

NLWJC - Kagan

DPC - Box 060 - Folder-002

Welfare - Domestic Violence [1]

w.p. - Domestic violence



Cynthia A. Rice

11/19/97 03:38:48 PM

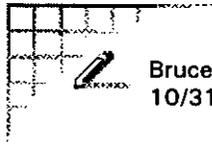
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Senator Murray & the President's trip to Washington State

Since the President is seeing Senator Murray in Washington state on Saturday, do you think he needs a memo in his trip book on the domestic violence provisions of the welfare regulation? We could simply repeat what we told him in this week's weekly (see below). The Senator's staff was apparently a bit unpleasant at the HHS briefing --

"The regulation also addresses Senator Murray's concerns about victims of domestic violence without threatening the integrity of the work rules. Under the regulation, a state will not be penalized for failing to meet work rates or time limits if its failure to do so is attributable to granting waivers to victims of domestic violence -- provided that the waivers are temporary and that they are accompanied by services to help the individual prepare for work and self-sufficiency. Sen. Murray may think that the regulation does not go far enough, but we think it represents the best accomodation of the full range of interests."

Wp - domestic violence



Bruce N. Reed
10/31/97 11:24:28 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: Murray thought

In the TANF reg, could we use the scaled-back DV definition for time limit exemptions -- ie, states could only exempt from time limits women w/medical evidence of recent abuse? Would that be narrower than where you are now?



Cynthia A. Rice

10/16/97 01:38:40 PM

Record Type: Record

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

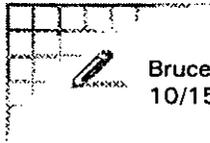
cc:

Subject: Domestic violence in Labor-HHS

Mary Bourdette accepted our changes, Elena, so that the key part of the proposed report language now reads "we strongly urge the Secretary of Health and Human Services, in exercising her discretion to assess penalties against States that fail to meet the requirements of PRWORA, to take into account State efforts to protect and provide services and otherwise assist victims of domestic violence. We recommend that the Secretary utilize the regulatory process to advise States of these penalty considerations." ["protect" added by Ann Rosewater]

Barbara Chow, Jack Lew, and OMB leg affairs all signed off on the idea of responding to Harkin's request to suggest report language. Barry White's folks looked at the actual language. So, Mary is calling Marsha Simon of Harkin's staff shortly.

Wp-domestic violence



Bruce N. Reed
10/15/97 12:46:43 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: murray amdt

Donna called from the road to say she was still worried that the House might agree to the Murray amdt, and suggested that we talk to Mary again about ways to keep them from doing so. (I don't think she had any new info; she has not talked to Murray.) She raised the possibility of getting appropriators to add more \$ to the hotline or for battered women shelters. We agreed that if it looks like the House will cave, we should get the Republicans to push our (revised) language instead.

I told her we talked to Mary yesterday. Are y'all talking again?

Calculation of those subject to the work requirement.

OMB version - superseded

The Murray amendment would automatically reduce the number of people subject to the work requirement one-for-one by the number of individuals granted "good cause" family violence waivers. There would be no requirement for the waived people to participate in any specific activities.

The DPC option would grant "good cause" waivers under family violence only to individuals who are participating in temporary services designed to ensure safety, promote independence and prepare for employment. This would effectively lower a state's work requirement simply by counting these individuals as working, albeit for a "temporary" period.

One way to ensure that there are no dramatic reductions to the work requirement would be to remove these individuals from the numerator *and* the denominator of the work requirement calculations.

Consider, for example, a state that has 100,000 welfare recipients and in FY98 is required to place 30,000 in work (i.e. 30% work rate).

Under Murray's option, if 10,000 were exempt under the family violence option, this state would only need to place 20,000 of its recipients to meet the work requirement.

Under DPC, the number would be the same so long as the waived individuals participate in temporary services that help them prepare for work (which may be less intensive than work activities).

Under our alternative, the 10,000 would be removed from the denominator, resulting in 30% of 90,000 (or 27,000) recipients who need to be placed in work. This would help guard against a "gutting" of the work requirements.

While we think this option is least likely of the three to undermine the work requirements, other groups might later seek similar relief, arguing they too should be removed from the base for purposes of calculating participation rates, and therefore exempt from work requirements. This, of course, could lead to a large exempt pool as became the case under the JOBS program.

Proposed Amendment

(Additions to Murray Amendment are underlined; deletions are ~~stricken~~)

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) Findings.--Congress finds that--

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be ~~limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)~~ undermine the law's goals of work and personal responsibility;

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) Clarification of Waiver Provisions.--

(1) In general.--Section 402(a)(7) of the Social Security Act (41 U.S.C. 602(a)(7)) is amended by adding at the end the following:

(C) No numerical limits.--In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

~~(D) Treatment of waived individuals for purposes of certain other provisions of this part.--~~

(1) A state will be eligible for a reasonable good cause exception as defined in Section 409(b) if it demonstrates that its failure to meet the requirements of 408(a)(7) is attributable to its provision of good cause domestic violence waivers.

(2) For purposes of determining compliance with the participation rate requirements set forth in section 407(a), a State may exclude recipients of good cause domestic violence waivers from the base, as defined in section 407(b)(1)(B)(ii)(I), in calculating its monthly participation rate.

--Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).'

(E) Good cause domestic violence waiver defined. -- A good cause domestic violence waiver means a waiver granted in accordance with subparagraph (A)(iii) that is (i) temporary; (ii) based on an individualized evaluation of need; and (iii) includes services designed to ensure safety, promote independence, and prepare for employment.

(F) For purposes of subparagraph (E), the Secretary shall define the term "temporary," consistent with subsection (a)(2), and for the minimum period of time necessary to meet the requirements of this section.

(2) Effective date.--The amendment made by paragraph (1) takes effect as if it has been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

(c) Federal Parent Locator Service.--

(1) In general.--Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 627), is amended--

(A) in subsection (b) (2)--

(i) in the matter preceding subparagraph (A), by inserting 'or that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before 'provided that';

(ii) in subparagraph (A), by inserting `, that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before `and that information'; and

(iii) in subparagraph (B)(i), by striking `be harmful to the parent or the child' and inserting `place the health, safety, or liberty of a parent or child unreasonably at risk'; and.

(B) in subsection (c)(2), by inserting `, or to serve as the initiating court in an action to seek and order,' before `against a noncustodial'.

(2) State plan.--Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 635), is amended--

(A) in subparagraph (C), by striking `result in physical or emotional harm to the party or the child' and inserting `place the health, safety, or liberty of a parent or child unreasonably at risk';

(B) in subparagraph (D), by striking `of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child' and inserting `that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information'; and

(C) in subparagraph (E), by striking `of domestic violence' and all that follows through the semicolon and inserting `that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);'.

(3) Effective date.--The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105-33).

(d) Waivers. --

(1) In general, Section 415(a)(1) is amended:

(A) in subparagraph (A) by inserting "or (C)" before ", if any waiver"

(B) following subparagraph (B) inserting "(C) Notwithstanding any other provision of law, a state shall be subject to the provision

of section 408(a)(7)."

**Comments on Proposed Changes to Murray Amendment
(Family Violence Option Clarification Bill):**

Summary: Our primary concerns are twofold:

(1) The proposed revision will discourage states from adopting and fully implementing the FVO by placing the burden on the states to resolve issues regarding calculation of work participation rates and, to a somewhat lesser extent, the time limit penalties;

(2) In adopting federal statutory definitions of "waiver" and "temporary," the proposed revision usurps state authority (which has already been exercised in many states), and undermines the purpose of the FVO to provide flexibility to states as well as individual domestic violence victims.

Specific Comments:

Sec.(a)(2): The deletion of specific language clarifying that the Family Violence Option (FVO) is separate and independent from the hardship exemption and other provisions of the Social Security Act is particularly problematic in light of the addition of Sec.(d), discussed below, which appears to extend time limits under Section 408(a)(7) to all recipients "notwithstanding any other provision of law." In addition, the addition of language emphasizing the "law's goals of work and personal responsibility" may be problematic and undermine the intent of the Family Violence Option insofar as it interacts with new language proposed at Secs.(b)(1)(E) and (F).

