

**NLWJC - Kagan**

**DPC - Box 059 - Folder-006**

**Welfare - Child Support [2]**

Wp - child support  
and  
Wp - work requirements

Welfare Reform  
October 1, 1997

Work Participation Rates

**Question:** Why are so many states not meeting the work rates? Does that mean welfare reform is a failure?

**Answer:** It's important to keep in perspective that 93 percent of the welfare caseload is made up of single parent families and nearly all states expect to meet the work rates for those families. The law requires 25 percent of the total welfare caseload to work and 75 percent of two-parent families to work. We think these work rules are tough but fair and states with serious welfare reform efforts should be able to meet them.

**Question:** How many states do you expect to fail the work rates?

**Answer:** We are not sure. States have until mid-November to report data. Informally, most states have told us they will meet the overall 25 percent work rate, but many have reported concerns about meeting the 75 percent two parent rate. As you may know, the Associated Press surveyed states and found 19 states expect to fail the two parent work rates and seven states do not know. However, because of the staggered start dates for state TANF plans, only two-thirds of states have to report data and are subject to financial penalties this fiscal year, and none of these states will be reporting more than three months of data (from July 1- September 30th).

**Question:** Will the Administration penalize states that fail the work rates?

**Answer:** We will impose penalties on states that do not meet work rates. We believe it is critical that states place a priority on putting welfare families to work. The law does provide states with the opportunity to receive a credit toward the work rates for those who leave the welfare rolls and allows them to propose a corrective compliance plan in lieu of a penalty. We will evaluate these requests on a case by case basis.

**Question:** Is the Administration going to weaken the two parent work rate through regulations, as The New York Times reported this morning?

**Answer:** The welfare law explicitly says that states shall receive a "pro rata reduction of the participation rate due to caseload reductions" and provides a formula for reducing the work rates from, for example, 75 to 50 percent, if the state has had a 25 percent caseload reduction. Thus it is the law, not the regulation, which provides the caseload credit.

[Background: the issue raised in The New York Times this morning is whether the regulation will give states the choice of using the percentage reduction in two parent families or the percentage reduction in all families when subtracting the credit from the 75 percent two-parent work rate.]

**Question:** What will the penalties be?

**Answer:** States will be penalized 5 percent of their TANF block grant for the period in question (in this case, one to three months). For each consecutive year of failure, the penalty will increase.

**Question:** What data will be available today?

**Answer:** Actually, we don't have any data to release today because states have until mid-November to report work participation data to HHS for the fiscal year ending September 30th. Also, because of the staggered start dates for state TANF plans, only 34 states have to report data this fiscal year, and none of these states will be reporting more than three months of data (from July 1- September 30th).

#### Child Support Computer Systems

**Question:** Haven't a lot of states failed to meet the October 1st deadline for having state-wide child support computer systems in place? What is the Administration planning to do about this?

**Answer:** States have had nine years to develop these computer systems, and we don't intend to extend the deadline any further. We do, however, believe that the current law -- which requires us to withhold all federal child support funds -- will undermine efforts to collect child support for need families. Thus, while we proceed with the penalty process, we intend to accept the invitation from members of Congress such as Chairman Shaw to try to work together to devise an additional penalty structure.

**Question:** Doesn't the states failure to put in place these computer systems show that these computer systems will never work?

**Answer:** To the contrary -- the increasing computerization of the child support enforcement has been one of the key reasons child support collections have increased by 50 percent over the past four years. Computers enable us to find and withhold child support from paycheck and bank accounts automatically. The National Directory of New Hires, which will go on line today, will enable us to find parents working in another state from their children.

**Question:** What exactly is the National Directory of New Hires?

**Answer:** Whenever a new employee is hired, employers will report six types of data -- employee name, address, Social Security number and employer names, address, and federal employer identification number -- to a state new hire database. Each of the fifty states will then report that data to the National Directory of New Hires, where it will be matched against records of parents who owe child support to locate and begin collection procedures against them.

**Question:** Which states will not have met this computer systems deadline?

**Answer:** The Department of Health and Human Services believes that 17 states and the District of Columbia will not meet the deadline. These states are: California, Michigan, Illinois, Ohio, Pennsylvania, Nevada, South Carolina, New Mexico, Alaska, Maryland, Indiana, Hawaii, Massachusetts, North Dakota, South Dakota, Oregon, and Missouri.



United States Senate  
WASHINGTON, DC 20510-0504

Crime - ammo clips ; Crime - assault weapon  
and  
WR - child support

JOSE / EK / CR

September 17, 1997

Honorable William J. Clinton  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear Mr. President:

Thank you for meeting with me on Monday to discuss the issues of assault weapons, the continued circulation of high-capacity ammunition clips, and the ability of the Bureau of Alcohol, Tobacco and Firearms to enforce our nation's Federal firearms laws. In addition, I appreciate your willingness to try to look into the issue of California and other states facing the possible loss of billions of dollars in Federal funds due to a delay in development of a child support enforcement system as required under the 1988 Family Support Act and Welfare Reform.

As a follow up to our meeting, let me reiterate what it is I am hoping we can each do to further our common goals.

**Legislative on high-capacity ammunition magazines (HCMs) or imported HCMs.**

I intend to introduce legislation that replaces the grandfather clause on high-capacity ammunition magazines in the 1994 Crime Bill with a prohibition on the commercial sale of HCMs manufactured prior to the ban. If passed by Congress, this will have the added effect of prohibiting the importation of high capacity clips as well. I am asking that you and your Administration support this effort and commit to use the power of your office to help bring this issue to the American people, in addition to helping me weigh in with key legislators for passage of this amendment. The legislation was drafted by Wilke Green of my staff, and he is prepared to brief your staff on the details of the legislation and the strategy for introduction.

**Administrative Action on Imported HCMs**

As we move forward on legislation addressing the issue of pre-ban large-capacity clips, I believe there is action you can take to suspend the importation of pre-ban clips. I urge you to issue a directive to the BATF to determine the manufacture date of imported clips prior to approval of any applications for import permits. If BATF is unable to determine with certainty the date of manufacture, the import permit should be denied.

interesting

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President William J. Clinton  
September 17, 1997  
Page Two

Understanding that this directive will likely be challenged in court, I will help build the case in the Senate that the continued importation of these large-capacity clips violates both the spirit of the law and the intent of Congress, and will encourage my counterparts in the House of Representatives to do the same as I work toward passage of legislation to address this issue permanently.

### **Bureau of Alcohol, Tobacco and Firearms - Enforcement and Staffing**

It is clear to me that however committed the BATF is to carry out our nation's gun laws, their enforcement ability has been hampered by inadequate staffing, statutory limits on their inspection authority, and internal policies that discourage inspections not relative to an on-going criminal investigation.

I am asking you to consider, in your FY 1999 Budget to Congress, an increase in funding for the BATF for the purpose of adding additional field inspectors. I am also requesting that you issue a directive to the BATF to change current internal policies prohibiting field inspectors from attending gun shows without their attendance being relative to a criminal investigation. Further, in your order, direct the BATF to proactively send field inspectors to gun shows for the purpose of enforcing Federal firearms laws and to serve as a deterrent to those who would violate the law. I pledge to work in the Senate to build support for your efforts to address both of these issues.

yes

### **Importation of Israeli Galils and Uzis**

As we discussed, I sent a letter to Prime Minister Binyamin Netanyahu urging him to intervene in the planned export to the United States tens of thousands of modified Uzis and Galils by a government-owned munitions manufacturer, Israel Military Industries, Ltd. I am asking that you issue a directive to the Department of Treasury to suspend pending permits of these weapons until such time as a clarification can be made as to the suitability of these weapons for sporting purposes. This order would be modeled after a similar directive issued by the Treasury Department and supported by President Bush in 1989. In that order, President Bush suspended the pending import permits of 24 types of assault weapons in order to determine whether or not the weapons were suitable for sporting purposes under 18USC 925(d)3. I believe you have an opportunity to take the same action in this case.

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Further, I am requesting that you use diplomatic channels to persuade Israel, in the interest of public safety, not to export these weapons to the United States.

President William J. Clinton  
September 17, 1997  
Page Three

### **Child Support Enforcement System Automation**

Finally, as we discussed, I am heartened by your willingness to do what you can to prevent California and other states from losing billions of dollars in federal funds, which include all of the states' Temporary Assistance for Needy Families (TANF) funds and the Child Support Enforcement System funds because these states will not meet the October 1, 1997 deadline as required under welfare reform.

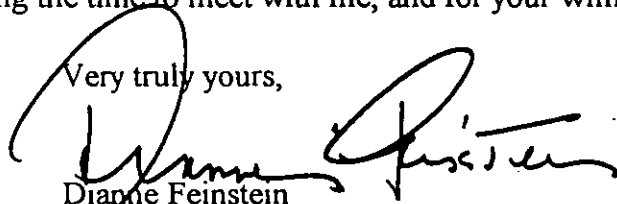
Without your intervention, California could lose \$3.7 billion in TANF funds and \$300 million in child support system funding. I am asking you to impose a temporary 6 month moratorium on the penalties for failure to meet the October 1st deadline in order to give California and other States the ability to implement their TANF programs and to improve their child support systems. California's state and local officials are making every effort to comply with the law as expeditiously as possible.

Mr. President, I know these issues are as important to you as they are to me. I understand the difficulty in addressing some of these firearms issues in a Republican Congress, but I am willing to do everything in my power to try, and I hope you will do the same.

I stand ready to assist you in every way, and I look forward to working with you, the Vice President, and others in your Administration to get the job done. The public stands behind you on this issue; of that I have no doubt. The rest is up to us.

If you would like to discuss this further, or if there are any questions you have, please do not hesitate to call me or have your staff contact Wilke Green of my staff at (202) 224-1227. Thank you again for taking the time to meet with me, and for your willingness to help.

Very truly yours,



Dianne Feinstein  
United States Senator

cc: Vice President Al Gore  
Thomas F. "Mack" McLarty, Counselor to the President  
Erskine Bowles, White House Chief of Staff  
Bruce Reed, Assistant to the President for Policy Development  
Kay Casstevens, Office of the Vice President  
Tracey Thornton, Special Assistant to the President for Legislative Affairs



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

WR-child support

**DRAFT**

The Honorable [name]  
Governor of [State]  
[City], [State] [Zip Code]

Dear Governor [Name]:

I am writing you about a critical issue to the well-being of American children - using modern technology to strengthen the Nation's child support enforcement program so that children receive the financial and emotional support that they need and deserve.

Statewide, automated child support enforcement systems are crucial to the success of the child support program. Congress recognized the importance of automated systems in 1988 when it passed the Family Support Act (FSA), which required States to develop and implement information systems which would serve the child support program. According to the law, all States must meet the systems-related requirements of the Family Support Act no later than October 1, 1997. If a State does not meet these requirements, it will not be able to maintain an approved Child Support State plan. Without an approved plan, a State will not be able to receive Federal funding for its child support program.

Yet, as of today, only sixteen States have been certified as meeting the automation requirements of the Family Support Act. The remaining States, including your State, are at various stages of completing their systems. Many State officials have expressed confidence that their systems will meet all necessary requirements. However, I am aware that a number of States may not have statewide, operational CSE automated systems by this October. I cannot stress enough the importance of meeting these automation requirements.

Staff from the HHS/Administration for Children and Families (ACF) will be visiting your State to determine the status of your Child Support Enforcement system implementation efforts. My staff will provide their detailed assessment of your State's efforts to your child support enforcement staff. They will also report the results of their findings to me and I will share those findings with you.

The importance of operating an automated, statewide child support enforcement system cannot be overstated. I know you share my commitment and therefore ask you to encourage your staff to move quickly toward the goal of successful system implementation.

Would go to  
all states not  
~~yet~~ yet  
certified



Page 2 - The Honorable [Name]

The Administration for Children and Families will continue to assist States that are having difficulty meeting the October 1st deadline by offering individualized ~~action~~ <sup>assistance</sup> plans, as appropriate. Please be assured that my Department will continue its efforts to work closely with States to meet the automation requirements of the Family Support Act of 1988 and to lay the foundation for implementing the system enhancements set forth in PRWORA.

I appreciate your continued commitment to ensuring that all States meet our Child Support Enforcement goals for our children. If you would like to discuss any of these requirements, DHHS stands ready to work with you.

Sincerely,

Donna E. Shalala



DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

Wp-child support

ADMINISTRATION FOR CHILDREN AND FAMILIES  
Office of the Assistant Secretary, Suite 600  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

Ms. Leslie Frye, Chief  
Office of Child Support  
Department of Social Services  
744 P Street, Mail Stop 17-29  
Sacramento, CA 94244-2450

Dear Ms. Frye:

Thank you for sharing various options for dealing with those States with automated child support systems which will not meet the statutory deadline and the certification requirements set forth in the Automated Systems for Child Support Enforcement: A Guide for States. Your suggestions have helped to inform our discussion of this issue.

I also appreciate receiving a copy of the SACCS Alternative Report-Draft 6 dated July 28, 1997. I understand that the State has made no decision regarding an approach to meet the business needs of California's child support enforcement program, as well as to meet Federal statutory and regulatory requirements.

We are aware that the State is planning a meeting in mid-September with county officials regarding the California automated Child Support Enforcement (CSE) system. It is our understanding that a number of different automated systems will be demonstrated at that meeting.

As you consider your options, I thought that the following information would be helpful. ACF does not intend to modify our regulations, practice and policy defining a single statewide system or make substantial changes in our system certification requirements for the Family Support Act of 1988 at this time. Therefore, any consideration of the consortium approach must be within the context of current statute and regulations, which expressly require each State to operate a single, statewide automated CSE system.

Statewide, automated systems are crucial to the success of the child support program. Computerized systems are the only means to provide both prompt and reliable processing of information. With a current national caseload of 20 million, we must move forward aggressively with new technologies if we are to be able to keep up with the massive volume of information and transactions in every State. Moreover, this provision also helps to ensure that a State's CSE system will provide "seamless" interoperability among sub-state CSE agencies -- a consideration of major importance in a State, such as California, where the CSE program is predominantly county-based.

Congress recognized the importance of automated systems in 1988 when it passed the Family Support Act (FSA), which required States to develop and implement information systems which would serve the child support program. According to the law, all States must meet the systems-related requirements of the Family Support Act no later than October 1, 1997. If a State does not meet these requirements, it will not be able to maintain an approved Child Support State plan. Without an approved plan, a State will not be able to receive Federal funding for its child support program.

As you may know, our regulations permit ACF to grant a waiver for an "alternative systems configuration" that meets certain requirements. A consortium approach, such as the approach that is being considered in California, would, if submitted to us, be reviewed under this provision. However, the regulations do not permit us to fund the full cost of an alternative system configuration. Rather, we may provide funding at the enhanced<sup>1</sup> and regular rate (as applicable) only for:

- development of the base system;
- hardware, operational system software, and electronic linkages with the separate components of an alternative system configuration; and
- minor alterations for the separate automated or manual processes that are part of an alternative system configuration and for operating costs including hardware, operational software and applications software of a computerized support enforcement system.

Federal funding is not available for other costs, e.g., the development of new systems or making major changes or enhancements to separate automated or manual processes for other than the base system.

For us to approve a waiver to enable California to pursue an alternative system configuration, the State would need to demonstrate that the system:

- 1) could be implemented more quickly than a single, statewide system;
- 2) would provide for at least the same level of functionality as a single, statewide system, and would enable the State to meet all applicable statutory criteria; and

<sup>1</sup> At this point in time, funding at the 80% or enhanced rate is available to the State, subject to applicable limitations. Funding at the 90% FFP rate is not available after September 30, 1997.

- 3) would not require Federal funds in excess of an amount equal to the cost of developing and implementing a single, statewide system.

If the State wishes to pursue a request for a waiver and approval of an Advance Planning Document for an alternative system configuration, the regulations at 45 CFR Part 95, subpart F list the requirements for such a submission. In order for us to assess whether we could approve such a request, we would also need to have, for comparative purposes, an assessment of the costs, timeframes, etc., of developing and implementing a single, statewide CSE system. We would also want an analysis of how the State would overcome the significant difficulties that have delayed implementation of the Statewide Automated Welfare System (SAWS) under title IV-A -- an effort that seems to be analogous to the consortia approach that you are considering. Any delays similar to those encountered in the SAWS consortium approach would result in the State's inability to meet additional CSE system deadlines that were added by the welfare legislation in August 1996.

I look forward to continued discussions on how we can work together as partners to achieve our common goal of improving child support enforcement in California. If you have any questions regarding this issue please contact me at (202) 401-5180.

Sincerely,

John Monahan  
Administration for  
Children and Families

A similar letter has been sent to Mr. Dean Flippo

cc: John Thomas Flynn  
Sharon Fujii  
David Gray Ross  
Norm Thompson  
Titles and additional cc's to follow

SCHEDULING REQUEST

September 25, 1997

\_\_\_ ACCEPT

\_\_\_ REGRET

\_\_\_ PENDING

TO: Stephanie Street, Director of Scheduling and Advance

FROM: Bruce Reed, Assistant to the President for Domestic Policy

REQUEST: Child Support Enforcement Event.

PURPOSE: To demonstrate the Administration's commitment to cracking down on dead-beat parents.

BACKGROUND: The President should do an event or radio address on the increase in the collection of child support from federal employees and contractors and announce new measures to encourage the payment of child support nationwide. At this time he would announce new data on the Treasury Department's success in collecting child support from federal employees; new rules to prevent doctors who owe child support from getting payments from Medicare; unveil the national new hire reporting system which goes on line October 1st; and call upon Congress to enact the Administration's proposal for tougher sentences for parents who cross state lines to avoid paying child support.

DATE & TIME: October 7, 1997 or Radio Address on October 4, 1997

LOCATION: White House

PARTICIPANTS: TBD

OUTLINE  
OF EVENTS: TBD

REMARKS  
REQUIRED: Yes

MEDIA  
COVERAGE: Open press

RECOMMENDED  
BY: Bruce Reed

CONTACT: Christa Robinson x6-5165

## Child Support Computer Systems

### Background

Nine or more states are expected to fail to meet the 10/1/97 deadline for child support computer systems. The 1988 Family Support Act required states to have "in operation a single, state-wide automated data processing, information, and retrieval system" by 10/1/95; this deadline was extended by two years in the last Congress.

The states expected to fail are California, Michigan, Illinois, Pennsylvania, Ohio, Maryland, D.C., Nevada, and Hawaii. Other possibilities include New York, Florida, Texas, Indiana, South Carolina, and New Mexico. We won't actually know on October 1st how many states have failed, because under the law states have until December 31st to submit to HHS a state plan amendment indicating that their child support system was completed and operating as of October 1st. HHS must then conduct certification reviews to assess states compliance.

Under current law, HHS must disapprove a state's child support plan if it does not meet the computer systems requirement -- thus withholding all federal child support funds from those states. (The federal government pays 66% of administrative child support enforcement costs, and 90% for computer systems costs before FY 1997 and 80% up to a total of \$400 million for costs thereafter.) In addition, HHS must reduce the TANF grant by between one and five percent. California says it will lose \$300 million in federal child support payments and between \$37 and \$185 million in TANF payments, and state officials have asked for a White House meeting the second week of September to press for legislation to assist them.

While by law HHS must withhold federal child support payments to non-compliant states, HHS General Counsel believes HHS could establish, via an Action Transmittal, a process whereby HHS would hold this penalty in abeyance on the condition that a state enter into and carry out a corrective action plan. HHS does not have, but would like to have, the authority to impose alternative penalties, i.e., withhold 5 - 10% of a state's federal child support funds. House Ways and Means staff have indicated that they would like to work with the Administration to develop legislation on this issue to be enacted as soon as possible.

