Question 10: Are there ways to articulate objective criteria and/or a rubric for independent testing of how financial institutions would conduct their risk-assessment processes and report in accordance with those assessments, based on the regulatory proposals under consideration in this ANPRM?

FinCEN appreciates that the regulatory proposals described in this ANPRM may require changes in the implementation of independent testing by financial institutions in order to achieve the objectives as described in this ANPRM. Therefore, FinCEN also seeks comments on how a future rulemaking could best facilitate effective independent testing of risk assessments and other financial institution processes, as may be revised consistent with the proposals set forth in this ANPRM.

Question 11: A core objective of the incorporation of a requirement for an ''effective and reasonably designed'' AML program would be to provide financial institutions with greater flexibility to reallocate resources towards Strategic AML Priorities, as appropriate. FinCEN seeks comment on whether such regulatory changes would increase or decrease the regulatory burden on financial institutions. How can FinCEN, through future rulemaking or any other mechanisms, best ensure a clear and shared understanding in the financial industry that AML resources should not merely be reduced as a result of such regulatory amendments, but rather should, as appropriate, be reallocated to higher priority areas?

FinCEN specifically encourages commenters to provide quantifiable data, if available, that supports any views on whether the regulatory proposals under consideration would impact financial institutions' regulatory burden. FinCEN also invites comment with regard to how FinCEN and other supervisory authorities could best reinforce the importance of maintaining an appropriate level of BSA compliance resources if regulatory amendments are promulgated as described in this ANPRM.

V. Conclusion

With this ANPRM, FinCEN is seeking input on the questions set forth above. FinCEN is soliciting comments on the impact to the public, including industry, law enforcement, regulators, other consumers of BSA data, and any other interested parties, and welcomes comments on all aspects of the ANPRM. All interested parties are encouraged to provide their views.

VI. Special Analysis

This advance notice of proposed rulemaking is a significant regulatory action under Executive Order 12866 and has been reviewed by the Office of Management and Budget.

Dated: September 14, 2020.

Michael Mosier,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2020–20527 Filed 9–16–20; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 302

RIN 0970–AC81

Optional Exceptions to the Prohibition Against Treating Incarceration as Voluntary Unemployment Under Child Support Guidelines

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Child Support Enforcement proposes to provide States the flexibility to incorporate in their State child support guidelines two optional exceptions to the prohibition against treating incarceration as voluntary unemployment. Under the proposal, States have the option to exclude cases where the individual is incarcerated due to intentional nonpayment of child support resulting from a criminal case or civil contempt action in accordance with guidelines established by the state and/or incarceration for any offense of which the individual's dependent child or the child support recipient was a victim. The State may apply the second exception to the individual's other child support cases.

DATES: Consideration will be given to written comments on this notice of proposed rulemaking (NPRM) received on or before November 16, 2020.

ADDRESSES: You may submit comments, identified by [docket number ACF–2020–0002 and/or Regulatory Information Number (RIN) number 0970–AC81], by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Written comments may be submitted to: Office of Child Support Enforcement, *Attention:* Director of Policy and Training, 330 C Street SW, Washington, DC 20201.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Anne Miller, Division of Policy and Training, OCSE, telephone (202) 401–1467. Email inquiries to *ocse.dpt@acf.hhs.gov.* Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Submission of Comments

Comments should be specific, address issues raised by the proposed rule, and explain reasons for any objections or recommended changes. Additionally, we will be interested in comments that indicate agreement with the proposals. We will not acknowledge receipt of the comments we receive. However, we will review and consider all comments that are germane and are received during the comment period. We will respond to these comments in the preamble to the final rule.

Statutory Authority

This NPRM is published under the authority granted to the Secretary of Health and Human Services by section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, as may be necessary for the efficient administration of the functions with which the Secretary is responsible under the Act.