Sec.(b)(1)(D)(1): This change deviates from the FVO Clarification in that it places the onus on states to raise domestic violence waivers as a "defense" to potential penalties, giving HHS discretion to determine the state's "eligibility" for a good cause exception, rather than simply setting out the appropriate calculation for determining such penalties. As such, the provision could serve to discourage states from taking implementing waivers, since they cannot anticipate whether they will be found "eligible."

Sec.(b)(1)(D)(2): This proposed change is extremely problematic, in that it will have the effect of discouraging states from providing waivers of work requirements. Under the proposed provision, states "may" choose such a method of calculating participation requirements. But the term "may" puts the issue back in the state political arena, where it may take years to resolve. It would be more appropriate for HHS to simply inform states of the appropriate procedures for calculating participation rates, rather than continue to leave the status of battered women open to question.

Sec.(b)(1)(E) and (F): Most states which have considered and adopted the Family Violence Option have already adopted legislation and are in the process of promulgating regulations which address the issues in these sections. This federal legislation would usurp state authority. Indeed, the Sections impose requirements on states that are narrower than the requirements that many

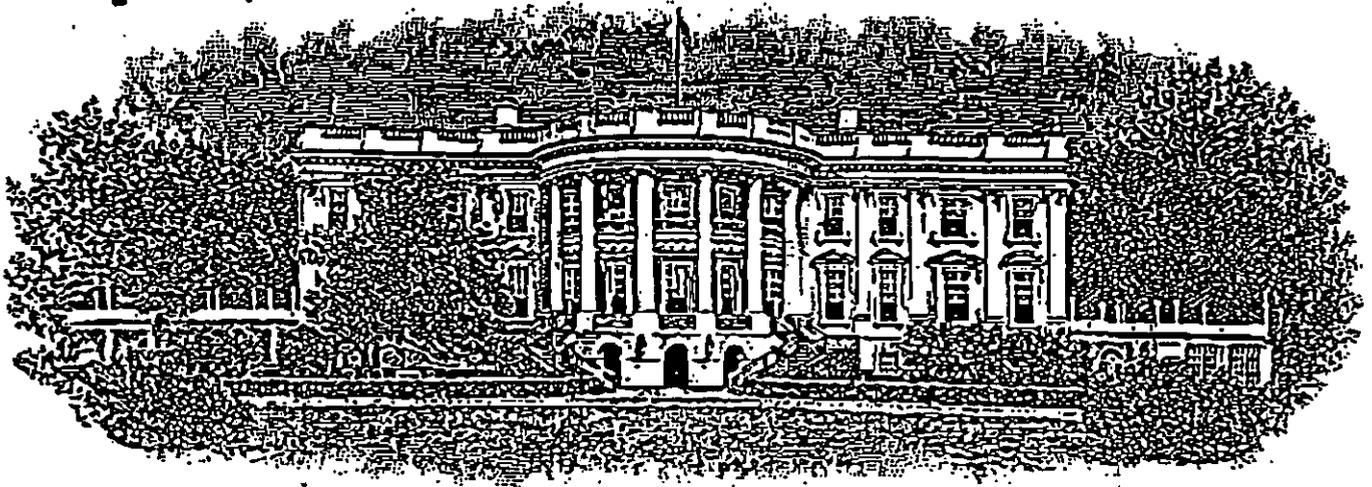
states have adopted to date. Consistent with the FVO, most state domestic violence advocates have argued for flexibility in designing service plans for waiver recipients. For example, New York legislation requires reassessment of FVO waivers every four months, at the time of the welfare recipients' recertification. Though it is acceptable to domestic violence advocates in the state and gives women appropriate flexibility to address domestic violence as well as provision of services, this state statute might not meet the new requirements of Sec.(b)(1)(F) as written. The additional mandates will unnecessarily interfere with the work of state-level advocates, and would best be addressed in the context of regulations, where the states will have an opportunity to comment.

X
Sec.(d): (Waivers). This proposed change appears to have nothing to do with the Family Violence Option, but instead attempts to amend the general Personal Responsibility Act provision for states operating programs under a federal waiver, by adding a new requirement not in the original legislation. Thus, this change deviates completely from the intent of the Senate, which was to make a limited clarification of the Family Violence Option and not to address other portions of the PRA. Further, because of the proposed change in the findings at (a)(2) above, there may be questions about the "notwithstanding any other provision of law" language. Instead of clarifying requirements, this now creates a potential conflict with the language about the interaction of the hardship exemption and the FVO under (b)(1)(D). This proposed change appears to be an attempt to take advantage of Congress' efforts to clarify two questions about the FVO by slipping in some broader changes to the welfare law, and should be jettisoned.

- Our proposal allows states to grant temporary waivers from the work rules and time limits to victims of domestic violence, which is the primary goal of the Senate provision.
- However, our proposal achieves this goal through a different mechanism than the Senate. Rather than exclude victims of domestic violence from the work rates and time limits altogether, our proposal ensures that states that fail to meet the work rates or time limit standards because of domestic violence waivers will not receive financial penalties.
- Our proposal goes further than the Senate in encouraging states to provide services to victims of domestic violence, exempting states from penalties only if they provide services based on an individual assessment.
- Our proposal also includes a provision not in the Senate bill, which ensures that states continuing welfare reform waivers will be subject to the five year time limit.

WZ-domestic violence

The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Elena Kagan / Laura Emmett

FAX NUMBER: 628 78

TELEPHONE NUMBER: 655 84

FROM: Cynthia Rice

TELEPHONE NUMBER: 456-2846 (p) 456-7431 (f)

PAGES (INCLUDING COVER): 2

COMMENTS: From HLS

The Secretary of HHS is instructed to include provisions in the TANF regulations that would allow States to claim reasonable cause for failing to meet one of the TANF penalty provisions in cases where a State (1) has provided temporary "good cause" waivers of program requirements (such as time limits and work participation) for victims of domestic violence, under the Family Violence Option; and (2) has demonstrated that it has met the statutory requirements, except with respect to such recipients for whom alternative service plans are in place.

10/8/97

Proposed Amendment

(Additions to Murray Amendment are underlined; deletions are ~~stricken~~)

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) Findings.--Congress finds that--

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C.602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of ~~part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)~~ undermine the law's goals of work and personal responsibility;

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) Clarification of Waiver Provisions.--

(1) In general.--Section 402(a)(7) of the Social Security Act (41 U.S.C. 602(a)(7)) is amended by adding at the end the following:

"(C) No numerical limits.--In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

~~^(D)Waivered individuals not included for purposes of certain~~

~~other provisions of this part. Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).~~

"(D) Good cause domestic violence waiver defined. -- A good cause domestic violence waiver means a waiver granted in accordance with subparagraph (A)(iii) that is (i) temporary; (ii) based on an individualized evaluation of need; and (iii) includes services designed to ensure safety, promote independence, and prepare for employment.

"(E) For purposes of subparagraph (D), the Secretary shall define the term "temporary," consistent with subsection(a)(2), and for the minimum period of time necessary to meet the requirements of this section.

"(F) Treatment of waived individuals for purposes of certain other provisions of this part.--As set forth in sections 409(a)(3) and 409(a)(9), the Secretary may determine that a State has reasonable cause as defined in section 409(b) for failure to meet the requirements of section 407(a) or 408(a)(7) due to the granting of good cause domestic violence waivers.

↖ time limit

(2) Reasonable cause provisions.--

(A) Section 409(a)(3) of the Social Security Act is amended by adding at the end the following subparagraph:

"(D) CONSIDERATION OF DOMESTIC VIOLENCE WAIVERS.--In determining whether a State has complied with section 407(a) for the fiscal year, the Secretary may determine that a State has reasonable cause under subsection (b) of this section if--

"(i) the State has elected to grant good cause domestic violence waivers under section 402(a)(7); and

"(ii) the number of families by which the State fails to meet the participation rate requirements under section 407(a) for the fiscal year does not exceed the product of the applicable minimum participation rate for the fiscal year multiplied by the average monthly number of families with individuals granted good cause domestic violence waivers under section 402(a)(7)."