### Issues to Resolve

1. Are we willing to press the 'nuclear button' and withhold all federal child support funds from states that have not met the computer systems deadline?
2. Are we willing through executive action to enter into corrective action plans with states which do not meet the October 1st deadline? What penalties and financial incentives should those corrective action plans include?
3. Shall we work with Congress on new legislation providing a range of penalties and explicitly authorizing a corrective action plan process?
4. Will we support California's proposal to allow a combination of systems linked electronically to count as a single state-wide system?

**Child Support Computer Systems  
Options**

<b>Initial HHS</b>	<b>Revised HHS</b>	<b>OMB (tentative)</b>	<b>Alternative</b>	<b>California</b>
<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met.</p> <p>2. Issue "Action Transmittal" outlining Corrective Action Plan Process.</p> <p>3. Negotiate Corrective Action Plans with States.</p> <p>4. Pursue Legislative Strategy to Develop Calibrated Penalties.</p>	<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met.</p> <p>2. Pursue Legislative Strategy to Develop Calibrated Penalties.</p> <p>3. Issue "Action Transmittal" outlining Corrective Action Plan Process (if needed).</p> <p>4. Negotiate Corrective Action Plans with States.</p>	<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met.</p> <p>2. Pursue Legislative Strategy to Develop Calibrated Penalties which include financial penalties and incentives as part of Corrective Action Plan (i.e., lower federal match until progress made on CAP).</p> <p>3. Issue "Action Transmittal" outlining Corrective Action Plan Process (if needed).</p> <p>4. Negotiate Corrective Action Plans with States -- include financial penalties and incentives (i.e., lower federal match until progress made on CAP).</p>	<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met and withholding of 2 percent of TANF funds per section 409(a)(8) (states will be required to provide additional funds to make up the shortfall).</p> <p>2. Pursue Legislative Strategy to Develop Calibrated Penalties which include financial penalties and incentives as part of Corrective Action Plan (i.e., lower federal match until progress made on CAP).</p> <p>3. Issue "Action Transmittal" outlining Corrective Action Plan Process (if needed).</p> <p>4. Negotiate Corrective Action Plans with States -- include financial penalties and incentives (i.e., lower federal match until progress made on CAP). Corrective Action Plans with States -- include financial penalties and incentives (i.e., lower federal match until progress made on CAP).</p>	<p>1. Enact Legislation allowing a combination of systems linked electronically to count as a single state-wide system.</p> <p>2. Enact legislation which deems states approved who have entered into Corrective Action Plans with HHS.</p>



Cynthia A. Rice

09/17/97 05:03:05 PM

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Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: Senate Letter on Child Support Computer Systems Deadline

We've received a faxed letter to the President from 19 Senators (Feinstein, Moseley-Braun, Reid, Boxer, Abraham, DeWine, Bryan, Akaka, Sarbanes, Mikulski, Bingaman, Santorum, Levin, Johnson, Glenn, Domenici, Specter, Daschle, and one signature I'm still trying to decode) asking us to support a six month moratorium on penalties for states not meeting the October 1st deadline. As you know, Senator Feinstein raised this at her meeting with the President on Monday and he was non-committal. I was just sent a copy of a note from him saying "can we help on this." I will write an item for the weekly on it.





Cynthia A. Rice

09/08/97 07:59:07 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP  
cc: Diana Fortuna/OPD/EOP  
Subject: Child Support Enforcement Position

Bruce and Elena -- you both said this morning you would be willing to have us take up Haskins' invitation to discuss a new, more effective penalty structure for states that don't meet the computer systems deadline. OMB agrees, but they want to signal this in the testimony Judge Ross will give on Wednesday, by adding a paragraph --

"Given the enormity of the penalty under current law -- the loss of all child support enforcement funding -- we believe that it may be worthwhile to consider an alternative penalty structure that would provide the proper incentives to help States be accountable. Penalties should be tough, automatic, and rapid when a State fails to meet the deadline for certification of their automated system. And penalties should continue to increase as long as a State remains out of compliance. Exceptions should be extremely limited (e.g. natural disasters). Only in this way can we create a real incentive for States to comply while maintaining the operation of the program. The Administration would be willing to discuss such an approach with the Committee."

What do you think?

WR-child support

Welfare Reform Daily Report - September 10, 1997 (PAGE 6)

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Received by NewsEDGE/LAN: 9/9/97 4:05 PM

*Child Support: Federal agencies not checking up on doctors' child support*

WASHINGTON (AP) The federal department responsible for enforcing child support laws continues to write checks to nearly 1,200 Medicare doctors and medical researchers who owe \$21.5 million in unpaid child support, an internal report finds.

Officials say it may be more trouble than it's worth to go after so few delinquents. But the report argues that the Department of Health and Human Services should try harder to set a good example.

"It is untenable for this department to pay what amounts to income to individuals who it knows are out of compliance with child support obligations," wrote HHS Inspector General June Gibbs Brown.

In 1995, President Clinton made the same argument as he ordered a crackdown designed to make the federal government "a model employer" regarding child support.

"We will find you. We will catch you. We will make you pay," Clinton warned then, as he signed an executive order requiring agencies to withhold past-due child support from payments to federal employees and contractors.

But that order, signed in February 1995, has not been uniformly enforced, said Michael Kharfen, spokesman for the HHS agency that handles child support. Some agencies have been more willing than others to garnishee wages and payments, he said.

HHS Secretary Donna Shalala, who supervises all of the agencies involved, could not be reached for comment Tuesday.

Nationwide, parents owe \$34.5 billion in overdue child support. Just 20 percent of families who are owed child support receive payments.

The inspector general's report focused on a set of doctors and found 1,184 deadbeats who owed \$21.5 million. That was less than 1 percent of the 422,643 cases examined.

Using databases, the report matched child support delinquents with doctors who treat Medicare patients, researchers with grants from the National Institutes of Health and health care professionals who received loans or grants for school through the National Health Service Corps.

Most of the delinquent parents 1,105 of them were doctors serving in the Medicare program for the nation's elderly.

But the inspector general was only able to examine the records of 55 percent of Medicare doctors, so the actual number who owe child support could be much higher.

The report recommends that HHS start enforcing Clinton's executive order, saying it can start by doing the same computer matches that investigators did.

Beyond that, it suggests that agencies require doctors to sign statements swearing they aren't delinquent in child support before they can receive Medicare payments or grants. That would require new legislation punishing doctors if they lied.

Finally, it recommends that HHS cross-check applicants for federal money with a new database of all delinquents that is being created. The department should then deny payments to those not paying child support, it said.

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*Welfare Reform Daily Report - September 10, 1997 (PAGE 7)*

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A spokesman for the HHS agency that administers Medicare, Chris Peacock, said the agency "absolutely believes that doctors who are delinquent in child support payments shouldn't be getting Medicare money."

Peacock said Medicare is working to find a solution. But in written comments, the agency objected to every suggestion by the inspector general.

It argued that a doctor caught through a computer match could simply reapply as a corporation and that even if a new computer system worked it would "disrupt patient service" if doctors were kicked out of the program.

The agency also complained that requiring doctors to sign a statement would be an "administrative burden" for doctors when very few are in violation. Plus, it said, doctors might easily lie, and investigations would be expensive.

The National Institutes of Health also argued it is not worth denying grants to a few researchers when 99.72 percent owe no child support.

"This is an extremely high compliance rate, one which we would be pleased to achieve in other areas," said Anthony L. Itteilag, NIH deputy director for management.

But \$21.5 million means a lot to the families who have it coming, said Debbie Kline of the Association for the Enforcement of Child Support.

"There isn't really an amount that is too small to overlook," she said. "The federal government should not be paying money to criminals who are neglecting their children."

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Received by NewsEDGE/LAN: 9/9/97  
Child Support-Glance*

Details of a report by the inspector general for the Department of Health and Human Services into child support delinquency by certain medical professionals:

In Medicare, the report examined 391,148 doctors. Another 317,682 Medicare doctors were not included because they did not have Social Security numbers in their files and could not be matched electronically with child support data.

At the National Institutes of Health, the report examined 26,593 researchers who were involved in nearly 40,000 grants.

Inspectors also looked at 4,902 people who were given loans or scholarships for school through the National Health Service Corp.

Absent parents studied were better off economically than those in the general population who owe child support. Still, they owed more than twice as much per child, on average.

Of the 1,184 people who owed child support, 108 owed more than \$45,000.

In Medicare, some of the doctors were paid significantly more by the government than they owed to their children. But others filed no Medicare claims during 1995, the year that was studied, or were paid less than what they owed.

## Child Support Enforcement/New Hire Reporting

September 22, 1997

**Question:** What is this "vast database of all new hires" described in today's New York Times?

**Answer:** The National Directory of New Hires is part of the welfare law's new tools to collect child support from deadbeat parents. The best way to collect child support is to take it right out of parents' paychecks, a process called "wage withholding." Before now, it was easy for the 30 percent of parents who live in a different state from their children to avoid wage withholding because the state where their children live couldn't access their wage data. The National Directory of New Hires, which will go on-line October 1st, will change all that. The Department of Health and Human Services estimates that the new hire directory will increase child support collections by \$6.4 billion over the next ten years.

**Question:** What exactly is the National Directory of New Hires?

**Answer:** Whenever a new employee is hired, employers will report six types of data -- employee name, address, Social Security number and employer names, address, and federal employer identification number -- to a state new hire database. Each of the fifty states will then report that data to the National Directory of New Hires, where it will be matched against records of parents who owe child support to locate and begin collection procedures against them.

**Question:** Aren't there privacy concerns raised by such a database?

**Answer:** Federal law requires the Department of Health and Human Services to establish safeguards to protect privacy and ensure the data are used only by authorized persons for authorized uses. These issues were reviewed in great detail as the child support legislation was considered in the last Congress, and there was strong bipartisan support for the establishment of the new hire directory and other new child support enforcement measures.



Cynthia A. Rice

09/09/97 01:19:45 PM

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Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP, Emily Bromberg/WHO/EOP

cc:

Subject: HHS letters to states re: child support enforcement

I will fax you each copies of the two letters:

1) One Shalala wants to send to governors of states which do not yet have a certified computer system saying statewide systems are crucial and by law HHS must withhold all federal funds to states that do not meet have them in place by October 1.

2) One from Monahan to the California child support enforcement director saying we do not intend to modify our current regulations, practice or policy to allow California to have a child support computer system that is not statewide, unless, as currently allowed, the alternative would function as well as a statewide system and meet all the current statutory requirements.

Please let me know if you have any comments.



Cynthia A. Rice

09/09/97 12:38:07 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: Child Support Q&A

We've taken out the reference to additional penalties in Judge Ross' testimony, and have been going back and forth on a Q&A instead. HHS wants to say simply we're willing to work with the Committee to keep from hurting children. OMB and I have worked up a more aggressive version, below:

New schedule from Haskins: he wants to put together a bipartisan Congress/Admin group to develop a proposal on systems penalties to move forward at the first of the year. He apparently doesn't think it can get done by end of this session. He's apparently planning to have Shaw say tomorrow something like: 16 states are now certified, 35-40 will be by end of year. We're concerned that states haven't made it. We want to work with Administration and others to find ways to ensure all states have functioning state-wide computer systems in place...

**Q:** Do you really intend to disapprove State plans for those States whose automated systems are not in compliance? What other options do you have for responding to such States?

**A:** The federal law is very clear that States must have a comprehensive state-wide computer system in place in order to continue to receive federal child support funds. We intend to enforce the law. But obviously, no one wants to hurt children by jeopardizing State child support systems. Thus, should the Congress be willing to discuss additional penalties which would allow the State child support programs to continue running while providing strong financial incentives for them to come into compliance, we would be happy to work with you.

Withholding all federal funds would still remain a very real possibility, but new penalties, which were tough, automatic, and rapid when a State fails to meet the deadline for certification and continued to increase as long as a State remains out of compliance, would create a real and immediate incentive for States to comply while maintaining the operation of the program. The Administration would be very interested in working with the Committee to develop additional penalties along these lines.

WR-child support

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

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SUBCOMMITTEE ON HUMAN RESOURCES

September 18, 1997

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CHARLES S. RANGEL, NEW YORK

The Honorable William Clinton  
The White House  
Washington, D.C. 20500

Dear Mr. President:

I urge you not to follow advice given to you in a recent letter from several Senators. The letter encourages you to support delaying an October 1, 1997 deadline for states to establish an approved automatic data system that is to serve as the control center of their child support enforcement program. As Chairman of the House Subcommittee with jurisdiction over the child support program, I oppose this recommendation for several reasons.

Child support enforcement is one of the most popular programs run by the federal and state governments. Last year it collected about \$12 billion in support for America's children, much of it for children in low-income single parent families including mothers trying to escape welfare. Despite such large collections, Congress has believed for many years that the program needs to be greatly strengthened. Experts estimate that a highly efficient system could collect up to \$50 billion in support. That is one reason Congress made substantial changes in the program in last year's welfare reform law.

Based on hearings conducted over the past several years and extensive consultation with experts on the child support program, I think there is general agreement that the backbone of the child support program is automatic data processing. Indeed, the federal government has now spent \$2 billion on these data systems; the states have spent an additional \$0.6 billion. And yet, again based on hearings and consultation with experts, plus an excellent recent study from the U.S. General Accounting Office, the data systems in many states remain deficient. Our best guess is that between 10 and 15 states are not going to meet the October 1 deadline referred to above.

Given this background, I would like you to consider the following issues. First, Congress has already delayed the deadline by two years. Legislation passed overwhelmingly in 1988 required the data systems to be completed by October 1, 1995. In 1994, because states were having trouble with their new systems, Congress delayed the deadline until October 1, 1997. I am uncomfortable changing this deadline for a second time, especially given the level of resources that has now been poured into the data systems and the length of time states already have been given to meet this goal.

Second, I hope you will reflect on the message we would send to the nation by delaying the date. Consider the following headlines reflecting charges the media could make against Congress: "Congress Chooses States Over Poor Children"; "Congress Backs Down on Promise to Penalize States for Not Collecting Child Support"; "Congress Slams Poor Children — Again"; "Congress to Single Parents: Eat Cake". If we believe that data processing is the heart of child support enforcement — as most of us do — and if we have already delayed by two years the original date on which states must have effective data systems — as we have — how can we in good conscience delay the date again? And if we do, would any of these headlines be unfair?

Third, Congress is forever forgiving penalties on states. We establish program after program, set standards for states that accept federal dollars to meet specific program goals, declare that "we really mean the penalties this time", and then immediately exempt states when they fail to perform adequately. Yet another federal performance of this sort will push even further into the future the day on which states believe us when we adopt performance goals backed by penalties.

Fourth, I believe there may be more panic than reason in the recommendation to delay the deadline. Although the deadline is October 1, 1997, current law contains numerous procedural requirements that will delay the actual withholding of funds from states until next summer.

For all these reasons, then, I recommend that you "table" the advice provided by our friends in the Senate. Their advice is unfortunate for all the reasons listed above. But more important, there is a much better course of action.

For several weeks now, I have been planning to identify a small group of House and Senate staff, and staff members of your Administration, plus a few representatives of government agencies, who will consult widely with states, advocacy groups, and computer experts, to help our Subcommittee design a two-part bill. The first part is straightforward. Under current law, if states miss the October 1 deadline, the Secretary has no choice except to terminate all the money received by the state under both the child support program and the Temporary Assistance for Needy Families program, which replaced the former AFDC program. Rather than impose this nuclear penalty, we will give the Secretary the flexibility to impose a reasonable fine on states of perhaps between 1 percent and 20 percent of their child support money, depending on the severity of their failure. In addition, we will give the Secretary the authority to enter into corrective compliance agreements under which fines will be temporarily suspended for a fixed period of time while states address their failures.

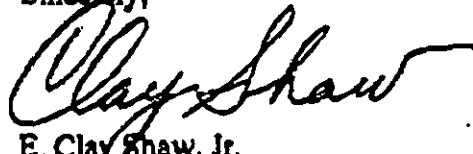
The second provision, much more difficult to write, will attempt to address the underlying reasons for failure by so many states. Perhaps the central problem is that some states have county data systems that are effective, modern, and well established. But if the



state must have a single state data system, then many counties are going to have to give up their current systems. Federal policy that forces this outcome may be shortsighted on both policy and political grounds. We need to try to find a middle ground that will allow some autonomy by counties but will still permit the centralized statewide data system to function.

No action is now necessary. The October 1 penalty date will spur states to action. By January we will have legislation ready that addresses both the penalty issue and the underlying issue of data system centralization. Because the legislation will be bipartisan and is expected to have the support of states, we will have little difficulty getting it through Congress quickly. Because the Administration will participate in writing the legislation, you should be pleased to sign it. And all this will be accomplished before the nuclear penalty has time to explode.

Sincerely,



E. Clay Shaw, Jr.  
Chairman

cc: The Honorable Dianne Feinstein  
The Honorable Harry Reid  
The Honorable Spencer Abraham  
The Honorable Richard H. Bryan  
The Honorable Paul S. Sarbanes  
The Honorable Jeff Bingaman  
The Honorable Carl Levin  
The Honorable John Glenn  
The Honorable Daniel K. Inouye  
The Honorable Tom Daschle

The Honorable Carol Moseley-Braun  
The Honorable Barbara Boxer  
The Honorable Mike DeWine  
The Honorable Daniel K. Akaka  
The Honorable Barbara A. Mikulski  
The Honorable Rick Santorum  
The Honorable Tim Johnson  
The Honorable Pete Domenici  
The Honorable Arlen Specter

Same letter sent to The Honorable Newt Gingrich, Speaker of the House  
and The Honorable Trent Lott, Senate Majority Leader

Date: 09/19/97 Time: 08:37

CStates lobby for child support deadline extension

WASHINGTON (AP) States facing massive penalties for failing to computerize their child support systems are lobbying for an extension of the deadline.

"Imposing huge financial penalties ... will not hasten the development of workable systems but will result in harming the very people who the ... (laws) were designed to serve," said a letter to President Clinton signed by 18 senators.

About a dozen states will miss the Oct. 1 deadline, which has already been extended once. Current law calls for the Department of Health and Human Services to pull their entire child-support subsidies and welfare block grants. The process would take about six months.

States expected to miss the deadline include California, Hawaii, Illinois, Maryland, Michigan, Nevada, Ohio, Pennsylvania, South Dakota and New Mexico, plus the District of Columbia.

Rep. Clay Shaw, R-Fla., chairman of the Ways and Means subcommittee that handles child support, is promising to introduce legislation in January giving HHS the power to reduce and delay fines. But he does not want the deadline extended again.

"If we believe that data processing is the heart of child-support enforcement, and most of us do, and we have already delayed by two years the original date on which states must have effective data systems, ... how can we in good conscience delay the date again?" Shaw asked in a letter to Clinton, sent Thursday, in response to the senators' letter.

He predicted newspaper headlines like, "Congress to Single Parents: Eat Cake" or "Congress Chooses States Over Poor Children."

"Would any of these headlines be unfair" if Congress extended the deadline again, Shaw asked.

But on the House floor Wednesday, Shaw predicted HHS would not punish states that are trying in good faith to fix their systems.

"I want to make it very clear that California is not going to lose \$4 billion," he told Rep. Howard Berman, D-Calif., who asked for assurances. "In fact, I would doubt they will end up in the long run losing anything."

APNP-09-19-97 0839EDT

Wp-child support

ates Senate

J. DC 20510-0504

BUSINESS

THE PRESIDENT HAS BEEN  
9-15-97

Bruce / cc S Berger  
Check use check on this

*James Clinton*  
U.S.S.

The Honorable William J. Clinton  
The White House  
1600 Pennsylvania Ave.  
Washington D.C. 20500



# United States Senate

WASHINGTON, DC 20510-0504

(202) 224-3841

September 15, 1997

*Copied  
Reed  
Bergen  
COS*

The Honorable William J. Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

Dear Mr. President:

I am writing you on an urgent matter that will have a devastating impact on California and at least 11 other states. California and 11 other states are facing an October 1, 1997 Child Support Enforcement System automation deadline imposed by the 1988 Family Support Act.

