the case for paternity establishment. If the CP does not wish to proceed, the Title IV-D Prosecutor's Office allows the case to close due to the death of the NCP.
- 3. Q. What is the time frame to file a notice with the Court, terminate or modify the child support order, or establish the arrears when the NCP dies?
  - A. There is no statutory required time frame. The Title IV-D Prosecutor's Office is to be sensitive to the circumstances and facts of the case when determining the appropriate time to file court notices and petitions when a party to a case dies.

<b>RELATED INFORMATION</b>
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- 1. Chapter 9: Paternity Establishment
- 2. Chapter 17: Case Closure, Section 2: Non-Custodial Parent Deceased (CDIE)

<b>REVISION HISTORY</b>
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<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	07/31/2018	Final approved version
Version 1.1	07/01/2019	Revised to add reference to changes in the emancipation age
Version 1.2	12/14/2021	Added citations and references