(B) Section 409(a)(9) of the Social Security Act is amended to read as follows:

"(9) FAILURE TO COMPLY WITH 5-YEAR LIMIT ON ASSISTANCE.--

"(A) IN GENERAL.--If the Secretary determines that a State has not complied with section 408(a)(7) during a

fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 5 percent of the State family assistance grant.

"(B) CONSIDERATION OF DOMESTIC VIOLENCE WAIVERS.--In determining whether a State has complied with the limitation in section 408(a)(7)(C) for the fiscal year, the Secretary may determine that a State has reasonable cause under subsection (b) of this section if--

"(I) the State has elected to grant good cause domestic violence waivers under section 402(a)(7); and

"(ii) the number of families granted hardship exceptions under section 408(a)(7)(C) does not exceed the sum of --

"(I) the number of families with individuals granted good cause domestic violence waivers under section 402(a)(7) who have reached the 60 month limit described in section 408(a)(7); and

"(II) 20 percent of the average monthly number of families other than those described in subclause (I) to which assistance is provided under the State program funded under this part."

(3) Effective date.--The amendment made by paragraph (1) takes effect as if it has been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

© Federal Parent Locator Service.--

(1) In general.--Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 627), is amended--

(A) in subsection (b)(2)--

(I) in the matter preceding subparagraph (A), by inserting `or that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before `provided that';

(ii) in subparagraph (A), by inserting `, that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before `and that information'; and

(iii) in subparagraph (B)(I), by striking `be harmful to the parent or the child' and inserting `place the health, safety, or liberty of a parent or child unreasonably at risk'; and.

(B) in subsection (c)(2), by inserting `, or to serve as the initiating court in an action to seek and order,' before `against

a noncustodial'.

(2) State plan.--Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 635), is amended--

(A) in subparagraph (C), by striking 'result in physical or emotional harm to the party or the child' and inserting 'place the health, safety, or liberty of a parent or child unreasonably at risk';

(B) in subparagraph (D), by striking 'of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child' and inserting 'that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information'; and

(C) in subparagraph (E), by striking 'of domestic violence' and all that follows through the semicolon and inserting 'that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);'.

(3) Effective date.--The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105-33).



Cynthia A. Rice

10/06/97 04:37:37 PM

Record Type: Record

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

cc:

Subject: Revised Murray Alternative



murray4.wp Here's the revised Murray amendment as we discussed this morning. The shaded areas represent changes to our earlier version (you have to launch it to see the shading).

Calculation of those subject to the work requirement.

The Murray amendment would automatically reduce the number of people subject to the work requirement one-for-one by the number of individuals granted "good cause" family violence waivers. There would be no requirement for the waived people to participate in any specific activities.

The DPC option would grant "good cause" waivers under family violence only to individuals who are participating in temporary services designed to ensure safety, promote independence and prepare for employment. This would effectively lower a state's work requirement simply by counting these individuals as working, albeit for a "temporary" period.

One way to ensure that there are no dramatic reductions to the work requirement would be to remove these individuals from the numerator *and* the denominator of the work requirement calculations.

Consider, for example, a state that has 100,000 welfare recipients and in FY98 is required to place 30,000 in work (i.e. 30% work rate).

Under Murray's option, if 10,000 were exempt under the family violence option, this state would only need to place 20,000 of its recipients to meet the work requirement.

Under DPC, the number would be the same so long as the waived individuals participate in temporary services that help them prepare for work (which may be less intensive than work activities).

Under our alternative, the 10,000 would be removed from the denominator, resulting in 30% of 90,000 (or 27,000) recipients who need to be placed in work. This would help guard against a "gutting" of the work requirements.

While we think this option is least likely of the three to undermine the work requirements, other groups might later seek similar relief, arguing they too should be removed from the base for purposes of calculating participation rates, and therefore exempt from work requirements. This, of course, could lead to a large exempt pool as became the case under the JOBS program.

Proposed Amendment

(Additions to Murray Amendment are underlined; deletions are ~~stricken~~)

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) Findings.--Congress finds that--

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402 (a) (7) (B) of the Social Security Act (42 U.S.C. 602(a) (7) (B)) ;

(2) the allowance of waivers under such sections was not intended to be ~~limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)~~ undermine the law's goals of work and personal responsibility;

(3) under section 402(a) (7) (A) (iii) of such Act (42 U.S.C. 602(a) (7) (A) (iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a) (7) (A) (iii) of such Act (42 U.S.C. 602(a) (7) (A) (iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) Clarification of Waiver Provisions.--

(1) In general.--Section 402(a) (7) of the Social Security Act (41 U.S.C. 602(a) (7)) is amended by adding at the end the following:

`(C) No numerical limits.--In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A) (iii).

`(D) Treatment of waived individuals for purposes of certain other provisions of this part.--

(1) A state will be eligible for a reasonable good cause exception as defined in Section 409(b) if it demonstrates that its failure to meet the requirements of 408(a)(7) is attributable to its provision of good cause domestic violence waivers.

(2) For purposes of determining compliance with the participation rate requirements set forth in section 407(a), a State may exclude recipients of good cause domestic violence waivers from the base, as defined in section 407(b)(1)(B)(ii)(I), in calculating its monthly participation rate.

~~--Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).!~~

(E) Good cause domestic violence waiver defined. -- A good cause domestic violence waiver means a waiver granted in accordance with subparagraph (A)(iii) that is (i) temporary; (ii) based on an individualized evaluation of need; and (iii) includes services designed to ensure safety, promote independence, and prepare for employment.

(F) For purposes of subparagraph (E), the Secretary shall define the term "temporary," consistent with subsection(a)(2), and for the minimum period of time necessary to meet the requirements of this section.

(2) Effective date.--The amendment made by paragraph (1) takes effect as if it has been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

(c) Federal Parent Locator Service.--

(1) In general.--Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 627), is amended--

(A) in subsection (b)(2)--

(i) in the matter preceding subparagraph (A), by inserting `or that the health, safety, or liberty or a parent or child would be unreasonably put at risk by the disclosure of such information,' before `provided that';

(ii) in subparagraph (A), by inserting `, that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before `and that information'; and

(iii) in subparagraph (B)(i), by striking `be harmful to the parent or the child' and inserting `place the health, safety, or liberty of a parent or child unreasonably at risk'; and.

(B) in subsection (c)(2), by inserting `, or to serve as the initiating court in an action to seek and order,' before `against a noncustodial'.

(2) State plan.--Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 635), is amended--

(A) in subparagraph (C), by striking `result in physical or emotional harm to the party or the child' and inserting `place the health, safety, or liberty of a parent or child unreasonably at risk';

(B) in subparagraph (D), by striking `of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child' and inserting `that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information'; and

(C) in subparagraph (E), by striking `of domestic violence' and all that follows through the semicolon and inserting `that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);'.

(3) Effective date.--The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105-33).

(d) Waivers. --

(1) In general, Section 415(a)(1) is amended:

(A) in subparagraph (A) by inserting "or (C)" before ", if any waiver"

(B) following subparagraph (B) inserting "(C) Notwithstanding any other provision of law, a state shall be subject to the provision

Senator Murray's Domestic Violence and Welfare Proposal

October 10, 1997

Talking Points

- We share your goal of allowing states to grant temporary waivers from the work rules and time limits to victims of domestic violence while ensuring that these women receive the services they need to become self-sufficient.
- We do have some differences regarding how best to achieve these goals. We are developing a proposal through regulations that will help address this issue while maintaining the welfare law's strong work focus.
- I understand members of the OMB and White House staff have provided your staff with some comments on your proposal although we do not have an "Administration proposal" yet. I hope we can continue to have a dialogue about these important issues.

Background

Senator Murray has long advocated a proposal that would exclude victims of domestic violence from the welfare work requirements and time limits. The Senate adopted her amendment as part of the Senate Labor-HHS bill, which is now in conference. Senator Murray's proposal has passed the Senate several times, but has always been dropped in conference. Our Statement of Administration Position on the bill does not mention her amendment. Senator Murray has long been aware that both the DPC and HHS have serious reservations about her approach to this issue. Recently, she also had conversations with Frank Raines and Erskine Bowles on her legislation.