The 1988 Act and the 1996 Welfare reform require all states to have a child support enforcement system automation plan ready and certified by HHS by October 1, 1997 as part of the state plan requirement for receiving TANF funds.

As you may know, HHS has indicated that only 16 states have currently been certified and 22 states might be certified by December 1997. Twelve or more states, including California, will not meet the October 1, 1997 deadline or be certified by December 1997 and as a result could potentially lose all their TANF funds and the state's child support program funds.

Complete shut down in welfare and child support funding for 12 or more states would have a nationwide impact since 30% of all child support cases are interstate collection cases. This means children in Kansas or Georgia will not be able to get child support from fathers in California or Pennsylvania.

I urge you to support a temporary six month moratorium on the penalties imposed on all states who fail to comply with the system requirement allowing Congress to find a more permanent solution within that time. The 6 month moratorium amendment should be part of the Labor, HHS Appropriations Bill or a CR.

FY98 will be the first full year of welfare reform implementation and due to the Child Support Enforcement System deadline, welfare reform implementation will be in jeopardy since so many states will not get their TANF funds under the penalty. Millions of families and children in all the states who rely on TANF and child support for survival will be impacted by these penalties.

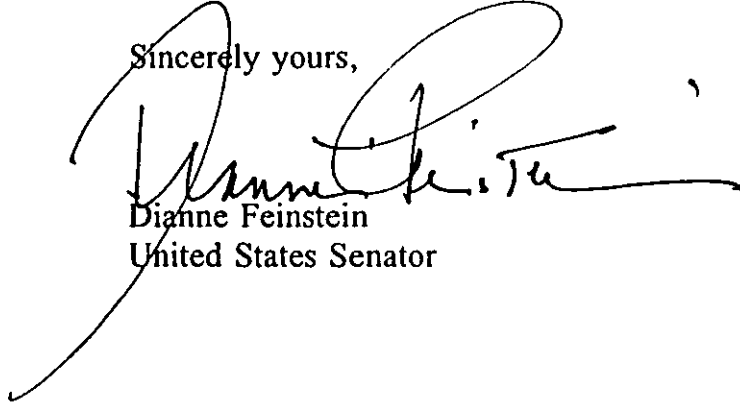
- For California, loss of TANF and child support funds amount to \$4 billion dollars.
- For South Dakota, loss of TANF and child support funds amount to \$25 million dollars.
- For New Mexico, loss of TANF and child support funds amount to \$129 million dollars.
- For Hawaii, loss of TANF and child support funds amount to \$ 113 million dollars.
- For Illinois, loss of TANF and child support funds amount to \$654 million dollars.
- For Ohio, loss of TANF and child support funds amount to \$836 million dollars.
- For Maryland, loss of TANF and child support funds amount to \$274 million dollars.
- For Michigan, loss of TANF and child support funds amount to \$857 million dollars.
- For Nevada, loss of TANF and child support funds amount to \$62 million dollars.
- For Pennsylvania, loss of TANF and child support funds amount to \$794 million dollars.
- For the District of Columbia, loss of TANF and child support funds amount to \$100 million dollars.

I believe that imposing extraordinary financial penalties on states that fail to meet this deadline will not hasten the development of workable systems but will result in harming the very people for whom the 1988 Family Support Act and the 1996 Welfare Reform were designed to serve.

The Honorable William J. Clinton  
September 15, 1997  
Page 3

I hope you will support a temporary 6 month moratorium on the penalties and I look forward to working with you in improving our child support program that would better serve our families and children in California and the Nation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Dianne Feinstein  
United States Senator



Cynthia A. Rice

09/09/97 06:04:15 PM

Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Cathy R. Mays/OPD/EOP, Laura Emmett/WHO/EOP  
Subject: AP Story -- Docs owe child support get \$ from Medicare

**The HHS IG has found that despite the President's executive order making the federal government a model employer regarding child support, that HHS paid Medicare payments to doctors owing \$21.5 million in child support payments. I'm getting the executive summary.**

**One recommendation -- something we could tie to Medicare fraud package?? -- is for doctors to sign statements swearing they aren't delinquent in child support before they can receive Medicare payments or grants. That may require new legislation punishing doctors if they lied. Three out of every thousand doctors in the sample were in arrears in paying child support.**

Date: 09/09/97 Time: 16:03

CFederal agencies not checking up on doctors' child support

WASHINGTON (AP) The federal department responsible for enforcing child support laws continues to write checks to nearly 1,200 Medicare doctors and medical researchers who owe \$21.5 million in unpaid child support, an internal report finds.

Officials say it may be more trouble than it's worth to go after so few delinquents. But the report argues that the Department of Health and Human Services should try harder to set a good example.

"It is untenable for this department to pay what amounts to income to individuals who it knows are out of compliance with child support obligations," wrote HHS Inspector General June Gibbs Brown.

In 1995, President Clinton made the same argument as he ordered a crackdown designed to make the federal government "a model employer" regarding child support.

"We will find you. We will catch you. We will make you pay," Clinton warned then, as he signed an executive order requiring agencies to withhold past-due child support from payments to federal employees and contractors.

But that order, signed in February 1995, has not been uniformly enforced, said Michael Kharfen, spokesman for the HHS agency that handles child support. Some agencies have been more willing than others to garnishee wages and payments, he said.

HHS Secretary Donna Shalala, who supervises all of the agencies involved, could not be reached for comment Tuesday.

Nationwide, parents owe \$34.5 billion in overdue child support. Just 20 percent of families who are owed child support receive

payments.

The inspector general's report focused on a set of doctors and found 1,184 deadbeats who owed \$21.5 million. That was less than 1 percent of the 422,643 cases examined.

Using databases, the report matched child support delinquents with doctors who treat Medicare patients, researchers with grants from the National Institutes of Health and health care professionals who received loans or grants for school through the National Health Service Corps.

Most of the delinquent parents 1,105 of them were doctors serving in the Medicare program for the nation's elderly.

But the inspector general was only able to examine the records of 55 percent of Medicare doctors, so the actual number who owe child support could be much higher.

The report recommends that HHS start enforcing Clinton's executive order, saying it can start by doing the same computer matches that investigators did.

Beyond that, it suggests that agencies require doctors to sign statements swearing they aren't delinquent in child support before they can receive Medicare payments or grants. That would require new legislation punishing doctors if they lied.

Finally, it recommends that HHS cross-check applicants for federal money with a new database of all delinquents that is being created. The department should then deny payments to those not paying child support, it said.

A spokesman for the HHS agency that administers Medicare, Chris Peacock, said the agency "absolutely believes that doctors who are delinquent in child support payments shouldn't be getting Medicare money."

Peacock said Medicare is working to find a solution. But in written comments, the agency objected to every suggestion by the inspector general.

It argued that a doctor caught through a computer match could simply reapply as a corporation and that even if a new computer system worked it would "disrupt patient service" if doctors were kicked out of the program.

The agency also complained that requiring doctors to sign a statement would be an "administrative burden" for doctors when very few are in violation. Plus, it said, doctors might easily lie, and investigations would be expensive.

The National Institutes of Health also argued it is not worth denying grants to a few researchers when 99.72 percent owe no child support.

"This is an extremely high compliance rate, one which we would be pleased to achieve in other areas," said Anthony L. Itteilag, NIH deputy director for management.

But \$21.5 million means a lot to the families who have it coming, said Debbie Kline of the Association for the Enforcement of Child Support.

"There isn't really an amount that is too small to overlook," she said. "The federal government should not be paying money to criminals who are neglecting their children."

APNP-09-09-97 1604EDT





Cynthia A. Rice

09/18/97 04:48:55 PM

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Record Type: Record

To: Emily Bromberg/WHO/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP

Subject: Shalala letters to governors re: child support computers

You may recall that about two weeks ago we reviewed drafts of a letter from Secretary Shalala to the governors regarding child support computer systems. There are two versions of the letters -- one congratulating those who have already met the October 1st deadline for certified statewide computer systems and one to states not already certified saying they will lose federal funds for their child support systems.

The certified states getting the congratulatory letters are: Montana, Delaware, Georgia, Virginia, Washington, West Virginia, Arizona, Utah, Connecticut, Wyoming, Mississippi, Louisiana, New Hampshire, Idaho, Colorado, and Oklahoma.

Emily -- I'm having copies of the final signed versions delivered to you now.

Cynthia/Diana -

And then

question for

The weekly

I have trying to

find something -

anything? - to

do, but perhaps

I'm wrong.

Elena

cc: Bruce

7-18-97

Rahm / Blead  
Can we do more  
control? if it's so bad  
How did we lose  
collections  
5500%  
RC

THURSDAY, JULY 17, 1997

The Washington Post

Copied

Rahm Emanuel

B. Read

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7/18/97 11:30-2M

## Solicitor General Sets Departure

Acting Solicitor General Walter Dellinger, the government's top courtroom lawyer since June 1996, will leave his post next month, the Justice Department announced yesterday.

Dellinger will represent the government one last time, on Aug. 11, in oral arguments over the Food & Drug Administration's proposed regulation of nicotine and tobacco products, in the U.S. Court of Appeals for the 4th Circuit. Dellinger will then return to a professorship at Duke University law school. His wife, Anne, who had worked in Washington during Dellinger's early days in the Clinton administration, returned to their North Carolina home two years ago.

Dellinger first joined the Justice Department in 1993 as head of the Office of Legal Counsel.

President Clinton has yet to name a successor to lead the prestigious solicitor general's office, known to the public mostly through its representation of the federal government in Supreme Court cases. Seth Waxman, who is deputy solicitor general, is among the leading candidates.

The administration is struggling to fill several top Justice Department vacancies. The nominations of Eric H. Holder Jr., to be deputy attorney general, and Joel Klein, to be assistant attorney general for the antitrust division, have been pending in the Senate for several months. (Waxman has been filling in as deputy attorney general since spring.) Separately, Clinton has named Raymond Fisher to be associate attorney general, Bill Lann Lee to be assistant attorney general for the civil rights division and Beth Nolan to lead the Office of Legal Counsel. The nominations are pending.

## Nation's Child Support System Criticized

### GAO Faults U.S. for Inadequate Leadership, States for Poor Improvement

By Barbara Vobejda  
Washington Post Staff Writer

The General Accounting Office yesterday issued a harsh assessment of the nation's child support system, saying the federal government has provided inadequate leadership and states have failed to make improvements that would allow them to collect billions of dollars owed by deadbeat parents.

Despite the mandate of a 1988 law and the expenditure of \$2.6 billion, most states have not computerized their collection systems, a step seen as essential in bringing in more of the \$34 billion owed in child support.

While the total amount of child support collected has increased significantly since 1990, states collect money in fewer than one-fifth of cases in which it is owed.

"The current system remains a failure," said Rep. Lynn C. Woolsey (D-Calif.), who requested the study with Rep. Henry J. Hyde (R-Ill.). The two members of Congress are introducing legislation that would take responsibility for child support collection away from states and turn it over to the federal government.

Efforts to improve child support collection are considered essential to the success of welfare reform because as many as a quarter of those on welfare could go off the rolls if they received the support they were owed.

Welfare legislation enacted last year imposes extensive new requirements on states to centralize and

automate their child support collection systems, building on the requirements of the 1988 law. But the poor performance described in yesterday's report bodes ill for the success of the child support efforts in the new law.

"The findings confirm our worst fears about the program and reinforce in our minds the need for the federal government to take over the job of enforcing child support orders," Hyde said in a prepared statement.

Efforts to automate child support collection date back to 1980, when Congress agreed to help states pay for computerized systems that would keep track of court orders mandating parents to pay child support. In 1988, Congress required states to set up the computerized registries, setting a 1995 deadline. But states were plagued with technical glitches, cost overruns and friction with counties and court systems, some of which maintain their own child support records.

As a result, the deadline was extended to October 1997. Still, just 15 states have met the requirement so far, and the GAO predicts many states will fail to meet the new deadline.

Officials at the Department of Health and Human Services, which oversees the system, say nine states have indicated they may miss the October deadline. If that happens, about 44 percent of the national caseload will not be included in automated systems, the GAO reported, be-

cause those states include California and others with large populations.

The report blames the federal government for failing to improve its oversight, saying the Office of Child Support Enforcement at HHS "has allowed some funds to be spent without ensuring that states were progressing toward effective or efficient systems."

HHS spokesman Michael Kharfen said the Clinton administration was disappointed that some states have encountered problems, but "we disagree that there's been a lack of federal leadership. . . . It is the states' responsibility to design and implement these systems."

He said HHS has withheld federal funds in some cases until states have met certain goals.

Elisabeth Donahue, counsel at the National Women's Law Center, said, "Many states don't want to put much of their own resources into these programs; they don't do a good job collecting money, but they want to retain control of it. . . . This is the states' last chance."

Paula Roberts, a senior staff attorney at the Center for Law and Social Policy who tracks child support collections, said that if nearly half of all cases are not included in automated systems by the deadline this year, "there is not a chance" that the changes envisioned in the new welfare reform bill will be realized.

"Once again, the moms and dads who need child support have been made big promises that we can't deliver on," she said.

# Child-Support Collection Net Usually Fails

By ADAM CLYMER

WASHINGTON, July 16 — Delinquent parents shirk court orders to pay child support in 4 of every 5 cases, and Federal efforts to help states increase compliance rates have failed, the General Accounting Office reported today.

The 50 states have been under increasing Federal pressure to make sure that child support is collected. But the G.A.O. report found that despite some improvements, the system was still porous: "States have underestimated the magnitude, complexity and costs of their projects and operations, and they could have received better guidance from the Federal Government."

Representatives Henry J. Hyde, Republican of Illinois, and Lynn C. Woolsey, Democrat of California, who requested the report by the non-partisan investigative arm of Congress, said it showed that collection of child support should be turned over to the Internal Revenue Service. They proposed legislation that would also have the Social Security Administration disburse payments to parents or to state welfare agencies.

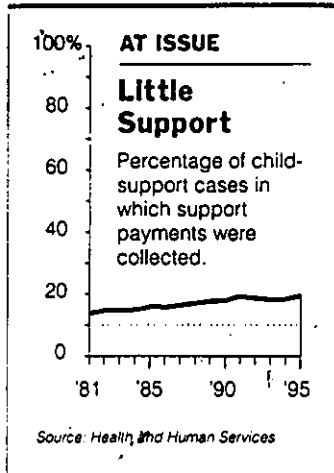
Mr. Hyde said the problem was made more urgent by changes in the welfare law. Custodial parents who exhausted their welfare eligibility would have an even more urgent need for support payments, he said.

Deducting child support from paychecks, just like taxes, Mr. Hyde said, "is the one method left to us to insure that, finally, child support orders are worth the paper they are printed on."

"No longer will deadbeat parents be able to move from state to state to perpetually frustrate enforcement efforts," he added.

Ms. Woolsey said that under their proposal "the children stop being punished over the emotions of the separation or the divorce." Ms. Woolsey said that when she and her husband divorced about 30 years ago, he never paid any of the court-ordered child support, so she worked and went on welfare.

The accounting office's report singled out the Office of Child Support Enforcement in the Department of Health and Human Services for "limited leadership and oversight." The report criticized the office for not following recommendations the



The New York Times

G.A.O. made five years ago that included withholding Federal financial help for computerizing inadequate state programs.

The Department responded by saying that the accounting office assumed it had more authority to tell the states what to do than the law allowed. And while it said nothing about the rate of compliance, the Department said that total collections have increased from \$8 billion in 1992 to \$12 billion in 1996. But the G.A.O. report noted that while collections increased, so did support orders, which meant the rate remained relatively constant.

According to reports by the Department, collection rates increased modestly, from 13.9 percent in 1981 to 19.3 percent in 1991, but slipped a bit before recovering to 19.4 percent in 1995, the last year for which statistics are available. There was huge variation among states, with Minnesota's record of collecting in 40 percent of cases the best, and Indiana's 10 percent the worst. The District of Columbia, Illinois, and Tennessee each collected in only 11 percent of the cases. Connecticut collected in 16 percent, New York in 15 percent and New Jersey in 24 percent. California, with nearly 4 million children covered by support orders, collected in just 14 percent of the cases.

The report warned that the \$2 billion that the Federal Government has spent helping states computerize their systems for tracking delin-

quent parents may prove grossly inadequate, even without the additional requirements imposed by the 1996 welfare law.

The report said the 12 states that have developed computer systems that meet the department's standards represent only 14 percent of the national cases. The accounting office said that many of the larger states that have assured the department that they would meet this year's deadline for certification of their computer systems were being too optimistic.

One major obstacle to the Hyde-Woolsey proposal is the hostility to the Internal Revenue Service in Congress, especially among Republicans, and to giving the agency additional powers. But Mr. Hyde, a conservative, said that in the face of the accounting office's "appalling" findings, it was time to take that step.

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Under the Hyde-Woolsey plan, employees would indicate on tax withholding forms the monthly amount of any court-ordered obligation. Failure to do so would constitute a tax law violation punishable by a year in prison.

Employers would deduct and withhold support payments, just as they withhold taxes, and failure to withhold would be punished just as failure to withhold taxes is sanctioned. But the custodial parent could choose, if payments were being made regularly, to let current procedures continue without the I.R.S. deducting from the other parent.

The I.R.S. would also have access to a national register of support orders. If a parent failed to pay the amount of support ordered by the tax deadline, the I.R.S. would assess and collect the amount in the same way it collects unpaid Federal taxes.

"The present difficulties with the interstate enforcement of child support will be eliminated with the stroke of a pen," Mr. Hyde said. "No longer will custodial parents have to wait years while court systems in different states coordinate their actions."

The New York Times

THURSDAY, JULY 17, 1997



Cynthia A. Rice

07/30/97 05:40:17 PM

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Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP, Elisabeth Stock/OVP @ OVP

Subject: I met with your old friend Geri Jensen yesterday re: child support

They still remain committed to federalizing the system, and have also given certain concrete suggestions I will check into. She said something that really stuck in my craw -- that under Reagan and Bush, HHS was more responsive to their complaints about states violating federal regulations and laws than they are now. That comment has reinforced an idea I already had, which is that post-budget deal, we should devote more effort to ensuring that HHS is pushing states on child support, particularly given the President's remarks to the NGA. (Elena, I had already added this as a process for the Erskine process memo.)

(For those of you who don't know her, Geraldine Jensen is the head of ACES, the Association for Children for Enforcement of Support, a group of custodial parents who advocate for better child support enforcement.)

WR-child support

Welfare Reform Daily Report - July 16, 1997 (PAGE 6)

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Received by NewsEDGE/LAN: 7/16/97 4:40 PM

## Report: States failing to computerize child support collections

WASHINGTON (AP) After 16 years and \$2.6 billion, 35 states have failed to computerize their child-support collection systems and many of the largest are likely to miss an October deadline to finish the job, federal auditors say.

Meanwhile, just 20 percent of all the child support owed is collected.

States underestimated the complexity and cost of the computer project, says the report by the General Accounting Office, obtained by The Associated Press. But it blames the Health and Human Services Department for "ineffective federal leadership," saying the department failed to properly monitor state progress, punish states that fell behind or assure that tax money was properly spent.

HHS "allowed state systems with serious problems to proceed, thus escalating spending with no assurance that effective, efficient systems would result and many indicators to the contrary," the GAO said in the report scheduled for release Thursday.

HHS acknowledges problems but says it is not responsible for state delays. "It's not our role to design the systems for the states," said spokesman Michael Kharfen.

Angered by the delays and cost overruns, a senior House Republican plans to introduce legislation that would nationalize child-support collections, with the Internal Revenue Service collecting the money and the Social Security Administration paying it out.

