

**NLWJC - Kagan**

**DPC - Box 032 - Folder 005**

**Immigration - Child Support**

▶ **Julie A. Fernandes**  
02/27/98 04:12:14 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: Cardin Amendment to HR 3130 

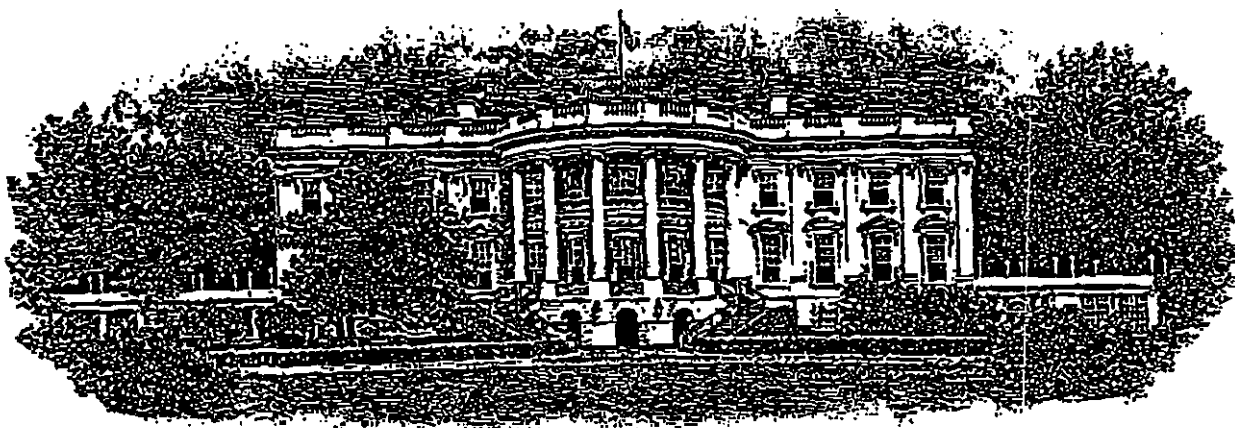
If the provision is satisfied by asking the LPR an additional question, that would not add much in time or money. However, if it requires any type of verification (that money is owed; the amount owed; whether there has been a waiver, etc.), it becomes time consuming and expensive -- particularly if applied to the large majority of LPRs that leave the country for less than six months at a time (as mentioned, tens of thousands per month) that are not currently subject to any "admission" inquiry.

Perhaps we just leave it to INS and HHS to sort out the technical difficulties in administering this.

Immigrah - child support issue

# The White House

## DOMESTIC POLICY COUNCIL



### FAX COVER SHEET

To: Elena Kagan

Phone: \_\_\_\_\_ Fax No: 6-2878

\*\*\*\*\*

From: Julie Fernandes

Phone: 6-6558

Comments: \_\_\_\_\_

\_\_\_\_\_

F:\MS\CARDIN\CARDIN.060

H.L.C.

**(DISCUSSION DRAFT)**  
**AMENDMENT TO H.R. 3180, AS REPORTED**  
**OFFERED BY MR. CARDIN OF MARYLAND**

In the table of contents of the bill, add at the end  
the following:

**TITLE IV—IMMIGRATION PROVISIONS**

- Sec. 401. Aliens ineligible to receive visas and excluded from admission for nonpayment of child support.
- Sec. 402. Effect of nonpayment of child support on establishment of good moral character.
- Sec. 403. Authorization to serve legal process in child support cases on certain arriving aliens.
- Sec. 404. Authorization to obtain information on child support payments by aliens.