Currently, states can exempt victims of domestic violence from work requirements and time limits, so long as they put 30 percent of their overall caseload to work and enforce the time limit for 80 percent of their caseload. Senator Murray's approach would change the law by allowing states to grant exemptions to these women wholly independently of the overall work and time requirements. This approach would significantly weaken the welfare law's emphasis on work: for example, if 15 percent of the caseload were granted domestic violence waivers, then only 15 percent of the total caseload would have to work. At the same time, the proposal would do nothing to ensure that victims of domestic violence actually get the intensive assistance they need to become self sufficient; indeed, the proposal might well lead states to wholly ignore these women.

DPC and HHS believe there is a better way to meet our and Senator Murray's joint goals. We have been working on regulations clarifying that HHS will not subject states to penalties if they fail to meet the work rates or time limit rules because they have exempted victims of domestic violence, so long as their exemptions are temporary and the state also provides services to help these women become self-sufficient. We believe this approach has several advantages over Senator Murray's: 1) it ensures that states will actually provide services to victims of domestic violence; and 2) it limits the ability of states to try to game the system by providing a strong review role for HHS.

WR - Domestic violence



Cynthia A. Rice

10/06/97 03:10:29 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Here are the bullet points I faxed Mary

Our proposal allows states to grant temporary waivers from the work rules and time limits to victims of domestic violence, which is the primary goal of the Senate provision.

However, our proposal achieves this goal through a different mechanism than the Senate. Rather than exclude victims of domestic violence from the work rates and time limits altogether, our proposal ensures that states that fail to meet the work rates or time limit standards because of domestic violence waivers will not receive financial penalties.

Our proposal goes further than the Senate in encouraging states to provide services to victims of domestic violence, exempting states from penalties only if they provide services based on an individual assessment.

Proposed Amendment

(Additions to Murray Amendment are underlined; deletions are ~~stricken~~)

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) Findings.--Congress finds that--

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be ~~limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)~~ undermine the law's goals of work and personal responsibility;

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) Clarification of Waiver Provisions.--

(1) In general.--Section 402(a)(7) of the Social Security Act (41 U.S.C. 602(a)(7)) is amended by adding at the end the following:

(C) No numerical limits.--In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

(D) ~~Waivered individuals not included for purposes of certain other provisions of this part.~~ Treatment of waived individuals for purposes of certain other provisions of this part.--

(1) A state will be eligible for a reasonable good cause exception as defined in Section 409(b) if it demonstrates that its failure to meet the requirements of 408(a)(7) is attributable to its provision of good cause domestic violence waivers.

(2) For purposes of determining compliance with the participation rate requirements set forth in section 407(a), a State may exclude recipients of good cause domestic violence waivers from the base, as defined in section 407(b)(1)(B)(ii)(I), in calculating its monthly participation rate.

~~--Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).~~

(E) Good cause domestic violence waiver defined. -- A good cause domestic violence waiver means a waiver granted in accordance with subparagraph (A)(iii) that is (i) temporary; (ii) based on an individualized evaluation of need; and (iii) includes services designed to ensure safety, promote independence, and prepare for employment.

(F) For purposes of subparagraph (E), the Secretary shall define the term "temporary," consistent with subsection(a)(2), and for the minimum period of time necessary to meet the requirements of this section.

(2) Effective date.--The amendment made by paragraph (1) takes effect as if it has been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

(c) Federal Parent Locator Service.--

(1) In general.--Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 627), is amended--

(A) in subsection (b)(2)--

(i) in the matter preceding subparagraph (A), by inserting `or that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before `provided that';

(ii) in subparagraph (A), by inserting `, that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before `and that information'; and

(iii) in subparagraph (B)(i), by striking `be harmful to the parent or the child' and inserting `place the health, safety, or liberty of a parent or child unreasonably at risk'; and.

(B) in subsection (c)(2), by inserting ', or to serve as the initiating court in an action to seek and order,' before 'against a noncustodial'.

(2) State plan.--Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 635), is amended--

(A) in subparagraph (C), by striking 'result in physical or emotional harm to the party or the child' and inserting 'place the health, safety, or liberty of a parent or child unreasonably at risk';

(B) in subparagraph (D), by striking 'of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child' and inserting 'that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information'; and

(C) in subparagraph (E), by striking 'of domestic violence' and all that follows through the semicolon and inserting 'that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);'.

(3) Effective date.--The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105-33).

(d) Waivers.--

(1) In general, Section 415(a)(1) is amended:

(A) in subparagraph (A) by inserting "or (C)" before ", if any waiver"

(B) following subparagraph (B) inserting "(C) Notwithstanding any other provision of this section, a state shall be subject to the provision of section 408(a)(7)."

Wp - domestic violence



Cynthia A. Rice

10/06/97 03:10:29 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Laura Emmett/WHO/EOP

Subject: Here are the bullet points I faxed Mary

Our proposal allows states to grant temporary waivers from the work rules and time limits to victims of domestic violence, which is the primary goal of the Senate provision.

However, our proposal achieves this goal through a different mechanism than the Senate. Rather than exclude victims of domestic violence from the work rules and time limits altogether, our proposal ensures that states that fail to meet the work rules or time limit standards because of domestic violence waivers will not receive financial penalties.

Our proposal goes further than the Senate in encouraging states to provide services to victims of domestic violence, exempting states from penalties only if they provide services based on an individual assessment.

WR - domestic violence



Cynthia A. Rice

10/10/97 10:13:57 AM

Record Type: Record

To: Laura Emmett/WHO/EOP

cc:

Subject: Another thing to show Elena



murray9.wp Elena -- I think the revised Murray legislative language is ready to send to HHS. Please let me know if you want me to go ahead and send it to them.

I believe the revised OMB language does what we want in terms of HHS discretion and not allowing the state reasonable cause from penalties for every person they grant a waiver to (see attached summary). I think the remaining issue is how to do the calculation for the time limit. In the new language, OMB has proposed an option (see attached) which would allow the states fewer time limit exemptions for this population than the HHS reg does, which is in principle what we want, but there is more than one formula that could be used (I listed another option on the attached). Rather than let this detail hold us up, I'd suggest we send the language to HHS to get their reaction.

Domestic Violence Waivers

WORK PARTICIPATION RATES Examples assume a caseload of 100,000, a 30 percent work rate, and 10,000 welfare recipients receiving good cause domestic violence waivers, which must be temporary and must include services to ensure safety, promote independence, and prepare recipients for employment.			
	DISCRETION	PARTICIPATION RATE CALCULATION	END RESULT
HHS	Discretion: If HHS determines that the states do not meet the work participation rates because they've granted good cause domestic violence waivers, then HHS will not penalize them. <i>or may??</i>	30% of 100,000 or 30,000 must work.	HHS can allow states to lower the number of people working from 30,000 to 20,000 without penalty, if they find they have granted 10,000 good cause domestic waivers.
OMB	No Discretion: If HHS determines that the states do not meet the work participation rates because they've granted good cause domestic violence waivers, then HHS will not grant them a reasonable cause exception to the penalties.	If a state grants 10,000 domestic violence waivers, then 30% of 90,000 or 27,000 must work.	States have to put 27,000 people to work or be subject to penalties.
IDEAL	Discretion: If HHS determines that the states do not meet the work participation rates because they've granted good cause domestic violence waivers, then HHS will not penalize them.	30% of 100,000 or 30,000 must work.	HHS can allow states to lower the number of people working from 30,000 to 27,000 without penalty, if they find they have granted 10,000 good cause domestic violence waivers.

TIME LIMITS

Examples assume a caseload of 100,000, a maximum of 20 percent of caseload which can be exempt from the five year time limit, and 10,000 welfare recipients receiving good cause domestic violence waivers, which must be temporary and must include services to ensure safety, promote independence, and prepare recipients for employment.