"If they would just treat child support as taxes and collect it with equal energy and diligence, we think that would go a long way to helping mothers who are trying to raise children with very little income," Rep. Henry Hyde, R-Ill., said Wednesday.

Computerized systems are supposed to make it easier to track down deadbeat parents. They owe \$34.5 billion to their families and to taxpayers, who pay billions in welfare to children whose fathers don't support them.

Once in place, computers allow all information on a case to be stored centrally. Workers thus can track down parents using electronic information from vehicle registrations, tax departments and new-employee registers. And states can share information, a crucial point since one-third of all cases involve out-of-state parents.

In 1980, Congress agreed to pay 90 percent of the cost of computerizing state systems, and in 1988, it required all states to automate.

But only one state system was complete by the first deadline nearly two years ago. That deadline was extended until Oct. 1, 1997.

Now, nine states including the high-population states of California, Michigan, Ohio, Illinois and Pennsylvania plus the District of Columbia have told HHS that they won't be ready.

The GAO report presents an even gloomier picture saying 14 states won't be ready by October but HHS says there's been progress since that research was done.

Still, only 15 states mostly with small populations and none of the largest have completed systems.

The federal government has spent more than \$2 billion so far, and states have spent another \$600 million on the project well above cost projections, the GAO said. Some states have doubled their initial projections, it said.

Welfare Reform Daily Report - July 17, 1997 (PAGE 4)

Copyright 1997 States News Service  
States News Briefs -- July 17, 1997 Thursday 07:03 a.m. Eastern Time

### CALIFORNIA : No Budget, Still

(SACRAMENTO) — The state of California is now into the 17th day without a budget and there's NO agreement in sight. There are those at the capitol who believe that a budget agreement may not be reached until sometime in August because of deep philosophical differences between Republican Governor Pete Wilson and the Democrat-controlled legislature over welfare reform and other issues. Although California's budget is overdue, it hardly compares to the state of New York, that has been without a budget since April 15th.

WR-child support

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The New York Times -- July 17, 1997, Thursday, Late Edition - Final

### Child-Support Collection Net Usually Fails

BYLINE: By ADAM CLYMER

Delinquent parents shirk court orders to pay child support in 4 of every 5 cases, and Federal efforts to help states increase compliance rates have failed, the General Accounting Office reported today.

The 50 states have been under increasing Federal pressure to make sure that child support is collected. But the G.A.O. report found that despite some improvements, the system was still porous: "States have underestimated the magnitude, complexity and costs of their projects and operations, and they could have received better guidance from the Federal Government."

Representatives Henry J. Hyde, Republican of Illinois, and Lynn C. Woolsey, Democrat of California, who requested the report by the non-partisan investigative arm of Congress, said it showed that collection of child support should be turned over to the Internal Revenue Service. They proposed legislation that would also have the Social Security Administration disburse payments to parents or to state welfare agencies.

Mr. Hyde said the problem was made more urgent by changes in the welfare law. Custodial parents who exhausted their welfare eligibility would have an even more urgent need for support payments, he said.

Deducting child support from paychecks, just like taxes, Mr. Hyde said, "is the one method left to us to insure that, finally, child support orders are worth the paper they are printed on."

"No longer will deadbeat parents be able to move from state to state to perpetually frustrate enforcement efforts," he added.

Ms. Woolsey said that under their proposal "the children stop being punished over the emotions of the separation or the divorce." Ms. Woolsey said that when she and her husband divorced about 30 years ago, he never paid any of the court-ordered child support, so she worked and went on welfare.

The accounting office's report singled out the Office of Child Support Enforcement in the Department of Health and Human Services for "limited leadership and oversight." The report criticized the office for not following recommendations the G.A.O. made five years ago that included withholding Federal financial help for computerizing inadequate state programs.

The Department responded by saying that the accounting office assumed it had more authority to tell the states what to do than the law allowed. And while it said nothing about the rate of compliance, the Department said that total collections have increased from \$8 billion in 1992 to \$12 billion in 1996. But the G.A.O. report noted that while collections increased, so did support orders, which meant the rate remained relatively constant.

According to reports by the Department, collection rates increased modestly, from 13.9 percent in 1981 to 19.3 percent in 1991, but slipped a bit before recovering to 19.4 percent in 1995, the last year for which statistics are available. There was huge variation among states, with Minnesota's record of collecting in 40 percent of cases the best, and Indiana's 10 percent the worst.

Please contact Dana Colarulli if you would like to receive the WR Daily Report by e-mail or if you have questions about articles found in this publication. (dcolarulli@acf.dhhs.gov (e-mail) or 202-401-6951 (voice)).

The District of Columbia, Illinois, and Tennessee each collected in only 11 percent of the cases. Connecticut collected in 16 percent, New York in 15 percent and New Jersey in 24 percent. California, with nearly 4 million children covered by support orders, collected in just 14 percent of the cases.

The report warned that the \$2 billion that the Federal Government has spent helping states computerize their systems for tracking delinquent parents may prove grossly inadequate, even without the additional requirements imposed by the 1996 welfare law.

The report said the 12 states that have developed computer systems that meet the department's standards represent only 14 percent of the national cases. The accounting office said that many of the larger states that have assured the department that they would meet this year's deadline for certification of their computer systems were being too optimistic.

One major obstacle to the Hyde-Woolsey proposal is the hostility to the Internal Revenue Service in Congress, especially among Republicans, and to giving the agency additional powers. But Mr. Hyde, a conservative, said that in the face of the accounting office's "appalling" findings, it was time to take that step.

"Governmental child support collection efforts must be consolidated at the Federal level," Mr. Hyde said, "and support must be collected with the same efficiency and resolve with which Federal taxes are collected."

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The I.R.S. would also have access to a national register of support orders. If a parent failed to pay the amount of support ordered by the tax deadline, the I.R.S. would assess and collect the amount in the same way it collects unpaid Federal taxes.

"The present difficulties with the interstate enforcement of child support will be eliminated with the stroke of a pen," Mr. Hyde said. "No longer will custodial parents have to wait years while court systems in different states coordinate their actions."

*GRAPHIC: Graph: "AT ISSUE: Little Support"*

*Percentage of child-support cases in which support payments were collected. Custodial parents collect less than 20 percent of the child support they are owed. Graph shows percentage paid from 1981 to 1995. (Source: Health and Human Services)*

*Copyright 1997 The Washington Post  
The Washington Post - July 17, 1997, Thursday, Final Edition*

## **Nation's Child Support System Criticized; GAO Faults U.S. for Inadequate Leadership, States for Poor Improvement**

*BYLINE: Barbara Vobejda, Washington Post Staff Writer*

The General Accounting Office yesterday issued a harsh assessment of the nation's child support system, saying the federal government has provided inadequate leadership and states have failed to make improvements that would allow them to collect billions of dollars owed by deadbeat parents.

Despite the mandate of a 1988 law and the expenditure of \$ 2.6 billion, most states have not computerized their collection systems, a step seen as essential in bringing in more of the \$ 34 billion owed in child support.

Please contact Dana Colarulli if you would like to receive the WR Daily Report by e-mail or if you have questions about articles found in this publication. (dcolarulli@acf.dhhs.gov (e-mail) or 202-401-6951 (voice)).

*Welfare Reform Daily Report - July 17, 1997 (PAGE 6)*

While the total amount of child support collected has increased significantly since 1990, states collect money in fewer than one-fifth of cases in which it is owed.

"The current system remains a failure," said Rep. Lynn C. Woolsey (D-Calif.), who requested the study with Rep. Henry J. Hyde (R-Ill.). The two members of Congress are introducing legislation that would take responsibility for child support collection away from states and turn it over to the federal government.

Efforts to improve child support collection are considered essential to the success of welfare reform because as many as a quarter of those on welfare could go off the rolls if they received the support they were owed.

Welfare legislation enacted last year imposes extensive new requirements on states to centralize and automate their child support collection systems, building on the requirements of the 1988 law. But the poor performance described in yesterday's report bodes ill for the success of the child support efforts in the new law.

"The findings confirm our worst fears about the program and reinforce in our minds the need for the federal government to take over the job of enforcing child support orders," Hyde said in a prepared statement.

Efforts to automate child support collection date back to 1980, when Congress agreed to help states pay for computerized systems that would keep track of court orders mandating parents to pay child support. In 1988, Congress required states to set up the computerized registries, setting a 1995 deadline. But states were plagued with technical glitches, cost overruns and friction with counties and court systems, some of which maintain their own child support records.

As a result, the deadline was extended to October 1997. Still, just 15 states have met the requirement so far, and the GAO predicts many states will fail to meet the new deadline.

Officials at the Department of Health and Human Services, which oversees the system, say nine states have indicated they may miss the October deadline. If that happens, about 44 percent of the national caseload will not be included in automated systems, the GAO reported, because those states include California and others with large populations.

The report blames the federal government for failing to improve its oversight, saying the Office of Child Support Enforcement at HHS "has allowed some funds to be spent without ensuring that states were progressing toward effective or efficient systems."

HHS spokesman Michael Kharfen said the Clinton administration was disappointed that some states have encountered problems, but "we disagree that there's been a lack of federal leadership. . . . It is the states' responsibility to design and implement these systems."

He said HHS has withheld federal funds in some cases until states have met certain goals.

Elisabeth Donahue, counsel at the National Women's Law Center, said, "Many states don't want to put much of their own resources into these programs; they don't do a good job collecting money, but they want to retain control of it. . . . This is the states' last chance."

Paula Roberts, a senior staff attorney at the Center for Law and Social Policy who tracks child support collections, said that if nearly half of all cases are not included in automated systems by the deadline this year, "there is not a chance" that the changes envisioned in the new welfare reform bill will be realized.

"Once again, the moms and dads who need child support have been made big promises that we can't deliver on," she said.

*Copyright 1997 Times Mirror Company  
Los Angeles Times - July 17, 1997, Thursday, Home Edition*

Please contact Dana Colarulli if you would like to receive the WR Daily Report by e-mail or if you have questions about articles found in this publication. (dcolarulli@acf.dhhs.gov (e-mail) or 202-401-6951 (voice)).





Cynthia A. Rice

07/16/97 06:50:07 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP  
cc: See the distribution list at the bottom of this message  
Subject: Thursday's papers: Possible stories about GAO Child Support Report

Tomorrow's papers may have stories about the GAO Report on State Child Support Computer Systems, which says that \$2.7 billion federal dollars have been spent on child support computer systems since 1988 and yet some states won't make the October 1st deadline for having them up and running. (HHS thinks about 40 states will meet the deadline.) Our answer is that we are disappointed that some states will fail to meet the deadline. Congress gave them funding, HHS gave them technical assistance, and some states have fallen down on the job. However, the funds spent weren't wasted: the systems created helped collect \$88 billion in child support over that period.

Remember, these computer systems rules were created by the 1988 Family Support Act; last year's law merely extended the deadline until this October to give states more time.

The report was commissioned by Congressman Hyde, who is expected to introduce legislation calling for a federalized child support collection system run by the IRS.

I have HHS's Q&As on this if anyone needs them.

Message Copied To:

Diana Fortuna/OPD/EOP  
Elisabeth Stock/OVP @ OVP  
Emil E. Parker/OPD/EOP  
Laura Emmett/WHO/EOP  
Emily Bromberg/WHO/EOP

Family-child support



Cynthia A. Rice

05/23/97 04:19:08 PM

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Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

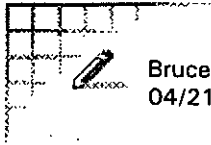
Subject: Treasury is planning to give child support data to USA Today without our authorization--

Did you okay this? Aren't we still holding on to all the child support info? (Although it may be time to give up on the child support radio address.....)

Treasury will send out about half a million notices to delinquent parents on Tuesday and they want to leak to USA Today.

Ben Nye is on the road, but his office says he thinks he got authorization from the White House.

WR-clerk support



Bruce N. Reed  
04/21/97 03:26:11 PM

Record Type: Record

To: FORTUNA\_D @ A1 @ CD @ LNGTWY

cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP

Subject: Re: FYI; states were mad at us for siding ag. them on this suit

I think the Court was probably right on this one. Our position was pretty weak (partly my fault, as I recall). I don't think we should press the point.

WR - child support



FORTUNA D @ A1  
04/21/97 03:00:00 PM

Record Type: Record

To: Bruce N. Reed, Elena Kagan, Cynthia A. Rice  
cc:  
Subject: FYI; states were mad at us for siding ag. them on this suit

Date: 04/21/97 Time: 11:04  
SCourt bars parents' child-support suits against states

WASHINGTON (AP) Parents cannot sue states to force them into overall compliance with a federal child-support enforcement program, the Supreme Court ruled today.

But the unanimous decision left open the possibility that parents still might have some rights to sue under a program that ties federal welfare funds to states' child-support enforcement efforts.

The ruling keeps alive a lawsuit by a group of Arizona women who had trouble getting child-support money from their children's fathers.

Under the child-support program, states accepting federal money must help parents collect support from the noncustodial parent. The law says states must be in "substantial compliance" with collection standards, which means being in compliance in 75 percent of the cases reviewed.

Justice Sandra Day O'Connor wrote for the court that parents cannot sue in an effort to force states to meet that overall standard.

"Far from creating an individual entitlement to services, the standard is simply a yardstick for ... (federal officials) to measure the systemwide performance of a state's ... program," O'Connor said.

"It is clear, then, that even when a state is in 'substantial compliance' ... any individual plaintiff might still be among the 10 (percent) or 25 percent of persons whose needs ultimately go unmet," she said.

But O'Connor said some provisions of the law still "may give rise to some individually enforceable rights" that she did not specify.

The justices ordered a lower court to take a new look at the Arizona lawsuit to determine whether it asserts any such specific rights.

Five Arizona women sued state officials in 1993, accusing them of not doing their part under the federal Aid to Families with Dependent Children program, which is run by state agencies with federal money.

In exchange for the federal money, states must help parents who have custody of their children including those who are not on welfare collect support they are owed by noncustodial parents.

Enforcement services are to include establishing paternity and going after deadbeats who do not comply with court orders to help pay the cost of bringing up their children. States that are not in ``substantial compliance'' lose part of their federal funding.

Arizona's lawyer argued that allowing individual parents to sue over alleged noncompliance would, in effect, create a 100 percent compliance rule.

The five women sought to represent about 300,000 custodial parents in Arizona.

A federal judge threw out their lawsuit, saying Congress did not intend to let private citizens sue under the welfare law. But the 9th U.S. Circuit Court of Appeals ruled that the women could sue under a federal civil rights law.

The Clinton administration supported the women's argument that they had a right to sue Arizona officials. However, 42 states and the District of Columbia urged the justices to bar such lawsuits.

The Supreme Court said the compliance rule ``was not intended to benefit individual children and custodial parents, and therefore it does not constitute a federal right.''

Congress enacted sweeping changes to the federal welfare law last year, ending the federal guarantee of cash assistance to the poor. But the justices last October turned down a request by the Arizona women to return the case to a lower court for reconsideration under the new welfare law.

The case is *Blessing vs. Freestone*, 95-1441.  
APNP-04-21-97 1116EDT

FILE: CHIEF SUPPORT

EMBARGOED  
UNTIL  
PUBLISHED  
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sh. b. r. h. k.  
single release  
w/ a new study  
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## **I. Introduction and Overview**

### **INTRODUCTION TO THE CHILD SUPPORT ENFORCEMENT PROGRAM**

The Child Support Enforcement program began in 1975 when Congress enacted title IV-D of the Social Security Act for the purpose of establishing and enforcing the support obligations owed by noncustodial parents to their children. The Child Support Enforcement program is a joint undertaking involving Federal, State, and local cooperative efforts.

The Office of Child Support Enforcement (OCSE) within the Administration for Children and Families of the Department of Health and Human Services is the Federal agency that oversees administration of the program. The Federal government sets program standards and policy, evaluates States' performance in conducting their programs and offers technical assistance and training to States. It also conducts audits of State program activities, and operates the Parent Locator Service, National Training Center and National Reference Center. The Federal government pays the major share of the cost of funding the program. OCSE acts as the agent of the Internal Revenue Service in facilitating collection of overdue support from Federal income tax refunds. OCSE prepares this annual report to Congress based on States' reports of their activities.

State governments work directly with families through State Child Support Enforcement (CSE) agencies and/or their local counterparts. These agencies work closely with officials of family or domestic relations courts or use administrative processes in order to establish paternity, establish support orders, collect child support and distribute amounts collected. They also work with prosecuting attorneys and other law enforcement agencies to establish and enforce support orders. Each State CSE agency operates under a State plan approved by OCSE. State governments and, in some States, city, county, and/or local governments participate in funding the program.

The Child Support Enforcement program directly serves a variety of families. It serves families receiving assistance under the title IV-A Aid to Families with Dependent Children (AFDC) program, families receiving assistance under the title IV-E Foster Care program, families receiving assistance under the title XIX Medicaid program, families who formerly received assistance under the above programs, and all other families who apply for services.

Much of the child support collected for families in the AFDC program is used to repay assistance that they receive under those programs. Federal law requires applicants for and recipients of title IV-A AFDC, and Medicaid to assign their support rights to the State in order to receive assistance. The AFDC families receive up to the first \$50 of any current child support collected each month, as well as any current support collected that is above the amount of assistance received.



For some families, the child support collection is enough to enable them to leave the AFDC rolls. Child support collected for families who are not receiving government assistance goes directly to those families to help them remain self-sufficient.

### **The Magnitude of the Nonsupport Problem**

The latest available information confirms that child support is critical to the lives of America's children and families. The report, Child Support for Custodial Mothers and Fathers: 1992, reveals that millions of mothers and fathers are rearing children without the financial support of the other parent. This report is based on a survey that is cosponsored by the Census Bureau and the Office of Child Support Enforcement.

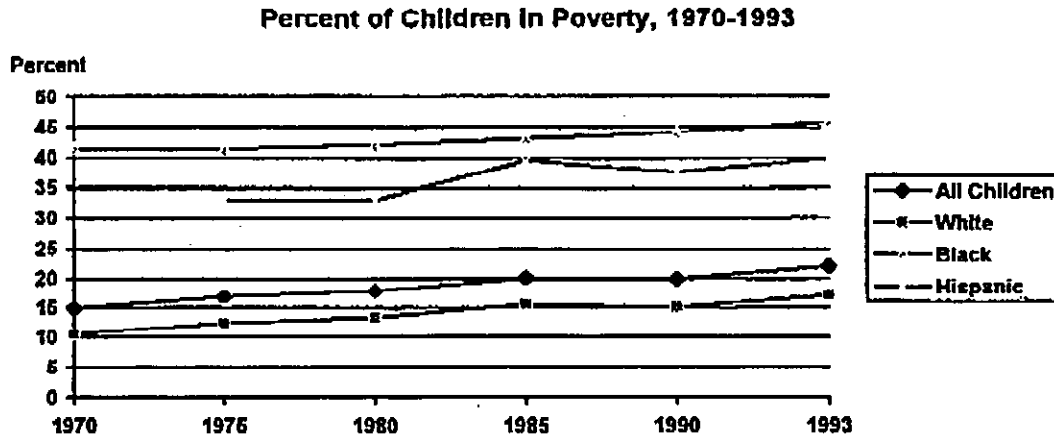
According to the report, only half of all families with one custodial parent and with a child support award received the full amount of child support due to them. "Can we say we are doing enough for children, when millions of parents don't know if they can put food on their child's table while absent parents evade their responsibility?" said Secretary Shalala. "Today's report clearly demonstrates that we need tough child support enforcement to insure children get the help they deserve. The Clinton Administration has a plan that would increase child support collections by \$24 billion over 10 years resulting in \$4.2 billion in welfare savings," added Secretary Shalala.