Background

The purpose of the Flexibility, Efficiency and Modernization in Child Support Programs (FEM) final rule published in the **Federal Register** on December 20, 2016 (81 FR 93492) was to make Child Support Enforcement program operations and enforcement procedures more flexible, more effective, and more efficient by building on the strengths of existing State enforcement programs, recognizing advancements in technology, and incorporating technical fixes. The final rule was intended to improve and simplify program operations and remove outmoded limitations to program innovations, in order to better serve families.

The FEM final rule revised the guidelines regulations under 45 CFR 302.56—Guidelines for setting child support orders. The revisions ensure that States design their guidelines so that they result in orders that accurately reflect a noncustodial parent's ability to pay. Setting child support orders that reflect an actual ability to pay is crucial to encouraging compliance, increasing accountability, discouraging uncollectable arrears, and improving collections for families.

One important change to the guidelines regulations was to prohibit States from treating incarceration as voluntary unemployment when establishing or modifying support orders. The rationale for this change was the concern that State policies that treat incarceration as voluntary unemployment effectively block application of the Federal review and adjustment law in section 466(a)(10) of the Act. This section of the Act requires review, and if appropriate, adjustment of a support order upward or downward upon a showing of a substantial change in circumstances. Voluntary unemployment, which States do not consider a substantial change in circumstances, occurs when an individual intentionally reduces income by quitting a job, failing to seek employment, or working in a job beneath their skill set or education level, in order to avoid child support obligations. Prior to issuance of the FEM final rule, some states treated incarceration as voluntary unemployment since it was the result of a conviction for an intentional criminal act and imputed income to the obligor in calculating the child support obligation. By prohibiting States from treating incarceration as voluntary unemployment, incarcerated individuals are provided the opportunity to have their child support order reviewed and adjusted in accordance with State child support guidelines and their actual income and ability to pay. The FEM final rule cited research noting the importance of ensuring that incarcerated individuals can adjust their child support orders to have the order reflect their actual ability to pay and prevent accumulation of arrears.

During the FEM rulemaking process, OCSE received several comments in support of requiring exceptions to the prohibition against treating incarceration as voluntary unemployment in cases where the noncustodial parent has committed acts of violence against the children or a party in the child support case, or for willful failure to pay child support. In the final rule, OCSE did not agree with the commenters' requests to mandate exceptions, citing the overwhelming number of commenters in favor of the prohibition and the principle, as stated above, that treatment of incarceration as voluntary unemployment would block the fair application of Federal review and adjustment law and procedures.

Since the publication of the FEM final rule, OCSE has received requests for flexible and optional exceptions in State guidelines from the prohibition against treating incarceration as voluntary unemployment. The requests were for limited exceptions for incarceration due to intentional nonpayment of child support and for any offense of which the individual's dependent child or the child support recipient was a victim. In contrast to the suggestions by commenters under the FEM rulemaking process, these requests were for optional, not mandatory, exceptions for States.

In consideration of Administration priorities for de-regulation and State flexibility, and our expectation that these exceptions would affect very few cases, OCSE has determined that it is appropriate to provide States the option to adopt in their guidelines these limited exceptions to the regulatory prohibition against treating incarceration as voluntary unemployment. These proposed optional exceptions provide a narrow window of flexibility to address egregious cases of willful child support nonpayment (cases where the obligor has the ability to pay, but intentionally fails to do so) or violence or abuse against the child or child support recipient. This proposed rule does not impose mandates; rather, it provides states an option for limited exceptions. The rationale to the proposed change in policy is to provide states the option to prevent obligors from benefiting from two specific types of crimes committed against the child or child support recipient. Some states, based on moral and societal values of justice and fairness, may reasonably determine that persons found guilty of intentional nonsupport, or who show a disregard for the well-being of the custodial parent or child by abusing them, should not benefit from those acts by having their child support obligation suspended or reduced while incarcerated for those crimes—even if that policy risks accumulation of arrears, child support debt, and recidivism. The proposed optional exceptions are narrow and do not change the overall policy goal that, in the majority of cases, it is important to prevent the accumulation of arrears by noncustodial parents who are incarcerated and do not have an ability to pay child support.