	DISCRETION	TIME LIMIT CALCULATION	END RESULT
HHS	Discretion: If HHS determines that the states have exempted more than 20 percent of individuals from the five year time limit because they've granted good cause domestic violence waivers, then HHS will not penalize them.	No more than 20% of 100,000 or 20,000 can be exempt from the time limit.	HHS can allow states to increase the number of people receiving federal assistance from 20,000 to 30,000, if they find they have granted 10,000 good cause domestic waivers.
OMB	Discretion: If HHS determines that the states have exempted more than 20 percent of individuals from the five year time limit because they've granted good cause domestic violence waivers, then HHS will not penalize them.	No more than 20% of 100,000 or 20,000 can be exempt from the time limit.	HHS can allow states to increase the number of people receiving federal assistance from 20,000 to 24,000, if they find they have granted 10,000 good cause domestic waivers. (5000*(.20*95,000))]?
?POSS IDEAL	Discretion: If HHS determines that the states have exempted more than 20 percent of individuals from the five year time limit because they've granted good cause domestic violence waivers, then HHS will not penalize them.	No more than 20% of 100,000 or 20,000 can be exempt from the time limit.	HHS can allow states to increase the number of people receiving federal assistance from 20,000 to 22,000, if they find they have granted 10,000 good cause domestic waivers. ?(10,000*.2)+(100,000*.2)]?

I get this.

WP-domestic violence

original DRC proposal
(HHS-board)



Cynthia A. Rice

09/30/97 09:09:40 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP
cc: Cathy R. Mays/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Draft revised Murray amendment--you said you want to give to Jack Lew



murray3.wp Here's the Murray information you requested:

1. A comparison of current law, the Murray amendment, and the draft proposal;
2. An outline of the Murray amendment and draft proposal;
3. A copy of the Murray amendment as passed by the Senate. with proposed changes;

Note: In addition to the issues we discussed, the draft proposal also precludes any state, even one with an existing waiver, from providing TANF assistance for more than five years.

Question: given this would you prefer to be silent in the Labor-HHS SAP? Alternatively, OMB has drafted language saying "This was considered in the budget. We ended up with a GAO study and we'd rather leave it there."

This quote may explain the "Social Security number" comment:

"Mr. President, this body is about to go to a vote that is not one that is unknown to this Senate.... that merely allows a woman who is a victim of domestic violence a temporary waiver from the work requirements if she needs to get medical care or she needs to change her Social Security number so that she is not pursued by her abuser, or to put her children in a safe place...."
Senator Murray, September 10, 1997

And a closing quote:

"It has been passed by the Senate three times. Not one Senator has spoken against it. Not one Senator has voted against it. But every time it goes behind closed doors in a conference committee it is pulled out. That is what happens to abused women constantly. In the light of day, everyone is there to say, 'I support you,' but when they go behind closed doors they are abused...." Senator Murray, September 10, 1997

- Our proposal allows states to grant temporary waivers from the work rules and time limits to victims of domestic violence, which is the primary goal of the Senate provision.
- However, our proposal achieves this goal through a different mechanism than the Senate. Rather than exclude victims of domestic violence from the work rates and time limits altogether, our proposal ensures that states that fail to meet the work rates or time limit standards because of domestic violence waivers will not receive financial penalties.
- Our proposal goes further than the Senate in encouraging states to provide services to victims of domestic violence, exempting states from penalties only if they provide services based on an individual assessment.
- Our proposal also includes a provision not in the Senate bill, which ensures that states continuing welfare reform waivers will be subject to the five year time limit.]

September 29, 1997

NOTE TO BRUCE AND ELENA

FROM: Cynthia
CC: Diana
SUBJ: Murray Amendment

This may explain the "Social Security number" comment:

"Mr. President, this body is about to go to a vote that is not one that is unknown to this Senate... that merely allows a woman who is a victim of domestic violence a temporary waiver from the work requirements if she needs to get medical care or she needs to change her Social Security number so that she is not pursued by her abuser, or to put her children in a safe place..."

Senator Murray, September 10, 1997

Attached please find:

1. A comparison of current law, the Murray amendment, and the draft proposal;
2. An outline of the Murray amendment and draft proposal;
3. A copy of the Murray amendment as passed by the Senate with proposed changes noted;

Note: In addition to the issues we discussed, the draft proposal also precludes any state, even one with an existing waiver, from providing TANF assistance for more than five years.

And in conclusion:

"It has been passed by the Senate three times. Not one Senator has spoken against it. Not one Senator has voted against it. But every time it goes behind closed doors in a conference committee it is pulled out. That is what happens to abused women constantly. In the light of day, everyone is there to say, 'I support you,' but when they go behind closed doors they are abused..."

Senator Murray, September 10, 1997

Domestic Violence Provisions in Current Law, Senate Labor-HHS Bill, and Draft Proposal

	Current Law	Senate Labor-HHS (Murray Amdmnt)	Draft Proposal
States can opt to exempt individuals with a history of domestic violence from work requirements and time limits.	Yes	Yes	Yes
Exemptions from work requirements and time limits must be temporary.	No	No (only "findings" say so)	Yes
The number of welfare recipients a state must put to work is lowered by the number of people granted a family violence waiver. Example: under current law, a state with 100,000 adult welfare recipients has to put 30,000 of them to work.	No -- no matter how many family violence waivers are granted, 30,000 welfare recipients must go to work.	Yes -- a state that grants 10,000 family violence waivers need only put 20,000 welfare recipients to work.	No, not directly -- a state can lower its 30,000 work requirement only for those granted temporary waivers who are provided services to help prepare them for work.
States must provide services to those victims of domestic violence who they don't put to work but want to count as working.	No	No	Yes
The number of people a state can exempt from the five year time limit is increased by the number of people granted a family violence waiver. Example: under current law, a state with 100,000 adult welfare recipients could exempt 20,000 from the five year time limit.	No -- no matter how many family violence waivers are granted, only 20,000 can be exempted from the five year time limit.	Yes -- a state that grants 10,000 family violence waivers can exempt 30,000 welfare recipients from the five year time limit.	No, not directly -- a state can increase its time limit exemptions above 20,000 only for those granted temporary waivers who are provided services to help prepare them for work.
States with prior waivers can have time limits longer than five years.	Yes	Yes	No

Outline of Murray Amendment

(a) Findings -- The intent of Congress in enacting welfare reform was to allow states to **grant** individual, temporary waivers to victims of domestic violence without regard to other limits in the legislation.

(b) Clarifications --

(1)(C) States shall not be limited in the number of waivers they grant.

(1)(D) Individuals receiving waivers shall not be including for the purposes of determining a state's work participation rate, its time limit exemptions, or penalties for failure to meet minimum participation rates, failure to comply with child support requirements, or failure to comply with five year time limit on assistance.

(2) Provision shall be made effective as if enacted in the welfare reform law.

(c) Federal Parent Locator -- adds additional safeguards that information from the Federal Parent Locator used to locate deadbeat parents will not be disclosed if it could put at risk the health, safety, or liberty of a parent or child.

Outline of Proposed Amendment

(a) Findings -- The intent of Congress in enacting welfare reform was to allow states to **grant** individual, temporary waivers to victims of domestic violence within the context of the goals of work and personal responsibility.

(b) Clarifications --

(1)(C) States shall not be limited in the number of waivers they grant.

(1)(D) A state will be eligible for a reasonable good cause exception to the penalties for **failing** to meet the work rates or for exempting more than 20 percent of recipients from the time limit if its failure is attributable to its provision of good cause domestic violence waivers.

(1)(D) A good cause domestic violence waiver is one that is temporary, based on an individualized evaluation of need; and includes services designed to ensure safety, promote independence, and prepare for employment.

(2) Provision shall be made effective as if enacted in the welfare reform law.

(c) Federal Parent Locator -- adds additional safeguards that information from the Federal Parent Locator used to locate deadbeat parents will not be disclosed if it could put at risk the health, safety, or liberty of a parent or child.

(d) Precludes any state, even one with an existing waiver, from providing TANF assistance for more than five years.