The Census Bureau reports that 11.5 million families are potentially eligible for child support because one parent lives elsewhere. Slightly more than half, 54% or 6.2 million families, had a child support order in place. Of those with orders, 5.3 million were due payment and 4 million received all or some payment. The total amount families received was \$11.9 billion in child support leaving \$5.8 billion uncollected of the \$17.7 billion due in 1991. These numbers reflect only the amount of child support owed for custodial parents who had child support orders.

This is the first Census report on child support to present information on the growing number of custodial fathers. In 1991, 14 percent, or 1.6 million one custodial parent families, were headed by fathers. More than half of custodial fathers had no child support awards. Of those with awards and payment due, about two-thirds received some payment. More than half of custodial mothers have child support awards and about three-fourths received some payment.

## Social Indicators Chart Future Challenges

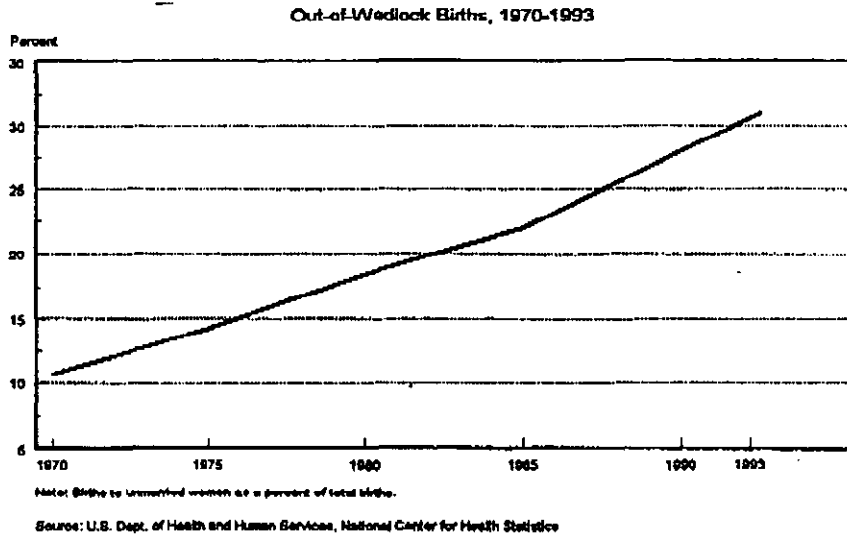
The child support program can be viewed in the context of general social indicators. There are indicators that can be used both to chart changes across the nation and to monitor overall progress. While the child support enforcement program can affect these indicators, many other external factors also influence them significantly. Nevertheless, only when these factors begin to show improvement can Federal, State and local governments truly claim success.



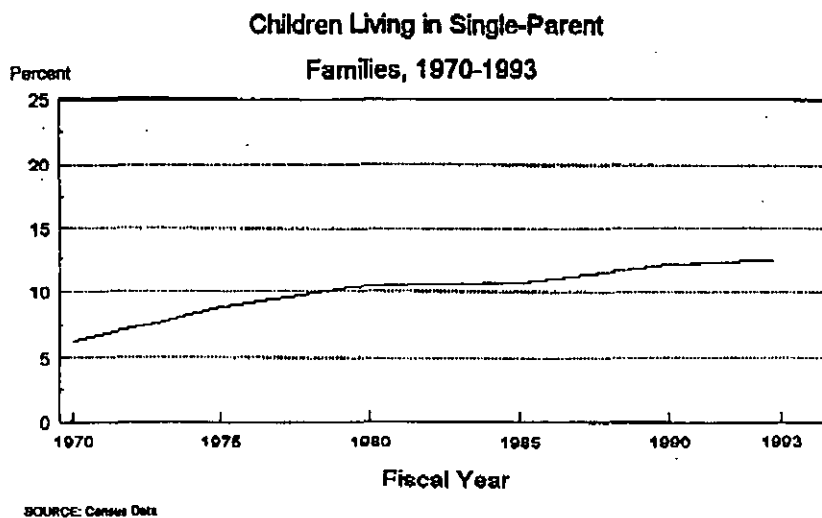
Source: Census Data

Today, the needs of children and families are more complex and urgent than ever before. Too many children live in poverty. Too many children are not supported, emotionally or financially, by both their parents. The challenges are great, but the risks of not achieving our goals are even greater. Strong and healthy children and families improve the quality of life for us all.

The American family has undergone dramatic structural change in the last two decades. A steady increase in the incidence of out-of-wedlock births and high rates of divorce are denying children the traditional support of a two-parent family.



The numbers show that nearly one of every four children now lives in a single-parent home and, over time, about half of all children are likely to spend some time in a single-parent home. Child support is a critical component for ensuring economic stability for millions of single-parent families. While many single parents can and do raise their children well on their own, the financial burden of serving as the family's sole provider too often puts the children at risk of living in poverty. A better job of assuring that all children receive support from both of their parents can be done.



## OVERVIEW OF FY 1995 ACHIEVEMENTS

During fiscal year 1995, State CSE agencies were able to:

- \* Establish paternity for 903,000 children, an increase of 77 percent over 1992;
- \* Establish 1,051,336 support orders;
- \* Locate 4,950,112 parents, their employers, income or assets;
- \* Collect a record \$10.8 billion on behalf of children, a 36 percent increase over 1992 child support collections.

This report is organized to focus on the constructive steps taken in 1995 to do things better. The CSE program concentrated major efforts in FY 1995 on consulting with State staff in developing a national strategic plan, on reaffirming the government's commitment to child support and on building renewed and improved partnerships with other stakeholders. The essence of our partnerships will be a shared strategic vision, joint planning, and the collective development of performance measures focused on outcomes that matter. In addition, FY 1995 was a banner year for State adoption and implementation of child support license suspension, and interstate legislation, as well as the first meaningful results. States are making in establishing paternities through in-hospital voluntary acknowledgment.

## NATIONAL STRATEGIC PLAN ADOPTION

In FY 1995, after a year of intensive work and negotiations, Federal child support enforcement authorities reached consensus on a national strategic plan as a result of the Performance and Results Act.

Signed into law by President Clinton in August, 1993, the Government Performance and Results Act (GPRA) reforms the way Federal agencies perform. The law requires agencies to set what they want to achieve and report on their performance. When implemented, GPRA will

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\* OCSE estimates that, nationally, 903,000 paternities were established by child support agencies in the 1995 fiscal year. This takes account of both the 659,373 paternities reported to OCSE as well as in-hospital acknowledgements (for States who voluntarily furnished such data) and an unknown number of acknowledgements for children in the IV-D caseload.

- \* improve the effectiveness of Federal programs by promoting a new focus on results, service quality, and public satisfaction;

- \* systematically report on progress in achieving program objectives as stated in agency strategic plans and annual performance plans; and

- \* initiate reform with a series of pilot projects in setting program goals, measuring program performance against these goals, and reporting publicly on their progress.

By September, 1997, all Federal agencies will develop comprehensive five-year strategic plans that include mission statements and long range goals and objectives the agency expects to achieve. As a "living" document, subject to periodic revision, the strategic plan must be flexible enough to accommodate new legislative mandates and other programmatic changes. At each stage of the document's development and throughout the life of the program, Federal agencies must seek input from the people they serve, from state partners, and from others directly concerned with the program. Agencies' annual performance plans will describe the results they expect to achieve in the coming fiscal year, along with the performance indicators they will use to measure results. Six months after the end of the fiscal year, agencies will report to the public, the President, and Congress on how well they did. Program results at the national level will be tied to budgeting.

Before implementing GPRA in all Federal programs, the Office of Management and Budget (OMB) is pilot testing GPRA's concepts in over 70 selected Federal agencies during fiscal years 1994-1996. All of the pilot programs are developing five-year strategic plans and annual performance plans by which they will be measured at the end of the pilot period. The Child Support Enforcement Program is one of only four in the Department of Health and Human Services designated by OMB to be a GPRA pilot.

Under the GPRA pilot project, Federal, State, and local child support or IV-D functions remain the same, but GPRA refocuses and restructures their work toward achieving specific and measurable program results. GPRA activities, conducted by Administration for Children and Families regional offices, and in State and local IV-D offices include strategic planning, performance planning, and special demonstrations. All GPRA activities are coordinated, integrated, and mutually supportive.

The national strategic plan for the CSE Program underwent several revisions with widespread, thoughtful input from IV-D agency officials, advocacy organizations, custodial and noncustodial parents, vendors to the child support community, and State and local support enforcement workers. Closure on the plan occurred February 28, 1995, during a facilitated national videoconference of IV-D directors and Federal CSE staff. At the final talks, 23 State CSE programs were represented, as nearly 100 Federal, State, and local staff took part in a telephone and videoconference.

The accomplishment of consensus on the five-year national strategic plan drew spontaneous applause from the group of 25 meeting in Washington, DC. Cecelia Burke, then President of the National Council of State Child Support Enforcement Administrators and Director of the IV-D program in Texas, acknowledged the event as a milestone in Federal and State relations. "For the first time ever," she said, "we have a strategic plan for the whole program. I feel we are moving into a new realm with OCSE, when you consider the magnitude of what we have just accomplished here."

In accepting the national strategic plan as a working blueprint for the CSE program over the next five years, all IV-D partners--Federal, State, and local--signaled their agreement on the goals and objectives for the program that focused on children having parentage established and financial and medical support from both parents. Leaders noted, however, that current legislative activity may bring substantial change to the program, therefore, the strategic plan is seen as a "living document," flexible with regard to local issues, though still national in scope and open to revision as required by events.

For FY 1995, OCSE's two measures of successful program results, nationwide, are the total number of paternities established and total child support dollars collected.

## **MODEL EMPLOYER EXECUTIVE ORDER ISSUED**

Executive Order 12953 signed by President Clinton on February 27, 1995, established the executive branch of the Federal government, through its civilian employees and uniformed services, as a "model employer" in promoting and facilitating the establishment and enforcement of child support. At the signing, President Clinton described the executive order as "another major step in our efforts to bring the Federal government in line with the basic values of ordinary Americans."

The executive order requires all Federal agencies and uniformed services to cooperate fully in efforts to establish paternity and child support orders and to enforce the collection of child and medical support in all situations where such actions may be required. The order also requires agencies to provide information to their personnel concerning the services that are available to them and to ensure that their children are provided the support to which they are legally entitled.

To implement this order,

- \* Every Federal agency must review its procedures for wage withholding, and implementing regulations, to ensure that it is in full compliance with the requirements of 42 U.S.C. 659. Every agency shall endeavor, to the extent feasible, to process wage withholding actions consistent with the requirements of 42 U.S.C. 666(b).

- \* Beginning no later than July 1, 1995, the Director of the Office of Personnel Management shall publish annually in the Federal Register the list of agents (and their addresses) designated to receive service of withholding notices for Federal employees.
- \* Every Federal agency shall assist in the service of legal process in civil actions pursuant to orders of State courts to establish paternity and establish or enforce a support obligation by making Federal employees and members of the uniformed services stationed outside the United States available for the service of process.
- \* Every Federal agency shall cooperate with the Federal Parent Locator Service by providing complete, timely, and accurate information to assist in locating noncustodial parents and their employers.
- \* The master file of delinquent obligors that each State child support enforcement (CSE) agency submits to the Internal Revenue Service for the purpose of Federal income tax refund offset shall be matched at least annually with the payroll or personnel files of Federal agencies to determine if there are any Federal employees with child support delinquencies. The list matches shall be forwarded to the appropriate State CSE agency to determine, in each instance, whether wage withholding or other enforcement action is appropriate.
- \* All Federal agencies shall advise current and prospective employees of services authorized under title IV-D of the Social Security Act that are available through the States.

The Office of Child Support Enforcement has worked to promote implementation of the order. In April 1995, OCSE and the Office of Personnel Management (OPM) jointly hosted a conference attended by over 100 Federal agencies to facilitate implementation of the EO. Bruce Reed, the Deputy Assistant to the President for Domestic Policy, provided the keynote speech, "Leading by Example: The Federal Government's Commitment to Improving Child Support Enforcement in the Federal Workforce." OCSE conducted a training workshop for Federal, State, and local staff on the EO at the 5th Annual Training Conference and at the National Child Support Establishment Association (NCSEA) conference and developed an informational video and flyer, "Child Support Information for Federal Employees." In addition, OCSE assigned a staff person to serve as coordinator for the EO and on three occasions OCSE developed messages informing all HHS employees of their obligations under the EO.

## **TWENTIETH ANNIVERSARY OBSERVED**

Over the past twenty years, the Child Support Enforcement Program has matured into a public service that puts children first. The record shows continuing program improvements that have earned the

WR-child support  
(not child  
care)



Cynthia A. Rice

03/19/97 03:05:03 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP  
cc: Diana Fortuna/OPD/EOP, Lyn A. Hogan/OPD/EOP  
Subject: HHS needs advice/sign-off re: tomorrow's child support hearing

Tomorrow Judge Ross testifies on the child support incentive report. Shaw and Levin have asked HHS to provide a table showing the incentives received state by state under the proposal versus current law. The table shows that California, Connecticut, Florida, Illinois, Mississippi, New Mexico, Tennessee will all lose money -- if they don't improve their child support enforcement performance.

Tarplin is inclined to give them the table because--

- 1) the request is bipartisan
- 2) there's no good way to keep a lid on the info because it was used by the state-HHS working group that prepared the report and one of the state reps (former CA child support director Leslie Frye) is a witness on the same panel.

He wants to make sure it's ok with us.

I think it's okay because our message should be: We want to be as tough as possible on child support enforcement -- and that means holding states accountable for results. Only states that perform well should get incentives. If California doesn't like these projections, they should revamp their program to produce better results.... etc. What do you think?

OK



*File - WR  
Child Support  
Enforcement  
Report*

Total Pages: 39

LRM ID: MDH18

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

**SPECIAL**

Thursday, February 27, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below  
FROM: *Janet R. Forsgren*  
Janet R. Forsgren (for) Assistant Director for Legislative Reference  
OMB CONTACT: Melinda D. Haskins  
PHONE: (202)395-3923 FAX: (202)395-6148  
SUBJECT: HHS Proposed Report on Child Support Enforcement Incentive Funding  
DEADLINE: NOON Monday, March 3, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: HHS has asked that OMB provide it with clearance to transmit its report making recommendations for a new incentive funding system for State child support enforcement programs by March 3rd. (Note that the welfare reform law (P.L. 104-193) requires the submission of this report to the Congress by March 1st.)

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LRM ID: MDH18  
Funding

SUBJECT: HHS Proposed Report on Child Support Enforcement Incentive

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RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148  
Office of Management and Budget  
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: \_\_\_\_\_ (Date)  
\_\_\_\_\_ (Name)  
\_\_\_\_\_ (Agency)  
\_\_\_\_\_ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- \_\_\_\_\_ Concur
- \_\_\_\_\_ No Objection
- \_\_\_\_\_ No Comment
- \_\_\_\_\_ See proposed edits on pages \_\_\_\_\_
- \_\_\_\_\_ Other: \_\_\_\_\_
- \_\_\_\_\_ FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

**DRAFT**

**REPORT TO THE  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON WAYS AND MEANS  
AND THE  
SENATE COMMITTEE ON FINANCE:  
CHILD SUPPORT ENFORCEMENT  
INCENTIVE FUNDING**



February, 1997

## **Child Support Enforcement Incentive Funding Formula**

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### **INTRODUCTION**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the Secretary of Health and Human Services (HHS), in consultation with State directors of IV-D programs, to recommend to Congress a new incentive funding system for the State child support enforcement programs which is to be based on program performance.

In order to consult with State IV-D directors, an Incentive Funding Work Group was formed consisting of 15 State and local IV-D directors and 11 Federal staff representatives from the U.S. Department of Health and Human Services. The Work Group held a series of meetings and worked over a period of three months to come up with the recommendations for the new incentive funding system. State representatives on the Work Group also consulted with State IV-D programs not represented directly on the Work Group. The recommendations of the Work Group represent a consensus (although, not necessarily, unanimous agreement) on the new incentive funding system. The report of the Incentive Funding Work Group is attached hereto. The Secretary of Health and Human Services fully endorses the incentive formula set forth in the Incentive Funding Work Group Report, recognizing that Work Group consensus depends on adoption of all Work Group recommendations. This report of the Secretary of Health and Human Services makes recommendations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate based upon the report of that Work Group and addresses the need for further work in areas beyond the scope of the Work Group's charter.

The Work Group's Report includes recommendations with respect to other aspects of program funding, beyond incentives, for example, a recommendation that the level of Federal financial participation in State program expenditures remain at 66 percent. Because further work may be needed on broader program funding issues, we are sending the Work Group recommendations forward for consideration by the Congress, recognizing the importance of consensus and endorsing the Work Group's recommendations with respect to the incentive formula itself, while reserving judgment on those aspects of the recommendations that address broader program funding issues. We are committed to working with the Congress on broader funding issues arising from the changing nature of the relationship between the TANF and child support programs under welfare reform. Bifurcation choices made by States could impact the source of incentive payments, i.e., the Federal share of collections. We are committed to working with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers. Within 90 days of the submission of this report, the Administration will propose a legislative solution to this funding problem.

### **SUMMARY OF RECOMMENDATIONS**

- **Measures.** The incentive system for State child support programs should measure State performance in five areas: establishment of paternities, estab-

### **Child Support Enforcement Incentive Funding Formula**

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lishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness.

- **Standards.** The incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure should be based upon established standards of performance.
- **Collection Base.** The amount of potential incentive payments available to each individual State should be based upon a percentage of its own State collections - its "collection base." The collection base should include collections in both Temporary Assistance to Needy Families (TANF) cases and non-TANF cases. However, collections in TANF cases and former TANF cases should be given more weight.
- **Phase In.** The new incentive system should be phased in over a one year period beginning in fiscal year 2000.
- **Reinvestment.** Incentive payments received by a State should be reinvested in the State child support program.
- **Maintain FFP.** The Work Group recommends that the Federal Financial Participation (FFP) rate for State program expenditures should remain at 66 percent. As discussed above, further work on larger program funding issues is needed before commitment to the current level of Federal funding of program costs.
- **Review Mechanism.** The new incentive system should be reviewed on a periodic basis to ensure that it continues to reward program goals.

### **BACKGROUND**

Under Section 458 of Title IV-D of the Social Security Act, States are currently paid as an incentive a minimum of six percent of their AFDC collections and six percent of their nonAFDC collections. There is also the potential to earn up to 10% of collections based on the State's cost effectiveness. However, the total amount of nonAFDC incentives is capped at 115% of the AFDC incentive.

This current incentive system has been criticized because it is focused on only one aspect of the IV-D program. The incentives are paid based only on a State's cost effectiveness and all States receive a base rate regardless of performance. Most child support experts believe that this incentive system has no real incentive effect because all States receive the minimum six

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**Child Support Enforcement Incentive Funding Formula**

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percent of incentives. This incentive system also does not reward states for other important aspects of child support enforcement, such as paternity establishment.

Over the past decade, a number of commissions and organizations have recommended the adoption of a new performance based incentive system. In 1988 Congress authorized the creation of the U.S. Commission on Interstate Child Support to make recommendations to Congress on improving the child support program. When the Interstate Commission issued its report in August, 1992 it called for a study of the federal funding formula and a change of the incentive structure to one based upon performance. Other national organizations, including the National Conference of State Legislatures, the American Public Welfare Association, the National Governor's Association, and several national advocacy organizations have also recommended the adoption of a new performance based incentive system.

In June, 1993 President Clinton established a Working Group on Welfare, Family Support, and Independence to come up with a welfare plan, including child support enforcement reform. The plan, detailed in the proposed Work and Responsibility Act of 1994, would have required the Secretary of Health and Human Services (HHS) to set performance standards for State IV-D programs and reward states with high performance. Other major child support enforcement bills introduced in 1994, 1995, and 1996 by both Republican and Democratic members of Congress included similar provisions.