We propose to revise § 302.56(c)(3) to allow a State the option to adopt limited exceptions in their guidelines to the regulatory prohibition against treating incarceration as voluntary unemployment. These proposed exceptions, under § 302.56(c)(3)(i) and (ii), would be for incarceration (1) due to intentional nonpayment of child support resulting from a criminal case or civil contempt action in accordance with guidelines established by the State under § 303.6(c)(4); and/or (2) for any offense of which the individual's dependent child or the child support recipient was a victim. The state would be able to apply the second exception to the individual's other child support cases, if any. States, not the Federal Government, are in the best position to decide whether or not it is prudent public policy to afford relief from child support payment obligations to individuals who are incarcerated for intentional nonpayment of support or for offenses for which the individual's dependent children or the child support recipient are victims.

Federal regulations at § 303.6(c)(4)—Enforcement of support obligations, require States to establish guidelines for the use of civil contempt citations in child support cases. The guidelines must include requirements that the child support agency screen cases for information regarding the noncustodial parent's ability to pay or otherwise comply with the order. To ensure consistency with these existing civil contempt guidelines, the proposed exception in § 302.56(c)(3)(i) for incarceration related to intentional nonpayment of support in civil contempt actions would apply the same requirements under § 303.6(c)(4) to ensure that incarceration is for individuals that have the ability to pay, but choose not to do so. This proposed exception would not apply where nonpayment of support is due to inability to pay. Such cases should not result in incarceration of the obligor. This exception is consistent with the principles of the FEM final rule that child support orders are based on the noncustodial parent's ability to pay and that civil contempt procedures must take into account present ability to pay. A State that adopts the proposed exception for incarceration due to intentional nonpayment of child support would be able to treat the incarcerated noncustodial parent as voluntarily unemployed when establishing or modifying a support order.

Since States are more knowledgeable about their caseloads and the specific circumstances affecting families, they should have the option to determine if these limited exceptions should apply to the regulatory prohibition against treating incarceration as voluntary unemployment. Under proposed § 302.56(c)(3)(ii), in cases where incarceration is for offenses against the individual's dependent children or the child support recipient, States should have maximum flexibility to decide if the exception may apply to the individual's other child support cases.

This proposal for optional, limited exceptions to a provision under § 302.56 does not affect regulations for review and adjustment of support orders, including notice requirements under § 303.8(b)(2) and (b)(7)(ii). We are not proposing to revise the notice requirements in § 303.8(b)(2) and (b)(7)(ii), because it is our view that states should continue to provide notice to both parents in cases where these exceptions might apply. Even if a State were to elect one of the proposed exceptions in § 302.56(c)(3), a review and adjustment under the State's guidelines in § 302.56 may still be appropriate, given the circumstances in the case. For example, a noncustodial parent may have or recently acquired additional sources of income or resources that should be taken into account in the review process.

Section-by-Section Discussion of the Provisions of This Proposed Rule

Section 302.56: Guidelines for Setting Child Support Orders

We propose to revise § 302.56(c)(3) to allow a State the option to adopt limited exceptions in their child support guidelines to the regulatory prohibition against treating incarceration as voluntary unemployment. These proposed optional exceptions in § 302.56(c)(3)(i) and (ii) are for cases that include incarceration (1) due to intentional nonpayment of child support resulting from a criminal case or civil contempt action in accordance with guidelines established by the State under § 303.6(c)(4); and/or (2) for any offense of which the individual's dependent child or the child support recipient was a victim. We ensure that the exercise of the first exception is consistent with guidelines for the use of civil contempt citations in child support cases—which requires that the child support agency screen cases for information regarding the noncustodial parent's ability to pay or otherwise comply with the order—by proposing to specify that the exception must be exercised in accordance with such guidelines. The State would be able to apply the second exception to the individual's other child support cases, if any. The rationale for allowing limited, optional exceptions to the prohibition against treating incarceration as voluntary unemployment is to ensure that States have flexibility to manage caseloads and their guidelines requirements. We expect these exceptions would affect very few cases.