Proposed Amendment

(Additions to Murray Amendment are underlined; deletions are ~~stricken~~)

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) Findings.--Congress finds that--

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C.602(a)(7)(B));

(2) the allowance of waivers under such sections was ~~not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)~~ undermine the law's goals of work and personal responsibility;

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) Clarification of Waiver Provisions.--

(1) In general.--Section 402(a)(7) of the Social Security Act (41 U.S.C. 602(a)(7)) is amended by adding at the end the following:

(C) No numerical limits.--In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

(D) Waivered individuals not included for purposes of certain other provisions of this part. -- A state will be eligible for a reasonable good cause exception as defined in Section 409(b) if it demonstrates that its failure to meet the requirements of Section 407(a) or 408(a)(7) are attributable to its provision of good cause domestic violence waivers. --Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).+

(E) Good cause domestic violence waiver defined. -- A good cause domestic violence waiver means a waiver granted in accordance with subparagraph (A)(iii) that is (i) temporary; (ii) based on an individualized evaluation of need; and (iii) includes services designed to ensure safety, promote independence, and prepare for employment.

(2) Effective date.--The amendment made by paragraph (1) takes effect as if it has been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

(c) Federal Parent Locator Service.--

(1) In general.--Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 627), is amended--

(A) in subsection (b)(2)--

(i) in the matter preceding subparagraph (A), by inserting 'or that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before 'provided that';

(ii) in subparagraph (A), by inserting ', that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,' before 'and that information'; and

(iii) in subparagraph (B)(i), by striking 'be harmful to the parent or the child' and inserting 'place the health, safety, or liberty of a parent or child unreasonably at risk'; and.

(B) in subsection (c)(2), by inserting ', or to serve as the initiating court in an action to seek and order,' before 'against a noncustodial'.

(2) State plan.--Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 635), is amended--

(A) in subparagraph (C), by striking 'result in physical or emotional harm to the party or the child' and inserting 'place the health, safety, or liberty of a parent or child unreasonably at risk';

(B) in subparagraph (D), by striking 'of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child' and inserting 'that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information'; and

(C) in subparagraph (E), by striking 'of domestic violence' and all that follows through the semicolon and inserting 'that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);'.

(3) **Effective date.**--The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105-33).

(d) Waivers. --

(1) In general, Section 415(a)(1) is amended:

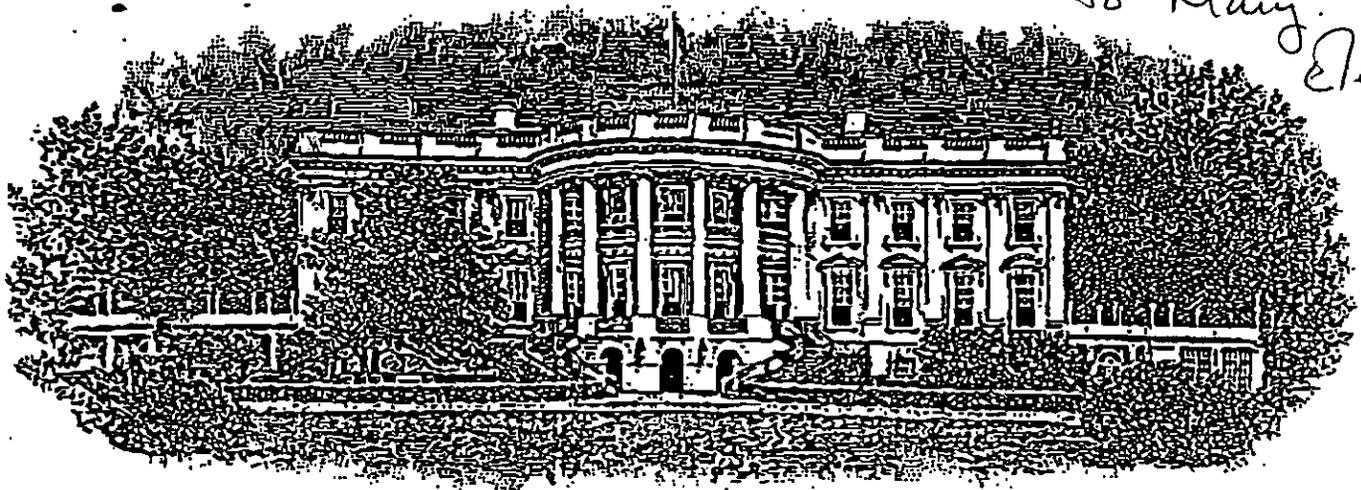
(A) in subparagraph (A) by inserting "or (C)" before ", if any waiver"

(B) following subparagraph (B) inserting "(C) Notwithstanding any other provision of law, a state shall be subject to the provision of section 408(a)(7)."

WR - Domestic violence

Bonus -
The language
as edited by me.
It's going back
to Mary.
Elena

The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Elena Kagan

FAX NUMBER: 6-2878

TELEPHONE NUMBER: 6-5584

FROM: Cynthia Rice

TELEPHONE NUMBER: 456-2846 (p) 456-7431 (f)

PAGES (INCLUDING COVER): 3

COMMENTS: URGENT - DRAFT
LANGUAGE FROM HHS
~~Handwritten changes~~
Review



DATE: 10/15/97

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201

PHONE: (202) 690-6311

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OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
HUMAN SERVICES LEGISLATION
ROOM 413 H HUMPHREY BUILDING

FROM:

TO : Cythia Rice

[XX] MARY M. BOURDETTE
Deputy Asst. Sec.

OFFICE : WH/DPC

ROOM NO : _____

PHONE NO : _____

FAX NO : 150-7431

TOTAL PAGES
INCLUDING COVER) : 2

REMARKS: Here's a DRAFT - no one else here has had a chance to review it, so please, please please make sure we discuss it further before it goes beyond our group and before anything gets sent to hill. We need to discuss not only the substance, but how to send to hill and under what conditions, etc. OK?????

I know its general, it seemed like that was the place to start - although any more gratuitous bells and whistles would probably be useful.

The Committee recognizes the devastating impact that domestic violence inflicts upon its victims. Domestic violence too often obstructs the efforts of welfare recipients to be safe and to secure economic independence. The Family Violence Option was included as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to address the epidemic of domestic violence and to ensure States have flexibility to provide appropriate services to victims of domestic violence. The Committee strongly urges States to adopt the Family Violence Option and to direct TANF funds to services necessary to ensure the safety and self-sufficiency of victims of domestic violence.

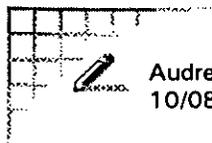
Further, we strongly urge the Secretary of Health and Human Services to take into account State efforts to provide services to victims of domestic violence, and grant good cause waivers in exercising her discretion to assess penalties against States that fail to meet the requirements of the PRWORA. We recommend that the Secretary utilize the regulatory process to advise States of these penalty considerations.

and otherwise assist,

~~to the Secretary~~

to the Secretary of Health and Human Services to assist victims of domestic violence

WP - Domestic violence



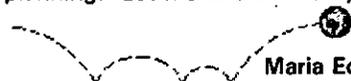
Audrey T. Haynes
10/08/97 11:20:54 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Maria Echaveste/WHO/EOP
cc: Robin Leeds/WHO/EOP
Subject: Weekly Welfare Meeting

----- Forwarded by Audrey T. Haynes/WHO/EOP on 10/08/97 11:16 AM -----

Robin or I would like to be involved in the meeting. We received a call yesterday from Pat B. at NOWLDF. She is concerned that we are not taking a strong stand on FVO and the clarification language and that Senator Murray is getting mixed messages. Additionally, we are pulling together representatives from State domestic violence programs next week (they are scheduled to be in town for meetings) and this issue has come up in the planning. Let me know when you are getting together. thanks



Maria Echaveste

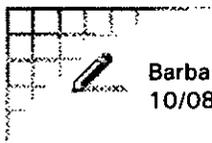
10/08/97 09:16:34 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP
cc: Audrey T. Haynes/WHO/EOP, Robin Leeds/WHO/EOP, Barbara D. Woolley/WHO/EOP
Subject: Weekly Welfare Meeting

Elena and Cynthia--if I remember correctly, HHS was working on some regs to address this issue of domestic violence and welfare to work but we had no firm date for publication--shouldn't that still be our plan as we had discussed a couple of months ago rather than pursue the Murray legislative approach?