As a result, section 341 of the PRWORA requested the Secretary to consult with IV-D directors and recommend changes. The law states:

- ▶ The Secretary of Health and Human Services, in consultation with State directors of child support enforcement programs shall develop a new incentive funding system, in a revenue neutral manner;
- ▶ The new system shall provide additional payments to any State based on such State's performance under such a program; and
- ▶ The Secretary shall report to Congress on the new system by March 1, 1997.

The Incentive Funding Work Group was formed in October, 1996 consisting of 15 State and local IV-D directors or their representatives and 11 Federal staff representatives from the U.S. Department of Health and Human Services. This collaborative approach drew upon the partnership forged during the Federal Office of Child Support Enforcement's pilot of the Government Performance and Results Act (GPRA). Earlier efforts of this State-Federal partnership produced a five-year national Strategic Plan for the child support enforcement program and a set of outcome measures to indicate the program's success in achieving the goals and objectives of the Strategic Plan. Using the same collaboration and consensus-building approach, the joint Work Group effort between State and Federal partners built its

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**Child Support Enforcement Incentive Funding Formula**

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recommendations for a new incentive funding system on the foundation of the national Strategic Plan.

**PERFORMANCE MEASURES AND STANDARDS**

The new incentive system measures State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness. There was a consensus among the Work Group members that these are the five most important measures in determining the success of the child support enforcement program. These five measures are nearly identical to the measures proposed in the major welfare bills introduced in the past few years, including the Work and Responsibility Act of 1994 and the Personal Responsibility Act of 1996. The specific equations for each of these five measures were developed by the Incentive Funding Work Group relying, in large part, upon the national Strategic Plan. Thus, these measures reflect a widespread consensus among child support professionals regarding the major factors we ought to be measuring to determine success of the child support program.

The paternity establishment measure and standards in particular require some explanation. Under the statutory Paternity Establishment Percentage, states are penalized if they do not demonstrate a certain percentage of improvement over the previous year. The Incentive Funding Workgroup decided to award incentives to States that may have maintained their high performance but did not improve enough to avoid the penalty. The Workgroup did not want to multiply the impact of the penalty standards by using them to determine the award of incentives. This approach would have resulted in some high performing States losing all their paternity incentive simply because they did not improve enough to avoid the penalty. If the award of incentive payments were linked to the minimum improvement needed to avoid a penalty, a high performing State would not receive an incentive payment and also have a penalty assessed. For example, Texas achieved a paternity establishment percentage of 82% in FY 1994. In FY 1995, performance improved by 1% to 83% -- not enough to avoid a penalty. The decision to reward State performance (whether sustained high performance or significant improvements in performance), regardless of whether a State could be subject to a penalty, is supportable on the low end of State performance as well. Should a low performing State fail to improve performance enough to avoid a penalty, the State would have to improve performance at least by 10% to earn an incentive.

The new incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure is based upon established standards of performance. The Work Group sought to create standards that rewarded both high performing States for maintaining and improving on their success and encouraged poor performing States to improve their results. Accordingly, the Work Group considered both past performance and trends and data estimates for the future in establishing the performance standards. The performance standards adopted reflect

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**Child Support Enforcement Incentive Funding Formula**

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three objectives: (1) incentives should increase as performance improves; (2) states performing at the very highest level that we can reasonable expect should receive the maximum incentive for that performance measure; and (3) there should be a minimum threshold of performance for each measure except that States below the threshold showing very significant improvement in performance should be rewarded with some incentive.

For each standard, there is an upper threshold for the program to achieve, most often set at 80 percent (and 5.00 for the cost effectiveness ratio). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for using an 80 percent standard include a recognition that there are factors which will make achievement of a perfect 100% score, whether for establishing paternity or collecting on current support, impossible. There was consensus that 80% is a level that states can realistically strive to achieve. For example, in some wage withholding cases, because of the peculiarities of the calendar and payments cycles, payments may be attributed to arrearages. In the last formula, where there is no upper limit, the maximum incentive is achievable at a cost/effectiveness ratio above 5.0 (i.e., \$5 of child support is collected for each \$1 spent to collect it).

At the lower end of the scale in each case, there is a minimum level below which performance would not be rewarded. These lower limits were set by examining current performance data. However, if a State can demonstrate a substantial improvement over the prior year's performance, that improvement would entitle the State to some incentive funding, though never more than half of the maximum incentive possible. (The cost effectiveness measure is the exception to this rule.) As a result, those states with lower performance levels will at least receive some incentive provided that the program is moving sufficiently quickly in the right direction.

The upper and lower thresholds for performance are based on analysis of State performance data and projections. The work group recommended that, in the future the formula be reviewed and adjusted, if necessary. Should actual experience demonstrate, for example, that the majority of States easily achieve the highest performance standard in a particular measure, then the formula should be reevaluated to see that it rewards improvement.

A brief description of the measures follows. The equations and standards are included in the workgroup report.



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**Child Support Enforcement Incentive Funding Formula**

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***PATERNITY ESTABLISHMENT***

The measure for paternity establishment is identical to that included by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for purposes of paternity establishment penalties.

***CASES WITH SUPPORT ORDERS***

Establishing an order to pay child support is a critical first step to collecting support for families. This measure shows how much of a IV-D agency's caseload is capable of being enforced and how well the agency is keeping up with case backloads and intake.

***COLLECTIONS ON CURRENT SUPPORT***

The third measure focuses on the proportion of current support due that is collected on IV-D cases. It gets to the heart of the program: regular and dependable support payments to families.

***COLLECTIONS ON ARREARS***

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible."

***COST EFFECTIVENESS***

The final measure assesses the total dollars collected in the child support program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged.

***WEIGHTING AND COST NEUTRALITY***

Each State will earn five scores based on performance on each of the five measures. However, there was a strong feeling among members of the Work Group that the measures were not of equal importance and should not carry an equal weight. Therefore, the decision

### Child Support Enforcement Incentive Funding Formula

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was reached to count the first three measures (paternity establishment, order establishment and collections on current support) slightly more heavily than the last two (collections on arrears and cost effectiveness). For each of the first three measures, a 100% score earns 1% of the "collection base" as defined below. Lower scores earn a percentage of the 1%. The last two measures are worth at a maximum .75% of the collection base. Lower scores, again, earn a lower proportion of this .75%.

Added together, the three measures at 1% and two measures at .75% equal 4.5% of the collection base. Cost neutrality mandates that a new incentive formula will not cost more than the current formula. Allotting a possible total of 4.5% of the collection base keeps the new formula cost neutral. Preliminary estimates of incentive funding payments under the recommended formula are within the range of Congressional Budget Office projections under current law.

#### THE COLLECTION BASE

The current incentive system is based on a percentage of total TANF collections plus non-TANF collections capped at 115% of TANF collections. Collections for incentive purposes include those made on behalf of other States. There are several problems that States are experiencing with the current formula which will be exacerbated in the future. First, those States for whom a large percentage of the caseload is non-TANF are effectively being penalized because they cannot count all of their non-TANF collections. This may not have been a problem when the cap was first established, but as States are successfully moving people off of assistance, the effect of the cap is aggravated. Additionally, it is possible that the number of assistance cases will decrease over time as the implementation of welfare reform moves people toward self-sufficiency. The result of this success would be a smaller and smaller number of incentive dollars available to the States. A related result of capping the non-TANF collections is that States have less incentive to work non-TANF cases once the State has reached the cap. The Work Group felt that States ought to be rewarded and encouraged to work all cases. Therefore the incentive base ought to include all non-TANF collections without a cap as well as allowing States to count interstate collections.

The Work Group also felt that it was especially important to ensure that states continued to have strong incentives to work TANF cases and former TANF cases. Collection of child support for these groups is especially important to assist TANF recipients to leave welfare and to help them achieve self sufficiency so that they do not return to welfare. Since collection in TANF and former TANF cases is generally more difficult than in non-TANF cases, and non-TANF collections are rising at a faster rate, it is sensible to provide a heavier emphasis on collection in TANF and former TANF cases. In addition, collections in TANF cases provides direct savings to the state and federal governments. Therefore the Work Group recommends adding collections made on former TANF cases to collections made on TANF cases and doubling these collections in the formula to give them extra emphasis. This

## **Child Support Enforcement Incentive Funding Formula**

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has the added benefit of mitigating the impact of the change from the current incentive system with its cap on the non-TANF collections so that the potential collection base would be more equitable to states. The formula recommended is therefore:

$$2(\text{TANFS} + \text{former TANFS}) + \text{non-TANFS}^* = \text{collection base}$$

\*nonTANF does not include former TANF

### **PHASE IN**

By definition, some states will lose incentives by changing to a new incentive funding formula that is both performance based and cost neutral. To mitigate the loss, the Work Group recommended that the formula be phased in. To accomplish this, for fiscal year 2000, a State would earn half of what it would have earned under the old formula and half of what it earns under the new calculation. In fiscal year 2001, the new formula would be fully implemented. The extra year will provide those States affected to absorb reduced revenue while improving performance.

### **REINVESTMENT OF INCENTIVES IN CHILD SUPPORT PROGRAM**

Currently, incentives earned by the State child support programs do not have to be reinvested in State programs. The result is that money that comes from the Federal investment in the child support program can end up being used for other purposes. The Work Group strongly recommended that States be required to reinvest federal dollars into the child support enforcement program. This would ensure continued improvement, adequate resources, and the maintenance of high performance levels.

### **FEDERAL FINANCIAL PARTICIPATION**

Currently, the Federal government pays 66% of the administrative cost of the child support program. As a result of both Federal and State efforts over the past four years, child support collections and paternity establishment has reached record levels. Yet, we still have a long way to go to improve the program to where it should ultimately be. The PRWORA requires that States implement many changes to improve the operations of their programs. The Work Group believes strongly that continued funding at the present level is critical to ensure that states have the necessary staff and resources to meet the new requirements and challenges. However, before endorsement of this funding level, we intend to follow through on our commitment to discussions on the broader program funding issues which arise under State flexibility under the TANF program.

## **Child Support Enforcement Incentive Funding Formula**

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### **REVIEW MECHANISM**

There were two major difficulties that faced the Work Group in developing an incentive funding formula for the future. First, the Work Group recognized that it was making a recommendation for a formula that would not be put into effect until FY 2000. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the child support enforcement program is likely to change dramatically in the next few years. The effects on TANF and non-TANF caseloads are uncertain. This limits the reliability of the data upon which the recommendations of the Work Group are based. Therefore, the child support program's results and effects of the new incentive system should be reviewed periodically. Limited discretion should be granted to the Secretary, to make appropriate changes, in consultation with the States, based on the program's actual results and effects every three to five years.

### **NEXT STEPS**

We recognize that Work Group consensus depends on adoption of all their recommendations. We fully endorse the elements of the formula itself. However, the Work Group included recommendations with respect to other aspects of program funding. Because further work is needed on broader program funding issues, we are sending the Report forward with a commitment to working with the Congress on broader funding issues arising from the changing nature of the relationship between the TANF and child support programs under welfare reform.

In addition, bifurcation choices made by States could impact any incentive funding formula. The Federal share of collections will continue as the source of incentive payments. Depending on how States structure Temporary Assistance to Needy Families programs, the Federal share of collections could be reduced, threatening the source of incentive payments. Currently, the Federal share of collections for FY 1996 is approximately \$1.297 billion, of which \$409 million is paid to States in incentives. We will work with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers. Within 90 days of the submission of this report, the Administration will propose a legislative solution to this funding problem.

Finally, the work group recognized that the predictive ability of data and cost estimates is limited given current data and the impact of such factors as future demographic trends and PRWORA. Additional Federal and State efforts are critical before FY 2000 to ensure States produce reliable data upon which incentive funding will be based. The need to preserve the flexibility to adjust the formula in future years, based on actual results of the changing world under PRWORA, is built into the proposal.

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**Child Support Enforcement Incentive Funding Formula**

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**CONCLUSION:**

This report of the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century. The forwarding of this Report and its recommendations recognizes the need to keep the momentum needed to ensure the success of the child support program while emphasizing that further work needs to be done to address additional issues in the context of the changing texture of State TANF and child support programs. We have begun, and will work quickly with the Congress and Governors, to resolve those related issues.

Attachment: Incentive Funding Workgroup Report to the  
Secretary of Health and Human Services

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**INCENTIVE FUNDING WORK GROUP:  
REPORT TO THE SECRETARY OF HEALTH AND  
HUMAN SERVICES**

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**January 31, 1997**

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**Appendix**

**List of Incentive Funding Work Group Members**

**Social Security Act Section 458**

**Personal Responsibility and Work Opportunity Reconciliation Act Section 341**

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **INTRODUCTION**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the Secretary of Health and Human Services, in consultation with directors of State Child Support Enforcement (IV-D) programs, to recommend to Congress a new incentive funding system for the States which is to be based on program performance.

This report summarizes the recommendations of the Incentive Funding Work Group, which was convened by the Office of Child Support Enforcement (OCSE) in the Administration of Children and Families (ACF) at the Department of Health and Human Services. The Work Group, which consists of 26 representatives of State and local IV-D programs, HHS regional offices, and the OCSE central office met three times between November, 1996 and January, 1997. Between each of these meetings, the Work Group circulated its decisions and recommendations among all of the other States, region by region, and got feedback and reactions to decisions which were then incorporated into the discussion and recommendations of the following session. This report includes the final recommendations of the Work Group. With the exception of one dissenting State, the group reached consensus on these final recommendations.

The recommendations of the Incentive Funding Work Group were built on the earlier efforts of a joint OCSE-State Performance Measures Work Group, which met between March 1995 and July 1996. These efforts grew out of the work that had been done by OCSE and the States, as part of a pilot program for the Government Performance and Responsibility Act, to develop a five year National Strategic Plan for the Office of Child Support Enforcement and its State partners.

The Incentive Funding Work Group recommends that five key performance measures be used to evaluate each State's performance and measure results in the Child Support Enforcement program. These measures emphasize paternity establishment, support order establishment, collection of current support, collection of arrearages, and cost effectiveness. Incentives would be paid to the States based on each State's weighted scores on each of these measures and calculated and paid as a percentage of the State's child support collections. The details of this formula will be discussed below.

The Incentive Funding Work Group urges that the entire incentive funding formula be viewed as a whole package, of which the individual pieces fit together to achieve a package of desired results. Alteration of any one piece of the formula could shift the entire intended impact of the incentives in an undesirable way. The Work Group stresses that the near total consensus among the partners supporting this formula depends on the adoption of the package as a whole.



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There is still work to be done to define each factor in each measure so that all States are counting the same things, whether cases, collections, or expenditures, and counting them consistently. The Work Group will meet again to settle any outstanding definitional issues. Many of these have already been addressed through the work of the OCSE Measuring Excellence Through Statistics (METS) initiative. The Work Group agreed to adopt the definitions contained in the Outcome Measures document, e.g., cases in which there is no jurisdiction should be excluded.

In this report, the principles and constraints that guided the group's decisions are discussed. The general themes that are consistent in all measures are presented. Then each measure is presented in detail. Finally, there is a discussion about the relative importance of each measure and the determination of the collections on which the incentive funding is to be based.

### **SUMMARY OF RECOMMENDATIONS**

- **Measures.** The incentive system for State child support programs should measure State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness.
- **Standards.** The incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure should be based upon established standards of performance.
- **Collection Base.** The amount of potential incentive payments available to each individual State should be based upon a percentage of its own State collections - its "collection base." The collection base should include collections in both Temporary Assistance to Needy Families (TANF) cases and non-TANF cases. However, collections in TANF cases and former TANF cases should be given more weight.
- **Phase In.** The new incentive system should be phased in over a one year period beginning in fiscal year 2000.
- **Reinvestment.** Incentive payments received by a State should be reinvested in the State child support program.
- **Maintain FFP.** The Federal Financial Participation (FFP) rate for State program expenditures should remain at 66 percent.

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- **Review Mechanism.** The new incentive system should be reviewed on a periodic basis to ensure that it continues to reward program goals.

### **PRINCIPLES**

In order to develop the incentive funding measures, the Work Group agreed to certain fundamental principles which would guide their discussion and decisions.

The Child Support Enforcement Program will put children first by creating an incentive funding formula that...

- is performance-based, encouraging improved program outcomes
- helps to achieve the goals articulated in the OCSE National Strategic Plan and avoids unintended consequences
- continues to respond promptly to improvements in the desired area of performance
- recognizes maintenance of high performance as well as improvement in performance level
- requires that incentive dollars and Federal matching funds be invested in the Child Support Enforcement program
- includes a mechanism that will allow the committee or the Secretary to review and change the formula in the future, if necessary, based on an evaluation of the results
- treats all children equitably
- is simple.

### **Performance Based**

The PRWORA legislation mandates that a new incentive funding formula based on performance should be proposed. In each of the five recommended measures, a State's performance in a specific program area (paternity, order establishment, current support collection, arrears collections, and cost effectiveness) is measured using a mathematical formula. All States that achieve performance above a specified minimum score in each of

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the five measures are entitled to some portion of a maximum possible incentive. In four of the measures, the maximum incentive is available to those States scoring above a threshold of 80%. This target recognizes that for each measure there are factors which will make achievement of a perfect 100% score, whether for establishing paternity or collecting on current support, impossible. Some cases are beyond the control of the IV-D agency. In some wage withholding cases, because of the peculiarities of the calendar and payments cycles, payments may be attributed to arrearages. In the last formula, where there is no upper limit, the maximum incentive is achievable at a cost/effectiveness ratio above 5.0 (i.e., \$5 of child support is collected for each \$1 spent to collect it).

The formulas each have lower limits below which incentives are not paid unless the State makes a large increase over the previous year's performance. These lower limits were set by examining current performance data.

### **Goals of the Strategic Plan**

In February, 1995, the Federal Office of Child Support Enforcement and its State partners achieved consensus on the adoption of a National Strategic Plan for the program. The Plan consists of three major goals, as well as a number of objectives for each of the goals. This effort was a result of OCSE's participating as a pilot program for the Government Performance and Results Act.

After developing the goals and objectives for the Strategic Plan, the next step was to develop performance measures which would be used to measure results and the program's success in achieving the goals and objectives. A representative group, including some members of the Core Team that developed the Strategic Plan, Federal staff and State representatives, met over many months to develop these performance measures, which were agreed to by the States in July, 1996.

The Incentive Funding Work Group based much of its work on the groundwork done by the GPRA Performance Measure Work Group. The paternity establishment measure is derived from Goal I of the Strategic Plan, *All Children Have Parentage Established*. The order establishment measure comes from Goal II, *All Children in IV-D Cases Have Financial and Medical Support Orders*. The last three measures on current collections, arrears collections and cost effectiveness derive from Goal III, *All Children in IV-D Cases Receive Financial and Medical Support from Both Parents*. In this goal, there are several objectives, including "to increase the collection rate" and "to make the process more efficient and responsive." The measures specifically address these objectives.

The Incentive Work Group also worked to ensure that no performance measure would reward negative "unintended consequences." There was an effort to examine all ways a

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program might attempt to improve its score on a measure and to remove any measure that would lead to behavior that would hurt the program. The Group recognizes that it is impossible to anticipate and avoid all unintended consequences and has built in a mechanism for future adjustments in the formula. (See Review Mechanism.)

### **Prompt Response to Program Improvements**

The incentive funds, which will be paid quarterly based on the program performance achieved during the prior Federal fiscal year, recognizes improvements each year. The higher the score on a measure, the higher the proportion of incentive money that can be earned. Furthermore, those States with very low scores can earn a portion of the incentive money if they demonstrate substantial improvement in program performance over the prior year's performance. In most cases, a low scoring State must improve its own performance at least 5% to be eligible for any incentive payment. For the paternity measure, performance in the lower ranges must improve by at least 10%.