Paperwork Reduction Act

No new information collection requirements are imposed by these regulations. However, under the proposal, all States would need to resubmit the state plan preprint page 3.11. This Paperwork Reduction Act activity is already approved under OMB Control No. 0970–0017. Therefore, the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), regarding reporting and record keeping, are fulfilled.

Regulatory Flexibility Analysis

The Secretary certifies that, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Regulatory Flexibility Act.

Regulatory Impact Analysis

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. ACF determined that the costs to title IV–D agencies as a result of this rule will not be significant as defined in Executive Order 12866 (have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities). Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017 and requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This proposed rule is expected to be an Executive Order 13771 deregulatory action.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation). That threshold level is currently approximately $156 million. This proposed rule does not impose any mandates on State, local, or tribal governments, or the private sector that will result in an annual expenditure of $156 million or more.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. This regulation does not impose requirements on States or families. This regulation will not have an adverse impact on family well-being as defined in the legislation.

Executive Order 13132

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism impact as defined in the Executive Order.

List of Subjects in 45 CFR Part 302

Child support, State plan requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program.)

Dated: August 7, 2020.

Lynn A. Johnson,

Assistant Secretary for Children and Families.

Approved: August 7, 2020.

Alex M. Azar II,

Secretary.

For the reasons stated in the preamble, the Department of Health and Human Services proposes to amend 45 CFR part 302 as set forth below:

PART 302—STATE PLAN REQUIREMENTS

■ 1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

■ 2. Amend § 302.56 by revising paragraph (c)(3) to read as follows:

§ 302.56 Guidelines for setting child support orders.

* * * * *

(c) * * *

(3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders. The state may elect to exclude:

(i) Incarceration due to intentional nonpayment of child support resulting from a criminal case or civil contempt action, in accordance with guidelines established by the State under § 303.6(c)(4); and/or

(ii) Incarceration for any offense of which the individual's dependent child or the child support recipient was a victim. The State may apply the exception under this paragraph (c)(3)(ii) to the individual's other child support cases.

* * * * *

[FR Doc. 2020–17747 Filed 9–16–20; 8:45 am]

BILLING CODE 4184–42–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 20–221; FCC 20–92; FRS 17053]

Updating the Commission's Ex Parte Rules; Correction

AGENCY: Federal Communications Commission

ACTION: Proposed rule; correction.

SUMMARY: In this document, the Commission is correcting a date that appeared in the **Federal Register** on September 2, 2020. In this document, the Commission begins a new proceeding to consider several updates to the Commission's ex parte rules. First, the Commission seeks comment on a proposal to exempt from its ex parte rules, in certain proceedings, government-to-government consultations between the Commission and federally recognized Tribal Nations. Second, the Commission seeks comment on a proposal to extend the exemption to its ex parte rules for communications with certain program administrators, such as the Universal Service Administrative Company, to include the Toll-Free Numbering Administrator and the Reassigned Numbers Database Administrator, and to clarify the conditions under which this exemption applies. Third, the Commission seeks comment on a proposal to require that all written ex parte presentations and written summaries of oral ex parte presentations (other than presentations that are permitted during the Sunshine period) be submitted before the Sunshine period begins and to require that replies to these ex parte presentations be filed within the first day of the Sunshine period. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Mr. Max Staloff of the Office of General Counsel, at (202) 418–1764, or *Max.Staloff@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 2, 2020 in FR Doc. 20–17266, on page 54523, in the second column, correct the **DATES** caption to read:

DATES: Comments due on or before October 2, 2020; reply comments due on or before October 19, 2020.

Dated: September 2, 2020.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020–19949 Filed 9–16–20; 8:45 am]

BILLING CODE 6712–01–P