----- Forwarded by Maria Echaveste/WHO/EOP on 10/08/97 09:12 AM -----



Barbara D. Woolley
10/08/97 09:09:17 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Marjorie Tarmey/WHO/EOP, Mark Hunker/WHO/EOP
Subject: Weekly Welfare Meeting

1. VPOTUS is doing a welfare to work event today in 450 with Glickman, Shalala and USAID, Duffy.
2. The main focus of the meeting was a discussion on Senator Murray's conversation with the White House over a proposed amendment (domestic violence) to the Labor/HHS Appropriations bill.

WP - domestic violence



Cynthia A. Rice

10/07/97 06:56:36 PM

Record Type: Record

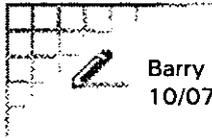
To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: Murray amendment at markup at L/HHS/ED

fyi

----- Forwarded by Cynthia A. Rice/OPD/EOP on 10/07/97 06:58 PM -----



Barry White

10/07/97 06:44:25 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: Anil Kakani/OMB/EOP, Jill M. Blickstein/OMB/EOP, Lisa M. Kountoupes/OMB/EOP, Jack A. Smalligan/OMB/EOP

Subject: Murray amendment at markup at L/HHS/ED

You asked for a report on markup.

Today's 90 minute markup session was not for decision making, but rather for positions to be stated on selected issues. According to our bill tracker who was present, Senator Murray asked that the conferees not eliminate her amendment "protecting domestic violence victims from the welfare work requirements". Rep. Lowey supported her. There was no further discussion.

I am a little startled by the notion of "protecting" people from the work requirement, but if that's the way this issue is being thought of, it is more understandable why our variation on her theme is portrayed negatively by some groups. What we wanted to do was ensure that victims get real help, through temporary services and the work requirements, to get off of welfare and into jobs and independence. Seems to me a better way of protecting them in the long run than keeping them on welfare. But what do I know.

Conferees still hope to finish work by Thursday.

WR - domestic violence

TACK to Cynthia
re CC caution
on appropriate
"use" of reg.



ADMINISTRATION FOR CHILDREN AND FAMILIES

Madeline Mocko, Director
Office Of Legislative Affairs and Budget (OLAB)
7th Floor Aerospace Building
901 D Street, SW
Washington, DC 20447
(202) 401-9223 FAX (202) 401-4562

TO:

Mam Borkdale

DATE:

7/25

__ URGENT AS REQUESTED __ COMMENT __ CLEARANCE __ FYI __ REPLY ASAP

Domestic violence regulatory
language.

General preamble discussion

Domestic Violence

We wish to bring one particular provision -- known as the Family Violence Option (FVO) -- to your attention. This provision, at section 402(a)(7), gives States the option to waive certain program requirements for certain victims of domestic violence. It thus provides a valuable framework

for identifying victims of domestic violence and developing appropriate service strategies for them.

This Administration is strongly committed to reducing domestic violence, and we encourage all States to consider adopting the Family Violence Option. In working with domestic violence cases, we also encourage States to pay special attention to the need for maintaining the confidentiality of case-record information and the victims' own assessments of their safety needs and their abilities to meet program requirements.

During our consultations, we heard numerous questions about the relationship between State policies on domestic violence and the determination of State work and time-limit penalties. Congress has spoken to this issue since enactment of PRWORA, but has not amended the underlying statute. Our regulations seek to implement the statute in a way that is consistent with both the language of the statute and our national interest in fostering appropriate State responses to domestic violence.

The FVO provides States with a specific vehicle for addressing domestic violence among recipients of TANF assistance. The provision envisions that States would screen and identify victims of violence, conduct individual

assessments, and develop temporary safety and service plans that would protect victims from any immediate dangers, stabilize their living situations, and explore avenues for overcoming dependency.

The family's individual circumstances or service plans may require that certain program requirements (e.g., regarding time limits and child support cooperation) be temporarily waived in cases where compliance with such requirements would make it difficult for individuals to escape domestic violence, unfairly penalize victims, or put individuals at further risk of domestic violence. In these cases, the FVO allows States to grant such waivers.

Under TANF, States must meet numerical standards for work participation and the percentage of families that may receive federally-funded assistance for more than five years. The statutory language on calculating work participation rates makes no reference to domestic violence cases or to a State's good cause waivers of work requirements under the Family Violence Option. Thus, we think that the clearest reading of this statutory provision includes victims of domestic violence in the calculation of the work participation rates.

The statutory language on time limits refers to victims of

domestic violence, but not to the good cause waivers provided under the Family Violence Option. The statutory language suggests that victims of domestic violence would be included in the 20 percent limit on exceptions to the time limit.

However, there is legitimate concern among States and others that election of the FVO might put States at special risk of incurring financial penalties. In granting good cause waivers of program requirements under the FVO, they may make it more difficult for themselves to meet the numerical requirements on time limits and the work participation rates.

Our proposed rules attempt to remain true to the statutory provisions on work and time limits and to ensure that election of the FVO is an authentic choice for States. In deciding to address these waiver cases under "reasonable cause" rather than through direct changes in the penalty calculations, we are reflecting the statutory language and maintaining the focus on moving families to self-sufficiency. At the same time, we are giving States some protection from penalties when their failures to meet the standard rates are attributable to the granting of good cause domestic violence waivers that are based on individual assessments, are temporary, and include individualized

service and safety plans. We hope our proposal will alleviate concern among States that attention to the needs of victims of domestic violence might place them at special risk of a financial penalty.

Our proposed rules recognize that, through the FVO, Congress gave unique status to victims of domestic violence under the TANF program. This is the only group of recipients for whom good cause waivers of general program requirements are available. Likewise, under our proposed rules, this is the one group of recipients who receive special recognition under the "reasonable cause" provisions for the work and time-limit penalties.

At §270.30, the proposed rules reflect our expectation that good cause waivers will be bona fide waivers provided within the framework of the FVO. Under this framework: (1) State policies would provide for individualized responses and service strategies, consistent with the needs of individual victims; (2) waivers of program requirements would be generally temporary in nature; and (3) in lieu of program requirements, victims of domestic violence would be served in alternative ways, consistent with their individualized safety and service plans.

We want to ensure that our rules work to foster, not

undermine, the objectives of the Act. Our goal is to promote the provision of appropriate alternative services for victims of domestic violence that foster both safety and self-sufficiency.

To ensure that these policies have the desired effect, we limit the availability of "reasonable cause" to States that have adopted the FVO. In addition, in the definitions section of the proposed rule (at §270.30), we specify criteria that will apply in deciding whether a good cause domestic violence waiver exists. Also, we reserve the right to audit States claiming "reasonable cause" to ensure that good cause domestic violence waivers that States include in their "reasonable cause" documentation meet the specified criteria.

In addition, we intend to monitor the number of good cause wivers granted by States and their effect on work and time limits. We want to ensure that States identify victims of domestic violence so that they may be appropriately served, rather than exempted and denied services that lead to independence. We also want to ensure that the provision of good cause wivers does not affect a State's overall effort in moving families towards self-sufficiency. Thus, we will be looking at information on program expenditures and participation levels to see if States granting good cause

domestic violence waivers are making commitments to assist
all families in moving toward work.

If we find that good cause waivers are not having the
desired effects, we may propose regulatory or legislative
remedies to address the problems we identify.

For additional discussion of our proposals, see §§ 270.30,
271.52 and 274.3 of the preamble and proposed rule.

[Preamble on Definitions Section]

You should also note the definitions of "Family Violence"

Option," "good cause domestic violence waiver," and "victim of domestic violence." These definitions are relevant to State claims of "reasonable cause" for failing to meet the work participation rate and time-limit requirements of the Act. Under parts 271 and 274, a State's decision to implement the Family Violence Option and its provision of good cause waivers to victims of domestic violence under that provision create a special-case situation that may affect a State's eligibility for a reasonable cause exception from these two penalties.