### **Recognizes Maintenance of High Performance**

In addition to rewarding a program's improvement, the Work Group felt strongly that those States that were successful at maintaining a high performance level should be rewarded. For this reason, the absolute score a State achieves dictates the proportion of incentive that it can earn at the higher levels, while improvement over the prior year's performance was not a requirement of the formulas at these higher levels. There is a recognition that a State achieving a very high level of performance will have a much harder time improving its performance than will a State at a lower level and must invest substantial resources to maintain the high performance.

### **Requires Program Reinvestment**

The Work Group strongly recommends that States be required to reinvest federal dollars into the Child Support Enforcement program rather than diverting them to other programs, however worthwhile. This will ensure continued improvement, adequate resources, and the maintenance of high performance levels.

### **Review Mechanism**

There were two major difficulties that faced the Work Group in developing an incentive funding formula for the future. First, the group recognized that it was making a

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recommendation for a formula that would not be put into effect until FY 2000. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Child Support Enforcement program is likely to change dramatically in the next few years. The effects on TANF and non-TANF caseloads are uncertain. This limits the reliability of the data upon which the recommendations of the Work Group are based. Because of these and other uncertainties about the program, the group felt that it was essential to build into the incentive funding formula a mechanism that would allow the Secretary, in consultation with the States, to review the program's results and examine any unanticipated and/or unintended consequences of the proposed formula and recommend changes based on these actual results every three to five years.

The group recommends that in the future a welfare cost avoidance measure be included at such time as a more reliable measure is developed.

It is essential that every effort be made to ensure that the performance data on which incentive payments will be made be reliable. While automation should improve the quality of the data, OCSE's audit staff will need to examine how the States are reporting data and help the States achieve reliable data reporting. This is anticipated under PRWORA, in new responsibilities for Federal audits.

### **Treat All Children Equitably**

The recommended incentive funding formula is intended to continue the Child Support Enforcement program's effort to put children first. It has tried to ensure that children are served equitably and without discrimination by maintaining a balance between emphasizing the needs of TANF recipients, large and small States, interstate and intrastate cases, etc. The Work Group neither expected nor intended there to be any reduced efforts as a result of a State's earning less money based on performance.

### **Simplicity**

The Work Group strived to reach consensus on a formula that would be simple to understand and administer, which at the same time would meet all of the above criteria. By taking a similar approach to each measure, in which outcomes were rewarded proportionately at the upper levels of performance, and substantial improvement was rewarded at the lower performance levels, the group attempted to achieve a degree of consistency and simplicity.

**INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS****CONSIDERATIONS**

At the same time that the Incentive Funding Work Group was guided by some fundamental principles, it tried to keep in mind some realistic constraints and process considerations in its deliberations. They wanted to recommend a formula that could be accepted by all who would be affected. These considerations, listed below, also affected the group's recommendations.

1. The formula recommended should be politically viable. All stakeholders should be considered. Stakeholder concerns were anticipated and addressed at every step of the process. The concerns with respect to each aspect of the formula were addressed and resolved.
2. Some States will lose money under a cost neutral new incentive funding scheme based on performance. Because the current system is not performance-based, each State is guaranteed to receive a minimum of 6% of collections in incentives. By moving to a formula that is based on performance and, at the same time, is cost neutral for the Federal government, some States will certainly lose incentive money in the future unless they improve their performance.
3. There must be built in flexibility to change the system (based on consultation with the States) if it is not working properly. If unintended consequences are discovered, the system should be changed. The world will change dramatically under welfare reform and the proposed formula might need to be changed because of that. Also, in the future, with welfare reform, it is possible that the measure could be developed to look at cost avoidance.
4. There should be as much advance notice to States as possible to allow for proper preparation, planning, and performance improvement. Advance planning time is necessary for budgeting purposes, for example. States need time to prepare for and achieve data reliability. There will be an incentive for States to clean up their caseloads.
5. The recommended incentive funding system should avoid possibilities of "gaming" the system and should also encourage early implementation by the States.
6. States should fund some part of their Child Support Enforcement program. They are mandated to fund 34% of the program. The Work Group expressed concern about those States that are "making profits" on the Child Support Enforcement program without returning these benefits to the program. The Work Group also felt that it was important to maintain the current level of federal financial participation (FFP) at 66%. Continued funding at the present level is critical to ensure that states have the necessary staff and resources to meet the new requirements and challenges.

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7. States should continue to worry about working the "tough" cases and about timeliness of service delivery. There is a critical need to reward success in assistance cases and former assistance cases.

**GENERAL THEMES :**

As mentioned previously, in order to keep the incentive funding formula relatively simple to understand, explain, and administer, there are certain consistencies in approach across all five measures. Also, there is a logic to the five measures chosen as they emphasize the logical development stages in a child support enforcement case: establishing paternity, establishing a support order, collecting current support due, collecting any arrears owed, and doing all of this in a cost effective manner.

States want their performance to be judged and compared with their own performance in the previous year. These measures are constructed to compare a State's performance to itself, not to a "national average."

In each case, there is an upper threshold for each State to achieve, most often set at 80% (and 5:1 ratio of collections to costs for the cost effectiveness measure). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for the 80% vary across the measures, but in general they include a recognition that this is a level that States can realistically strive to achieve. At the same time, the 80% recognizes that there will always be some cases in the caseload which, for a variety of reasons, will be impossible to work successfully.

At the lower end of the scale in each case, there is a minimum level below which the group felt that performance should not be rewarded unless a State demonstrates a substantial improvement over the prior year's performance. The group believes that substantial improvement should be recognized with some incentive funding, though never more than half of the maximum incentive possible. (The cost effectiveness measure is the exception to this rule.) This mechanism allows them some access to funding if the program is moving sufficiently quickly in the right direction.

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### **PATERNITY MEASURE**

The first measure is based on the Paternity Establishment Percentage as defined in the Personal Responsibility and Work Opportunity Reconciliation Act on 1996. Under PRWORA, States may use either one of the following two measures:

#### **1. IV-D Paternity Establishment Percentage:**

The ratio that the total number of children in the IV-D caseload in the fiscal year or, at the option of the State, as of the end of the fiscal year, who have been born out of wedlock, the paternity of whom has been established or acknowledged bears to the total number of children in the IV-D caseload as of the end of the preceding fiscal year who were born out of wedlock .

Equation:

$$\frac{\text{Total \# of Children in IV-D Caseload in the Fiscal Year or, at the option of the State, as of the end of the Fiscal Year who were born out of wedlock with Paternity Established or Acknowledged}}{\text{Total \# of Children in IV-D Caseload as of the end of the preceding Fiscal Year who were Born Out of Wedlock}}$$

#### **2. Statewide Paternity Establishment Percentage:**

The ratio that the total number of minor children who have been born out of wedlock and the paternity has been established or acknowledged during the fiscal year, bears to the total number of children born out of wedlock during the preceding fiscal year.

$$\frac{\text{Total \# of Minor Children who have been Born Out of Wedlock and the Paternity has been Established or Acknowledged During the Fiscal Year}}{\text{Total \# of Children Born Out of Wedlock During the Preceding Fiscal Year}}$$

This measure is unique among the five measures in that, by statute, there are currently penalties based on the paternity measure. States are required to improve their performance by a specific amount or they are subject to penalties. The Work Group considered whether the incentives based on this measure should reflect, in some manner, the penalty scoring system. For example, the penalty system requires that States demonstrate improved performance over the previous year. There was a concern about whether States should be subject to penalties and be eligible for incentives at the same time. Some felt that the lack of incentive would make these States doubly penalized by not improving performance. The group concluded that States should be eligible for incentives based on performance even if they were subject to penalties because their performance had not improved to the extent required to avoid the penalty. An example illustrates the rationale for



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this. If a State is at an 85% performance level one year, and increases to 86% the following year, it would be subject to a penalty for not achieving a 2% increase in performance. The Incentive Funding Work Group felt that the State should be rewarded for its high level of performance by receiving 100% of the possible incentive to encourage sustained performance. The paternity incentive is an integral part of the recognition and reward of State performance in the range of required program results, and, as such, merits distinction regardless of the potential for a penalty. The scale for the incentive funding on paternity is shown below:

#### **Paternity Establishment Percentage**

<b>Performance Level</b>	<b>% of Maximum Incentive</b>
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
51% - 69% (increases by 1% increments)	61% - 78% (increases by 1% increments)
50%	60%
49% and below	50% if increase by at least 10%

If a State is performing at the 70% level, it is eligible for 80% of the incentive for this measure. If it is performing at the 77% level, it is eligible for 94% of the incentive for this measure. If performance drops from one year at 72% to the next year at 69%, the incentive percentage drops from 84% to 78%, but does not disappear altogether. If a State is at 48%, in order for that State to receive a percentage of incentive, it must have improved at least 10 percentage points over its prior year's performance. That is, the State would have had to have been at or below 38% the previous year in order to receive 50% of the incentive.

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**CASES WITH SUPPORT ORDERS**

The second measure looks at the percentage of cases in the IV-D caseload that have orders for support. The equation to compute the incentive is as follows:

$$\frac{\text{Number of IV-D Cases with Support Orders}}{\text{Total Number of IV-D Cases}}$$

Again, this measure has a sliding scale so that an increased performance earns a higher level of the incentive. Any score above 80% earns the maximum possible incentive. Any score below 49% requires an improvement of at least 5% over the previous year's performance. The table below illustrates the scoring on this measure:

**Order Establishment**

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
51% - 69% (increases by 1% increments)	61% - 78% (increases by 1% increments)
50%	60%
49% and below	50% if increase by at least 5%

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**COLLECTIONS ON CURRENT SUPPORT**

The third measure focuses on the proportion of current support due that is collected on IV-D cases. This measure was felt to be very important because it gets to the crux of the program: regularly and dependably collecting support money that is due families.

The proportion of current support collected is expressed by the following formula:

$$\frac{\text{Total Dollars Collected for Current Support in IV-D Cases}}{\text{Total Dollars Owed for Current Support in IV-D Cases}}$$

The scoring for this measure is very similar to the one used for the first and second measures. However, the lower threshold is 39% for this measure, as opposed to 49% for the previous measure. This lower threshold is based on an examination of current collection data.

**Collections on Current Support**

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
41% - 69% (Increases by 1% increments)	51% - 79% (Increases by 1% increments)
40%	50%
39% and below	50% if at least 5% increase

**INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS****COLLECTIONS ON ARREARS**

The fourth measure assesses efforts to collect money from those cases with an arrearage due. While the group wanted to emphasize the importance of collecting regularly the current support due to a family, they felt that it was important to include a measure that assessed the efforts to collect arrears owed.

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible." Some States aggressively seek judgments for unreimbursed assistance under State law. They also have different policies on case closure. Additionally, some States charge interest on arrears, which is considered additional arrearages, while others do not. In many cases, large arrearages already exist when an individual applies for assistance or seeks services under the program. Given these differences in practice, the group found no tenable method for completely leveling the playing field among the States. The measure selected comes as close as possible. In this measure, the group recognized the strong expectation of policy makers that inroads be made on the collection of the mounting arrearage.

The equation for this measure is below:

$$\frac{\text{Total number of IV-D cases paying toward arrears}}{\text{Total number of IV-D cases with arrears due}}$$

The scoring on this measure is similar to the previous two measures. However, there is a lower bottom threshold on this measure because of the difficulty in collecting on arrears cases, as seen evident in current performance data.

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**Cases with Collections on Arrears**

<b>Performance Level</b>	<b>% of Maximum Incentive</b>
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
41% - 69% (1% increases)	51% - 79% (1% increases)
40%	50%
39% and below	50% if 5% increase

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**COST EFFECTIVENESS**

The final measure assesses the total dollars collected in the Child Support Enforcement program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged. However, in the new incentive formula, unlike in current practice, total costs and collections are measured: there is no provision for separating assistance versus non-assistance collections over costs.

There are a number of reasons for looking at all costs together in the future. The greatest reason is the need to avoid continuing the perverse incentive in the current formula. States are better off under the current formula if families stay on public assistance. With welfare reform, the goal is fewer and fewer TANF cases as people move toward self-sufficiency. The formula should support, not subvert, this goal. It is also very difficult, and sometimes arbitrary, to reward these efforts separately.

The equation for cost effectiveness is as follows:

$$\frac{\text{Total IV-D Dollars Collected}}{\text{Total IV-D Dollars Expended}}$$

The incentives would be based on the scoring in the table below:

**Cost Effectiveness**

CE Ratio	% of Maximum Incentive
5.00 and above	100%
4.50 - 4.99	90%
4.00 - 4.49	80%
3.50 - 3.99	70%
3.00 - 3.49	60%
2.50 - 2.99	50%
2.00 - 2.49	40%
1.99 and below	0

This is the only measure for which there is no incentive given below a specific score, even if significant improvement occurs. The group felt that if the cost effectiveness ratio falls below 1.99, the State should earn no incentive because performance below that level is unacceptable.

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### WEIGHTING THE MEASURES

Each State will earn five incentives based on performance on each of the five measures. However, there was a strong feeling among members of the Work Group that the measures were not of equal importance and should not carry an equal weight. After much discussion, the decision was reached to count the first three measures (paternity and order establishment and collections on current support) slightly more heavily than the last two (collections on arrears and cost effectiveness). For each of the first three measures, a 100% score earns 1% of the "expanded collections" as defined below. Lower scores earn a proportion of the 1%. The last two measures are worth at a maximum .75% of the "expanded collections." Lower scores, again, earn a lower proportion of this .75%. The choice of 1% and .75% derive from the necessity of using a cost-neutrality factor that will ensure that the amount of incentive money paid out under the new formula approximates the amount that would be paid under the current system. Minor adjustments can be made in the percentages chosen, if necessary, when final CBO projections are made.

It should be noted that the weighting of the measures is one of the areas that people felt might need revisiting after the program is in effect for a few years. At that time, simplicity may dictate giving all measures an equal weight. Or, on the other hand, the Child Support Enforcement program may seek to emphasize one aspect of the program over others. Shifting the weights of the measures accomplishes that aim.

### INCENTIVES BASED ON COLLECTIONS

The current incentive system is based on total TANF collections and non-TANF collections capped at 115% of TANF collections. Non-TANF collections, as currently defined, includes collections from former TANF cases. There are several problems that States are experiencing with this formula which will be exacerbated in the future. First, those States for whom a large percentage of the caseload is non-TANF are being penalized because they cannot count all of their non-TANF collections. This may not have been a problem when the cap was first established, but as States are successfully moving people off of assistance, the penalty continues. Additionally, it is possible that the number of assistance cases will decrease over time as the implementation of welfare reform moves people toward self-sufficiency. The result of this success would be a smaller and smaller number of assistance cases and collections which would result in fewer incentive dollars available to the States. Another result of capping the non-TANF collections is that States have less incentive to work non-TANF cases once the State has reached the cap. The Work Group felt that States ought to be rewarded and encouraged to work all cases. Therefore, the incentive base ought to include all non-TANF cases without a cap.

The Work Group felt that it was especially important to ensure that States had significant incentives to work TANF cases and former TANF cases. Collection of child support for these groups is especially important to assist TANF recipients to leave welfare and to help them achieve self sufficiency so that they do not return to welfare. Since

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collection in TANF and former TANF cases is generally more difficult than in non-TANF cases, and non-TANF collections are rising at a faster rate, it is sensible to provide a heavier emphasis on collection in TANF and former TANF cases. In addition, collections in TANF cases provides direct savings to the State and Federal governments. Therefore, the Work Group recommends adding collections made on former TANF cases to collections made on TANF cases and doubling these collections in the formula to give them extra emphasis. This has the added benefit of mitigating the impact of the change from the current incentive system with its cap on the non-TANF collections so that the potential collection base would be more equitable to States. The formula that the Work Group recommends is as follows:

$2(\text{TANF} + \text{former TANF}) + \text{non-TANF} = \text{expanded incentive collection base}$

\*non-TANF does not include former TANF

**PHASE IN**

There is no question that certain States will lose money by using the new incentive funding formula, which is required to be cost neutral. To migrate from a system that guarantees a minimum incentive to everyone, regardless of performance, to a system that is based on rewarding performance, some States will receive lower incentives. To mitigate the loss of incentive funds that have been used to fund the program over the years, the group recommends that the new formula be phased in over a one year period. To accomplish this, for fiscal year 2000, a State would earn half of what it would have earned under the old incentive formula and half of what it earns under the new proposed formula. In fiscal year 2001, the new formula would be fully implemented.



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### EXAMPLE

To illustrate the way the incentive funding formula would work, we will take the hypothetical case of the State of Xanadu. Let's assume that for Xanadu, the incentive funding base as defined previously is \$50,000,000. The incentive funding base is multiplied by the maximum values established for the measures, e.g., 1% for the first three measures and .75% for the last two measures. The product of that calculation is found in column B below. The following table illustrates the scores that Xanadu received on the five performance measures and their maximum value derived from standards tables for the five measures. Given these scores, the next step would be to multiply each score by the maximum value of the measure to get a total incentive amount.

Measure	Xanadu Performance Level	Percentage of Incentive (A)	Maximum Value of Incentive (\$) (B)	Incentive Payment (\$) (A) x (B)
1. Paternity	54%	64%	500,000	320,000
2. Order Establishment	79%	98%	500,000	490,000
3. Current Support	41%	51%	500,000	255,000
4. Arrears Cases Paying	40%	50%	375,000	187,500
5. Cost Effectiveness	\$3.00	60%	375,000	225,500
<b>TOTAL INCENTIVE EARNED</b>				<b>\$1,478,000</b>

### CONCLUSION

This report of the Incentive Funding Workgroup to the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century.

**APPENDIX**

**CHILD SUPPORT ENFORCEMENT  
INCENTIVE FUNDING WORKGROUP MEMBERS**

**Federal Representatives**

<u>Name</u>	<u>Organization</u>
Keith Bassett	HHS/ACF/OCSE
Sheck Chin	HHS/ACF/OCSE
Anne Donovan	HHS/ACF/OCSE
Robert Harris	HHS/ACF/OCSE
John Kersey	HHS/ACF/Region IX
Tom Killmurray	HHS/ACF/OCSE
Paul Legler	HHS/Office of the Secretary
Gaile Maller	HHS/ACF/OCSE
Elizabeth Matheson	HHS/ACF/OCSE
Joyce Pitts	HHS/ACF/OCSE
Tony Slade	HHS/ACF/Region V

**State Representatives**

<u>Name</u>	<u>State/Local</u>
Barry Bloomgren	Hennepin County, Minnesota
Tony DiNallo	Connecticut
Dianna Durham-Meloud	Illinois, Secretary/Treasurer, NCSCSEA
Wally Dutkowski	Michigan
Jerry Fay	Massachusetts, Vice President, NCSCSEA
Leslie Frye	California, Past President, NCSCSEA
Jim Hennessey	Iowa, President, NCSCSEA
Gordon Hood	Louisiana
Theresa Kaiser	Missouri
Cliff Layman	Maryland
Joyce McClaran	Tennessee
Nancy Mendoza	Arizona
Doris Sims	New Jersey
Glenda Straube	Alaska
Terry Walter	South Dakota

**HHS:** U.S. Department of Health and Human Services  
**ACF:** Administration for Children and Families  
**OCSE:** Office of Child Support Enforcement  
**NCSCSEA:** National Council of State Child Support Enforcement Administrators

## THE SOCIAL SECURITY ACT

### Sec. 458. Incentive payments to States

#### (a) Purpose; requirement; quarterly payments

In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for assistance under a program funded under part A, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of noncustodial parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e) of this section) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b) of this section.

#### (b) Incentive formula

(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to—

(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 608(a)(3) or section 671(a)(17) of this title (with such total amount for any fiscal year being hereafter referred to in this section as the State's title IV-A collections" for that year), plus

(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State's "non-title IV-A collections" for that year).