At the end of the bill, add the following:

1                   **TITLE IV—IMMIGRATION**  
 2                   **PROVISIONS**  
 3   **SEC. 401. ALIENS INELIGIBLE TO RECEIVE VISAS AND EX-**  
 4                   **CLUDED FROM ADMISSION FOR NONPAY-**  
 5                   **MENT OF CHILD SUPPORT.**  
 6            (a) **IN GENERAL.**—Section 212(a)(10) of the Immi-  
 7   gration and Nationality Act (8 U.S.C. 1182(a)(10)) is  
 8   amended by adding at the end the following:  
 9                   “(F) **NONPAYMENT OF CHILD SUPPORT.**—  
 10                   “(i) **IN GENERAL.**—Any alien is inad-  
 11                   missible who is legally obligated under a  
 12                   judgment, decree, or order to pay child  
 13                   support (as defined in section 459(i) of the

February 25, 1998

F:\M5\CARDIN\CARDIN.000

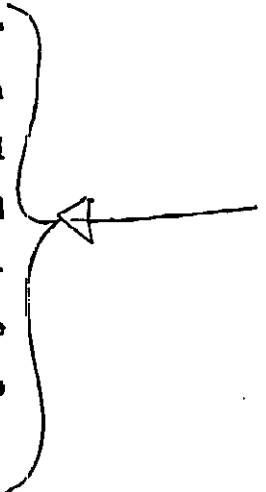
H.L.O.

1 Social Security Act), and whose failure to  
 2 pay such child support has resulted in an  
 3 arrearage exceeding \$5,000, until child  
 4 support payments under the judgment, de-  
 5 cree, or order are satisfied or the alien is  
 6 in compliance with an approved payment  
 7 agreement.

8           “(ii) APPLICATION TO PERMANENT  
 9 RESIDENTS.—Notwithstanding section  
 10 101(a)(13)(C), an alien lawfully admitted  
 11 for permanent residence in the United  
 12 States who has been absent from the Unit-  
 13 ed States for any period of time shall be  
 14 regarded as seeking an admission into the  
 15 United States for purposes of this subpara-  
 16 graph.

17           “(iii) WAIVER AUTHORIZED.—The At-  
 18 torney General may waive the application  
 19 of clause (i) in the case of an alien, if the  
 20 Attorney General—

21           “(I) has received a request for  
 22 the waiver from the court or adminis-  
 23 trative agency having jurisdiction over  
 24 the judgment, decree, or order obligat-



F:\MS\CARDIN\CARDIN.060

H.L.C.

3

1 ing the alien to pay child support that  
2 is referred to in such clause; and

3 "(II) determines that the likeli-  
4 hood of the arrearage being elimi-  
5 nated, and all subsequent child sup-  
6 port payments timely being made by  
7 the alies, would increase substantially  
8 if the waiver were granted".

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall take effect 180 days after the date of  
11 the enactment of this Act.

12 **SEC. 402. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON**  
13 **ESTABLISHMENT OF GOOD MORAL CHAR-**  
14 **ACTER.**

15 (a) IN GENERAL.—Section 101(f) of the Immigration  
16 and Nationality Act (8 U.S.C. 1101(f)) is amended—

17 (1) in paragraph (8), by striking the period at  
18 the end and inserting "; or"; and

19 (2) by inserting after paragraph (8) the follow-  
20 ing:

21 "(9) one who is legally obligated under a judg-  
22 ment, decree, or order to pay child support (as de-  
23 fined in section 459(1) of the Social Security Act),  
24 and whose failure to pay such child support has re-  
25 sulted in any arrearage, unless child support pay-

February 25, 1998

F:\MS\CARDIN\CARDIN.080

H.L.C.

1 ments under the judgment, decree, or order are sat-  
2 ished or the alien is in compliance with an approved  
3 payment agreement.".

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to aliens applying for a benefit  
6 under the Immigration and Nationality Act on or after  
7 180 days after the date of the enactment of this Act.

