

APA-1
11/96

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Human Resources

RULE NO. & TITLE: 660-3-19-.02 Requirements for Review and Adjustment

INTENDED ACTION: Proposed amendment to rules to comply with 45 CFR 303.8.

SUBSTANCE OF PROPOSED ACTION: The changes to the rule have been proposed to comply with 45 CFR 303.8 amendments requiring state IV-D agencies to review a child support order after learning that a noncustodial parent will be incarcerated for more than 180 calendar days.


TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views or arguments respecting the proposed amendment by mail or in person through close of business on September 5, 2017. Persons wishing to submit data, views or arguments orally should contact the Department's Administrative Procedures Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330 to set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

September 5, 2017

CONTACT PERSON AT AGENCY:

Ms. Gail Grobe
State Department of Human Resources
Gordon Persons Building
50 Ripley Street
Montgomery, Alabama 36130-1801


Nancy A. Guekner 6-29-17
(Signature of officer authorized to promulgate
and adopt rules or his or her deputy)

RULE OF THE
ALABAMA DEPARTMENT OF HUMAN RESOURCES
CHILD SUPPORT ENFORCEMENT DIVISION

CHAPTER 660-3-19
REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

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660-3-19-.01 Definitions.

(1) As used in this Chapter, the following terms shall have the following meaning:

(a) "Adjustment" - an upward or downward change in the amount of child support based upon an application of State guidelines for setting and adjusting child support awards and/or provision for the child's health care needs, through health insurance coverage or other means.

(b) "Parent" - includes any custodial parent or noncustodial parent or for purposes of requesting a review any other person or entity who may have standing to request an adjustment to the child support order.

(c) "Review" - an objective evaluation conducted through a proceeding before the court, quasi-judicial process, or administrative body or agency of information necessary for application of the State's guidelines for support to determine the appropriate support award amount and the need to provide for the child's health care needs in the order through health insurance or other means.

Author: Janice Grubbs

Statutory Authority: 45 C.F.R. 303.8; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.

History: New Rule: Filed December 16, 2009; effective January 20, 2010.

660-3-19-.02 Requirements for Review and Adjustment.

(1) The review may be requested by either parent, the person or agency granted custody of the child(ren), or the child support agency of another state.

(2) The Title IV-D child support agency must review the child support order every three years upon the request of either parent in non-IV-A cases or in all IV-A Family Assistance cases, and in cases where the Title IV-D Agency learns that a noncustodial parent will be incarcerated for more than 180 calendar days, and if appropriate adjust the order in accordance with the State guidelines.

(3) A review is appropriate when:

(a) The order was entered, last reviewed, or modified at least three years ago, unless the child support agency determines that special circumstances warrant an earlier review.

(b) An active IV-D child support case exists or the requestor completes or returns an application for IV-D service.

(c) IV-A Family Assistance has not determined that good cause for non-cooperation exists on a Family Assistance case chosen for review.

(d) A court order does not contain a medical support provision.

(e) The Title IV-D Agency learns that a noncustodial parent will be incarcerated for more than 180 calendar days.

(4) No proof of change in circumstances is required in the three-year cycle of review. The IV-D child support agency may review a case earlier than three years if a substantial change in circumstances occurs.

(5) The IV-D child support agency must provide notice not less than once every three years to the parents subject to the order informing the parents of their right to request the agency to review and, if appropriate, adjust the order consistent with the State guidelines. The notice must specify the place and manner in which the request should be made.

(6) Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a review of the order must be conducted and either the order must be adjusted or a determination must be made that the order should not be adjusted.

(7) After applying the guidelines to determine the presumed child support amount an adjustment of the child support order must be pursued:

(a) If the review indicates that there is at least a 10% difference between the existing support amount and the presumed support amount, unless the difference is because the existing support amount resulted from a rebuttal of the circumstances causing the rebuttal still exist.

(b) If health insurance care coverage is available at reasonable cost.

Author: ~~Janice Grubbs~~ Clifford Smith

Statutory Authority: 42 U.S.C 666(a)10; 45 C.F.R. 303.8; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.

History: New Rule: Filed December 16, 2009; effective January 20, 2010. **Amended:** Filed August 7, 2017, effective September 11, 2017.

660-3-19-.03 Procedure to Contest the Adjustment.

(1) Either party regardless of who applied for IV-D services or requested the review may contest the results of the review within 30 days of the date of the Notice of Results of Review.

(2) The party who requests the review does so by requesting a review by the county supervisor.

(3) If the party is displeased with the results of the review by the county supervisor, a request may be made for an administrative hearing.

(4) If the supervisory review and the administrative hearing uphold that an adjustment is in order, the case will be referred to court for an adjustment.

(5) The contesting party then has the opportunity to contest the action in court.

Author: Janice Grubbs

Statutory Authority: 42 U.S.C 666(a)10; 45 C.F.R. 303.8; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.

History: New Rule: Filed December 16, 2009; effective January 20, 2010.