(2) If subsection (c) of this section applies with respect to a State's title IV-A collections or non-title IV-A collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State's incentive payment under this subsection for that year.

(3) The dollar amount of the portion of the State's incentive payment for any fiscal year which is determined on the basis of its non-title IV-A collections under paragraph (1)(B) (after adjustment under subsection (c) of this section if applicable) shall in no case exceed—

(A) the dollar amount of the portion of such payment which is determined on the basis of its title IV-A collections under paragraph (1)(A) (after adjustment under subsection (c) of this section if applicable) in the case of fiscal year 1986 or 1987;

(B) 105 percent of such dollar amount in the case of fiscal year 1988;

(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

(D) 115 percent of such dollar amount in the case of fiscal year

1990 or any fiscal year thereafter.

(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 655(a)(1)(A) of this title for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 655(a)(1)(A) of this title if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

**(c) Increase in percentage; laboratory costs**

If the total amount of a State's title IV-A collections or non-title IV-A collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 654 of this title for which payment may be made under section 655 of this title (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's "combined title IV-A/non-title IV-A administrative costs" for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) of this section (with respect to such collections) shall be increased to—

(1) 6.5 percent, plus

(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds

1.4;

except that the percent so specified shall in no event be increased (for either title IV-A collections or non-title IV-A collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State's combined combined title IV-A/non-title IV-A administrative costs for that year.

**(d) Support collected on behalf of individuals residing in another State**

In computing incentive payments under this section, support which is collected by one State at the request of another State shall be treated as having been collected in full by each such State, and any amounts expended by the State in carrying out a special project assisted under section 655(e) of this title shall be excluded.

**(e) Estimates by Secretary; quarterly payments**

The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available. The Secretary shall make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to

which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated.

**THE PERSONAL RESPONSIBILITY  
AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996  
[Public Law 104-193]**

**SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.**

(a) **DEVELOPMENT OF NEW SYSTEM.**--The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than March 1, 1997, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

\*\*\*\*\*

File - WR -  
child support

Total Pages: 13

LRM ID: MDH38

**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001**

Friday, March 14, 1997

**LEGISLATIVE REFERRAL MEMORANDUM**

**TO:** Legislative Liaison Officer - See Distribution below

**FROM:** Janet R. Forsgren (for) Assistant Director for Legislative Reference

**OMB CONTACT:** Melinda D. Haskins  
PHONE: (202)395-3923 FAX: (202)395-6148

**SUBJECT:** HHS Testimony on HHS Report on Child Support Enforcement Incentive Funding

**DEADLINE:** 4 PM Monday, March 17, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

**COMMENTS:** Attached is HHS (Ross) testimony on the Administration's recommendations to revamp the child support incentive payment system. This testimony will be given on March 20th before the House Subcommittee on Human Resources.

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- Walter S. Groszyk Jr.
- James C. Murr
- Janet R. Forsgren



LRM ID: MDH38  
Incentive Funding

SUBJECT: HHS Testimony on HHS Report on Child Support Enforcement

**RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

**TO:** Melinda D. Haskins Phone: 395-3923 Fax: 395-6148  
Office of Management and Budget  
Branch-Wide Line (to reach legislative assistant): 395-7362

**FROM:** \_\_\_\_\_ (Date)  
 \_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Agency)  
 \_\_\_\_\_ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- \_\_\_\_\_ Concur
- \_\_\_\_\_ No Objection
- \_\_\_\_\_ No Comment
- \_\_\_\_\_ See proposed edits on pages \_\_\_\_\_
- \_\_\_\_\_ Other: \_\_\_\_\_
- \_\_\_\_\_ FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

**STATEMENT BY**

**DAVID GRAY ROSS**

**DEPUTY DIRECTOR  
OFFICE OF CHILD SUPPORT ENFORCEMENT  
ADMINISTRATION FOR CHILDREN AND FAMILIES  
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**BEFORE THE**

**COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON HUMAN RESOURCES  
U.S. HOUSE OF REPRESENTATIVES**

**MARCH 20, 1997**

**Mr. Chairman and members of the Committee:** I want to thank you for giving me the opportunity to testify today on the Administration's recommendations for revamping the incentive system for State child support enforcement programs. The Administration is committed to timely and effective implementation of the new welfare reform law and we view the incentive report as an important early step in our efforts.

The Administration and this Committee are in full agreement that child support is an essential part of welfare reform. It sends a message of responsibility to both parents and is a vital part of moving families toward work and self-sufficiency. Once families have attained independence, child support can keep them from falling back onto public assistance rolls. Child support also acts as a safety net to ensure that single parent families don't need assistance in the first place. We are proud of this Administration's record on child support enforcement and anxiously await the positive results that the new provisions will bring to further meet these critical goals.

President Clinton has made improving child support enforcement and increasing child support collections a top priority. Since taking office, President Clinton has cracked down on non-paying parents and strengthened child support enforcement, resulting in record child support collections. The Justice Department is investigating and prosecuting cases where parents cross state lines to avoid payment under the Child Support Recovery Act. In FY 1996, \$12 billion in child support was collected on behalf of the children of America. This amount exceeded the President's Budget projection of \$11.5 billion and represented a 50 percent increase in child

support collections since FY 1992. Since FY 1992, the number of paying child support cases has increased by 36 percent. These accomplishments are impressive, but projections on the impact of the new provisions tell us they are only the beginning.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) includes the tough child support measures President Clinton called for from the start and child support enforcement at the Federal and State levels is being transformed by these measures. Many States have already taken steps to implement the new federal requirements. Forty-three States have license revocation programs in place. Thirty-five States have recently enacted the Uniform Interstate Family Support Act. And twenty-six States have adopted some form of reporting of new hires.

At the Federal level, we have made great progress in making the expanded Federal Parent Locator Service (FPLS) a reality. We have entered into contracts with several nationally recognized and respected vendors to help us design and develop the expanded FPLS, manage the project and enhance our quality assurance efforts, and assist us with providing training and technical assistance to state agency users.

Finally, as required under PRWORA, we worked with the States to develop a new incentive funding structure that rewards results and submitted our Child Support Enforcement Incentive Funding Formula report to Congress last week. That report is the focus of my testimony today.

**Child Support Enforcement Incentive Funding**

I am happy to report that since my last appearance before this Committee on September 19, 1996, our collaborative effort with the States to develop a new incentive funding system for the child support enforcement program has been successful. The jointly-developed, revenue neutral incentive funding proposal is tough and would push States to improve performance. This formula will ensure good outcomes for families and has a broad consensus among the States and other child support enforcement stakeholders.

The current incentive funding system is based on maximizing child support collections relative to administrative costs. A minimum incentive payment is made to all States regardless of whether performance is good or poor. Currently, States can run inefficient programs and still receive large amounts in incentives. We all recognize that this does not create a significant incentive for the achievement of program goals. An improved results-based incentive system would take into account other measurable program results such as paternity establishment, order establishment, and collections.

Our effort to develop a performance-based incentive system dovetailed with our thriving State-Federal partnership and our effort to become a results-oriented program, as envisioned by the Government Performance and Results Act (GPRA) of 1993. OCSE has completed the

2 year pilot phase of its implementation of GPRA during which we forged a Federal-State partnership that has accomplished much. I would like to briefly highlight our accomplishments.

Federal and State partners have developed and reached consensus on a National Strategic Plan with a mission, vision, goals and objectives.

Federal and State partners reached consensus on outcome measures for each of the Strategic Plan goals and objectives so that progress can be tracked.

The majority of States have entered into partnership agreements with ACF Regional Offices that detail performance goals, technical assistance initiatives, and a shared commitment to working together.

OCSE and the association of State child support program directors have entered into a partnership agreement that emphasizes communication, joint planning, and co-responsibility for improving America's child support enforcement program.

Building on this new foundation of partnership with the States forged during the GPRA pilot, we convened a group of State and Federal partners to meet the Congressional charge to the Secretary of HHS to change the incentive funding system. The workgroup included 15 State

and local child support directors and 11 Federal central and regional office representatives. The workgroup met November through January. Of the 14 State directors, 10 agreed to represent only their own States but also other States in their region. After each workgroup meeting, the representatives consulted with the States in their region and brought that feedback to the next meeting to assure the broadest possible consensus. Progress of the workgroup was also shared with the American Public Welfare Association and advocacy groups.

The workgroup developed an incentive funding formula that rewards States for their performance in five critical areas: paternity establishment, support order establishment, collections on current support, collections on support past due (arrearages), and cost effectiveness. These measures are consistent with the legislated mission of the program and the Strategic Plan and its outcome measures. There is full consensus from State partners that these measures represent the appropriate focus for the program.

The workgroup also established performance standards for each of the measures. These standards would determine the amount of incentive a State would receive for a certain level of performance and reward States for maintaining high performance or making substantial gains in improving their performance. The standards are designed to provide tough but reachable targets for performance by rewarding States with higher incentives as they improve. The standards for the first four measures include a performance threshold. Under this scheme, and unlike the current system, no incentive would be paid unless a State achieves a significant improvement in performance. For the final measure on cost effectiveness, if a State collects

less than two dollars for every one dollar expended, no incentive would be paid.

Each State would earn five scores based on performance on each of the five measures.

Workgroup members believed all the measures were important, but the first three measures -- paternity establishment, support order establishment and collections on current support -- were critical. Paternity establishment and support order establishment are prerequisites of collecting current support, which is essential for family self-sufficiency. Performance on the first three measures could earn a slightly higher incentive than the last two measures -- collections on arrearages and cost effectiveness.

The amount of potential incentive payments for each measure available to each State would be based upon a percentage of its own State child support collections -- its "collections base."

The collection base includes collections in both Temporary Assistance to Needy Families (TANF) cases and nonassistance cases. The collections base also includes collections made for families who were never on assistance. However, we recommend that collections in TANF cases and former TANF cases be weighted double, e.g., every dollar collected counts as \$2.

Counting collections for incentives purposes in this way accomplishes three objectives:



States with large former TANF caseloads would no longer be penalized by a cap as in the current formula. Many States are moving families off welfare and their success is not being recognized because of this cap under current law.

States would have a strong incentive to pursue action on TANF cases and former TANF cases. For these families, child support is critical to achieving independence and not returning to public assistance rolls.

Direct savings to State and Federal governments result from collecting child support in TANF cases. Costs of other public benefit programs such as Food Stamps and Medicaid could also be avoided by making collections in these cases.

Because this system would for the first time be performance-based, some States would naturally lose incentives by moving to the new system. To mitigate this loss, we recommend that the formula be phased in over two years. For FY 2000, a State would earn half of what it would have earned under the old formula and half of what it earns under the new calculation. In FY 2001, the new formula would be fully implemented. This would give

States more time to adjust their programs, budget for any financial impact and improve their performance. Of course, the Office of Child Support Enforcement would continue to work with States to assist them during this transition.

The workgroup was concerned that with the enactment of welfare reform, the child support enforcement program is likely to change dramatically in the next few years. Therefore, the report recommends that the child support program's results and effects of the new incentive system should be reviewed periodically. Limited discretion should be granted to the Secretary of Health and Human Services to make appropriate changes, in consultation with the States, based on the program's actual results and effects every three to five years.

The workgroup's report includes recommendations with respect to other aspects of program funding beyond incentives. We have endorsed the workgroup's recommendations with respect to the incentive formula itself, but have reserved judgment on other aspects of the recommendations because further work may be needed on broader program funding issues. For example, we are committed to working with States and the Congress to develop legislation, if necessary, to ensure that State flexibility under TANF does not result in costs to the Federal Government due to the potential loss of child support collections.

Finally, in keeping with the mandate that the new incentive funding formula be cost neutral, we have ensured that the new incentive formula would not cost more than the current formula. During the legislative process, if subsequent cost estimates show that the formula is not cost

neutral, adjustments up or down can be made. We have indicated in the report that we will work with the Office of Management and Budget and our State partners to develop an automatic adjustment mechanism to ensure cost neutrality.

### Conclusion

We now have the groundwork in place for a more results-oriented management of the National child support enforcement program. We strongly urge Congress to pass legislation on the recommended incentive funding system to allow the child support enforcement program to truly be driven by achieving results for families and children in need of support.

The work accomplished to present this report through State-federal partnership is representative of past collaboration and the future direction that we will take together to strengthen the program and improve the lives of children.

In conclusion, Mr. Chairman, let me restate:

The recommended incentive funding formula, developed in consultation with the States, would reward performance and remain revenue neutral. It is tough but fair and will lead to positive results for families.

**The new incentive funding formula would complement the results-oriented State-Federal partnership that has already successfully piloted the Government Performance and Results Act.**

**The Administration is committed to working with States and the Congress to address TANF maintenance of effort issues which may result in costs to the Federal Government due to the potential loss of child support collections.**

**I want to thank the Committee for your work on behalf of America's children. Their future will be significantly improved because of the new collection tools and other reforms required of States by welfare reform.**

WR-  
File-child support



Cynthia A. Rice

03/17/97 09:51:14 AM

---

Record Type: Record

To: Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: I will respond to clearance request for HHS Testimony on Child Support Enforcement Incentive Report

I don't think either of you need to do anything, although you were both sent copies. I've already asked HHS to beef up the section citing the Administration's accomplishments to date (bottom of first page) -- the rest, except a mistake I found on page 5, seems fine.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 03/17/97 09:48 AM -----

**Melinda D. Haskins** 03/17/97 09:04:00 AM

---

Record Type: Record

To: Cynthia M. Smith/OMB/EOP, Cynthia A. Rice/OPD/EOP, Wendy A. Taylor/OMB/EOP

cc:

Subject: HHS Testimony on Child Support Enforcement Incentive Payments Report

Comments are due on LRM MDH38 -- HHS' testimony on its recommendations for revamping the child support enforcement incentive payment system -- are due at **4 pm today**. Thank you.

File -  
Should support  
Legislative

Total Pages: 12

LRM ID: MDH32

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Wednesday, March 12, 1997

URGENT

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below  
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference  
OMB CONTACT: Melinda D. Haskins  
PHONE: (202)395-3923 FAX: (202)395-6148  
SUBJECT: JUSTICE Proposed Draft Bill on Child Support Recovery Amendments Act of 1997

DEADLINE: 10 am Thursday, March 13, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached Department of Justice (DOJ) draft bill would amend the Child Support Recovery Act pursuant to the President's July 21, 1996, directive to DOJ to establish a felony offense for a person who willfully fails to pay child support for a child in another State. This draft bill is similar to a DOJ draft bill that was transmitted to the Congress on September 27, 1996.

X DOJ has requested that OMB clear this draft bill by tomorrow (Thursday, March 13th.) It plans to transmit its draft bill to the Congress tomorrow. X

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LRM ID: MDH32 SUBJECT: JUSTICE Proposed Draft Bill on Child Support Recovery Amendments Act of 1997

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet... If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: (Date)
(Name)
(Agency)
(Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
No Objection
No Comment
See proposed edits on pages
Other:

FAX RETURN of pages, attached to this response sheet





U.S. Department of Justice

Office of Legislative Affairs

**DRAFT**

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Newt Gingrich  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is a legislative proposal, the "Child Support Recovery Amendments Act of 1997," which strengthens federal criminal child support enforcement by establishing felony violations for aggravated cases of failing to pay legal child support obligations and other measures. A section-by-section analysis is also enclosed. We have forwarded an identical proposal to the President of the United States Senate.

This proposal results from the President's directive to the Attorney General of July 21, 1996. In that directive, the President said that, "[w]hile State and local agencies have and must have primary responsibility for child support enforcement, the Federal Government has a crucially important role to play," and asked that the Attorney General take several specific steps to strengthen child support enforcement efforts. One of these steps was "to draft legislation to amend the Child Support Recovery Act to establish a felony offense for a person who willfully fails to pay child support for a child in another State where there has been an egregious failure to meet child support obligations."

Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or is greater than \$5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The draft bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. For such cases a maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Aggravated offenses, such as those involving parents who move from State to State to evade child support payments, require more severe penalties.

P. 4/12

FROM: HASKINS, M

MAR-12-1997 14:37 TO: ELENA KAGAN

The draft bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000. These offenses indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. A maximum two-year prison term is appropriate for these offenses.

The current proposal is similar to one the Department submitted to the 104th Congress, but the current proposal includes several additional measures which clarify and strengthen federal child support enforcement provisions. First, we have considered the statute's application to child support orders issued by Indian tribal courts. The draft bill now includes within its definition section a reference to support obligations as determined under a court order or administrative process pursuant to the law of an Indian tribe. In addition, we have included a venue section which clarifies that prosecutions under the statute may be brought in any district in which the child resided or the obligor resided during a period of nonpayment. \*

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this proposal and that its enactment would be in accord with the program of the President. Please let us know if we may be of additional assistance in connection with this or any other matter.

Sincerely,

**DRAFT**

Andrew Fois  
Assistant Attorney General

Enclosure

A BILL

DRAFT

To establish felony violations for the failure to pay legal child support obligations and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SEC. 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Amendments Act of 1997."

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

"§228. Failure to pay legal child support obligations

"(a) Offense.--Any person who--

"(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than one year, or is greater than \$5000;

"(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than one year, or is greater than \$5,000; or

"(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than two years, or is greater than \$10,000;

shall be punished as provided in subsection (c).

"(b) Presumption.--The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

"(c) Punishment.--The punishment for an offense under this section is--

"(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in the case of an offense under subsection (a)(2) or (a)(3), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

"(d) Mandatory Restitution.--Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

"(e) Definitions.--As used in this section--

"(1) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(3) the term 'Indian tribe' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe pursuant to section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

"(f) Venue. - Any offense under this section may be inquired of and prosecuted in any district in which the child resided or the obligor resided during a period of nonpayment, or in any other district otherwise provided by law."

## SECTION-BY-SECTION ANALYSIS

The Child Support Recovery Amendments Act of 1997 amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. §228, to create felony violations for aggravated offenses. Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or is greater than \$5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. For such offenses a maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Aggravated offenses, such as those involving parents who move from State to State to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than two years or is greater

than \$10,000. These offenses, proposed 18 U.S.C. §228(a)(2) and (3), indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although "ability to pay" is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under State law, is useful in the jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has State civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance.

In addition, the presumption of ability to pay set forth in the bill is rebuttable; a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. §3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104-132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

For all of the violations set forth in proposed subsection (a) of section 228, the government must show the existence of a determination regarding the support obligation, as under current law. Under proposed subsection (e)(1) the government must show, for example, that the support obligation is an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living. Proposed subsection (e)(1), however, expands the scope of covered support obligations to include amounts determined under a court order or an order of an administrative process pursuant to the law of an Indian tribe. Subsection (e)(3) defines the term 'Indian tribe' to mean an Indian or Alaska Native tribe, band, nation, pueblo,



village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe pursuant to section 102 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. §479a. The expanded definition permits enforcement of the statute for all children for whom child support was ordered by either a state or tribal court or through a state or tribal administrative process.

Proposed subsection (e)(2) of section 228 amends the definition of "State," currently in subsection (d)(2), to clarify that prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of "State" in section 228, which includes possessions and territories of the United States, does not expressly include commonwealths.

Proposed subsection (f) clarifies that prosecutions for violations of this section may be brought either in the district where the child resided or the obligor resided during a period of nonpayment. Inclusion of this language is necessary in light of a recent case, Murphy v. United States, 934 F.Supp. 736 (W.D. Va. 1996), which held that a prosecution had been improperly brought in the Western District of Virginia, where the child resided, because the obligor was required, by court order, to send his child support payments to the state of Texas. Proposed subsection (f) is not meant to exclude other venue statutes, such as section 3237 of title 18, United States Code, which applies to offenses begun in one district and completed in another.