8 SEC. 409. AUTHORIZATION TO SERVE LEGAL PROCESS IN  
9 CHILD SUPPORT CASES ON CERTAIN ARRIV-  
10 ING ALIENS

11 (a) IN GENERAL.—Section 235(d) of the Immigra-  
12 tion and Nationality Act (8 U.S.C. 1225(d)) is amended  
13 by adding at the end the following:

14 "(5) AUTHORITY TO SERVE PROCESS IN CHILD  
15 SUPPORT CASES.—

16 "(A) IN GENERAL.—To the extent consist-  
17 ent with State law, immigration officers are au-  
18 thorized to serve on any alien who is an appli-  
19 cant for admission to the United States legal  
20 process with respect to any action to enforce or  
21 establish a legal obligation of an individual to  
22 pay child support (as defined in section 459(j)  
23 of the Social Security Act).

24 "(B) DEFINITION.—For purposes of sub-  
25 paragraph (A), the term 'legal process' means

INS to enforce non-imm law

February 25, 1998

F:\MS\CARDIN\CARDIN.060

H.L.C.

1 any writ, order, summons or other similar pro-  
2 ces, which is issued by—

3 "(i) a court or an administrative  
4 agency of competent jurisdiction in any  
5 State, territory, or possession of the Unit-  
6 ed States; or

7 (ii) an authorized official pursuant to  
8 an order of such a court or agency or pur-  
9 suant to State or local law."

10 (b) **EFFECTIVE DATE.**—The amendment made by  
11 this section shall apply to aliens applying for admission  
12 to the United States on or after 180 days after the date  
13 of the enactment of this Act.

14 **SEC. 404. AUTHORIZATION TO OBTAIN INFORMATION ON**  
15 **CHILD SUPPORT PAYMENTS BY ALIENS.**

16 Section 453(h) of the Social Security Act (42 U.S.C.  
17 653(h)) is amended by adding at the end the following:

18 "(3) **PROVISION TO ATTORNEY GENERAL AND**  
19 **SECRETARY OF STATE OF INFORMATION ON PER-**  
20 **SONS DELINQUENT IN CHILD SUPPORT PAY-**  
21 **MENTS.**—On request by the Attorney General or the  
22 Secretary of State, the Secretary of Health and  
23 Human Services shall provide the requestor with  
24 such information as the Secretary of Health and  
25 Human Services determines may aid them in deter-

*IS THIS O.K.  
w/ INS or HHS?*

February 25, 1998



F:\MS\CARDIN\CARDIN.080

H.L.C.

6

- 1 mining whether an alien is delinquent in the pay-  
2 ment of child support."

Amend the title so as to read: "A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes."

February 25, 1998

▶ **Julie A. Fernandes**  
02/26/98 12:12:22 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: Cardin Amendment to HR 3130

Elena,

OMB just faxed me a proposed amendment to HR 3130 that impacts immigration and child support enforcement. Diana, Cynthia, Steve Mertens and INS general counsel have also received it. OMB tells me that they need a Statement of Admin. Policy on this by tomorrow afternoon.

I am faxing you the draft leg. The parts that might be problematic are Section 401(a)(F)(ii), Section 403(a)(5)(a), and Section 404.

Section 401(a)(F)(i) amends the INA to make an alien "inadmissible" if they are \$5000 or more in arrears in child support payments (under a legal order to pay). The problem is the next bit: Section 401(a)(F)(ii) amends current law to require that a legal permanent resident (LPR) absent from the country for any period of time meet the "admission" standards outlined above. Under current law, only those absent for more the 6 months are subject to "readmission" scrutiny.

Section 403 authorizes immigration officers to serve process re: child support enforcement on those applying for admission. INS may be opposed to enforcing the SSAAct. Finally, Section 404 would authorize HHS to release child support information to INS or the Secy of State, upon request.

I will keep you posted.

julie

▶ **Julie A. Fernandes**  
02/27/98 01:44:38 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: Cardin Amendment to HR 3130 

I guess I just wanted to make sure that it was clear that this change would be a radical departure from present practice, would be very expensive and would cause massive delays at the ports of entry -- particularly on the Canadian and Mexican borders.