

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 19: Deceased Participants	Effective Date: 7/31/18
	Section 1: Non-Custodial Parent	Version: 1 Revision Date: 7/31/18

BACKGROUND

N/A

POLICY

Upon being informed of the death of a non-custodial parent in a Title IV-D case, the Title IV-D Prosecutor 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.¹

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.² The death of the mother does not bar an action to establish paternity.³

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

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

The Title IV-D Prosecutor should not be involved in opening an estate as that is not one of the services that the Title IV-D office provides.

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 31-16-6-6](#): Termination of child support obligation; exceptions; petition for educational needs
- [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

¹ See Chapter 17: Case Closure

² IC 31-14-5-5; See Chapter 9: Paternity Establishment

³ IC 31-14-5-8(2)

⁴ IC 31-16-6-7(a)(2)

⁵ See Chapter 13: Review and Adjustment/Modification of the Child Support Order, Section 3: Review and Adjustment Procedures

- [42 U.S.C. § 654](#): State plan for child and spousal support
- [45 C.F.R. § 303.11\(b\)\(2\)](#): Case closure criteria

PROCEDURE

The Title IV-D Prosecutor may wish to file a notice with the court informing the court of the non-custodial parent's death.

After reviewing the circumstances of the case, the Title IV-D Prosecutor 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.⁶ If the court modifies or terminates the child support order in an open Title IV-D case, the Title IV-D Prosecutor 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 is strongly encouraged to determine whether any assets or estate exists which could be levied to collect child support or arrears.⁷ The Title IV-D Prosecutor 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 learns an estate has been opened for the deceased non-custodial parent, should the Title IV-D Prosecutor cancel the close or let the case close and then reopen it as needed?
 - A. The Title IV-D Prosecutor is strongly encouraged to cancel the close when the Title IV-D Prosecutor learns an estate has been opened for the deceased non-custodial parent 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 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 non-custodial parent has applied for Title IV-D services to establish paternity

⁶ IC 31-16-6-7(b)

⁷ 45 C.F.R. § 303.11(b)(2)

and the non-custodial parent dies prior to paternity establishment, how should the Title IV-D Prosecutor proceed on the case?

- A. The Title IV-D Prosecutor is strongly encouraged to contact the custodial party to determine if the custodial party would like to proceed with establishing paternity. If the custodial party wishes to proceed, the Title IV-D Prosecutor proceeds with preparing the case for paternity establishment. If the custodial party does not wish to proceed, the Title IV-D Prosecutor allows the case to close due to the death of the non-custodial parent.

- 3. Q. What is the timeframe to file a notice with the court, terminate or modify the child support order, or establish the arrears when the non-custodial parent dies?
 - A. There is no statutory required timeframe. The Title IV-D Prosecutor 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.

RELATED INFORMATION

Chapter 9: Paternity Establishment
Chapter 17: Case Closure