[General discussion on individual work requirements]

Under the Family Violence Option, a State may waive work requirements in cases where compliance would make it difficult for an individual to escape domestic violence or would unfairly penalize individuals who are or have been victimized by such violence or individuals who are at risk of further domestic violence. The State must determine that the individual receiving the program waiver has good cause for failing to comply with the standard work requirements.

[Preamble discussion on work participation rates]

During the development of the proposed regulation and in consultation with stakeholders, one important topic of discussion was how to treat victims of domestic violence whom the State is helping under the Family Violence Option (FVO), under section 402(a)(7). We recognize that there are circumstances in which a State should and will temporarily waive work requirements for some domestic violence victims. One question we considered was how such waivers would affect the calculation of the participation rates.

As we discussed earlier, many commenters urged us to remove all victims of domestic violence from the denominator of a State's participation rate so that the State would not be penalized for choosing to develop appropriate responses to their problems. Instead of changing the basic calculation of the work participation rates, we chose to address this situation under the definition of "reasonable cause" for States failing to meet their rates. Our approach is targeted, so as not to provide blanket exemptions for those who have ever suffered domestic violence, but instead to provide appropriate protections and supports for TANF recipients who need them.

We believe that keeping recipients who are being assisted under the FVO in the calculation is the better reading of the existing statute. In the calculation of work participation rates, the statute provides only two exemptions from the denominator: one for a single custodial parent of a child under 12 months old; the other for a recipient who is being sanctioned but has not been so for more than three of the last 12 months. The law is very specific concerning these exemptions and does not provide for others.

We believe victims of domestic violence and the objectives of the Act will be best served if we maintain the integrity of the work requirements and promote appropriate services to the victims of domestic violence. Service providers who work closely with victims of domestic violence attest that work is often a key part of the solution to domestic violence problems; it may provide both emotional support and a path to financial independence. Thus, we do not want to create an incentive for States to waive work requirements routinely for a recipient who does not need such a waiver.

However, we also hear that, in some cases, going to work may aggravate tensions with a batterer and place the victim at risk of further danger. Under our proposed rules, States should feel free to provide temporary waivers of work

requirements in such cases.

Given the pressure States are under to meet the work participation rates, and the individualized circumstances that domestic violence victims face, we have concerns that automatically removing victims of domestic violence from the calculations could result in inappropriate exemptions or deferrals of work requirements for victims of domestic violence. We also have concerns that it could result in diversion of resources away from these families to other categories of recipients. We believe our "reasonable cause" proposal and our strategy for monitoring the effect of these provisions will protect against these possible negative effects.

Please see §271.52 of the proposed regulations for further discussion of the reasonable cause criteria.

permitted under the Family Violence Option at section 402(a)(7) and the limit on the exceptions to the Federal time limit at section 408(a)(7)(C)(ii). The key issue is whether the 20 percent limit on hardship exceptions includes families of domestic violence victims.

Section 402(a)(7)(B) expressly refers to section 408(a)(7)(C)(iii) in applying the meaning of the term "domestic violence" to the Family Violence Option at section

402(a)(7)(A). Section 408(a)(7)(C)(iii) defines "battered" or "subjected to extreme cruelty" for purposes of describing families who may qualify for a hardship exemption at section 408(a)(7)(C)(i), and section 408(a)(7)(C)(ii) specifies a 20 percent limit on the exceptions to the time limit due to hardship. Consequently, we conclude that the statutory language includes the number of families waived from the five-year time limit per section 402(a)(7) within the 20 percent ceiling established under section 408(a)(7)(C)(ii).

However, as stated in the earlier preamble discussion, subsequent Congressional statements suggest that Congress did not intend to count temporary good cause waivers against the 20 percent limitation. Thus, our proposed policy on reasonable cause would enable a State to claim "reasonable cause" when its failure could be attributed to its provision of bona fide good cause domestic violence waivers. See §274.3 for additional information.

402(a)(7)(A). Section 408(a)(7)(C)(iii) defines "battered" or "subjected to extreme cruelty" for purposes of describing families who may qualify for a hardship exemption at section 408(a)(7)(C)(i), and section 408(a)(7)(C)(ii) specifies a 20 percent limit on the exceptions to the time limit due to hardship. Consequently, we conclude that the statutory language includes the number of families waived from the five-year time limit per section 402(a)(7) within the 20 percent ceiling established under section 408(a)(7)(C)(ii).

However, as stated in the earlier preamble discussion, subsequent Congressional statements suggest that Congress did not intend to count temporary good cause waivers against the 20 percent limitation. Thus, our proposed policy on reasonable cause would enable a State to claim "reasonable cause" when its failure could be attributed to its provision of bona fide good cause domestic violence waivers. See §274.3 for additional information.

How can a State avoid a penalty for failure to comply with the five-year limit? (§274.3)

In §272.5, we have proposed general circumstances under which we would find reasonable cause to waive potential penalties. We also propose to consider an additional factor

in determining whether there is reasonable cause for failure to meet the five-year limit. The additional factor relates to a State's implementation of the Family Violence Option (FVO) and its provision of temporary waivers of time limits, when necessary, for victims of domestic violence.

We want to encourage States to adopt this amendment and to provide appropriate assistance that reflects the safety and employment-related needs of these families. In adding this reasonable cause factor, we recognize that some of these individuals may need special assistance, at least over the short term. However, we also want to ensure that States make good-faith efforts to help victims of domestic violence become independent. Thus, we tie this factor to a State's implementation of the FVO; we reference the criteria we included §270.30 to define what qualifies as a good cause domestic violence waiver; and we have set forth a strategy for monitoring the implementation of these provisions.

Under our proposed rules, a State must substantiate its case for all claims of reasonable cause. We will examine each situation on its own merits and determine whether to assess a penalty on a case-by-case basis.

\$270.30 What definitions apply under the TANF regulations?

Family Violence Option (or FVO) means the provision at section 402(a)(7) of the Act under which States may elect to implement comprehensive strategies for identifying and serving victims of domestic violence.

Fiscal year means the 12-month period beginning on October 1 of the preceding calendar year and ending on September 30.

FY means fiscal year.

Good cause domestic violence waiver means a waiver of one or more program requirements granted by a State to a victim of domestic violence under the Family Violence Option that is: (1) based on an individualized assessment; (2) temporary; and (3) accompanied by an appropriate services plan designed to provide safety and lead to work.

Victim of domestic violence means an individual who is battered or subject to extreme cruelty under the definition at section 408(a)(7)(B)(iii) of the Act.

Work penalty "reasonable" Cause Criteria

(b) In addition to the general reasonable cause criteria specified at §272.5 of this chapter, a State may also submit a request for a reasonable cause exemption from the requirement to meet the minimum participation rate based on the following criteria:

(1) We will determine that a State has reasonable cause if it demonstrates that its failure to meet the work participation rates is attributable to its provision of good cause domestic violence waivers.

(2) A State may demonstrate this reasonable cause by providing evidence that it achieved the applicable work rates, except with respect to any individuals receiving good cause waivers of work requirements.

(3) A State's good cause waivers must meet the criteria for good cause domestic violence waivers specified at §270.30 of this chapter.

Time limit "reasonable cause."

(b)(1) In addition, we will determine a State has reasonable cause if it demonstrates that it exceeded the 20 percent limitation on exceptions to the time limit because of good cause waivers it provided to victims of domestic violence.

(2) A State may demonstrate reasonable cause by providing evidence that, when cases that have received good cause waivers of time limits are excluded from the calculation, the percentage of cases receiving federally-funded assistance for more than 60 months did not exceed 20 percent of the total.

(3) A State's good cause waivers must meet the

criteria for good cause domestic violence waivers specified
at §270.30.

N O W Legal Defense and Education Fund

"Defining and Defending Women's Rights for 27 Years"

119 Constitution Ave, NE Washington, D.C. 20002 (202) 544-4470 fax: (202) 546-8605 e-mail nowldefdc@aol.com

F A X Bruce/Cynthia/Diana
Fib - W_R - domestic violence

Date: 7-23-97 Fax#: 456-2878

To: Elena Kagan

From: Pat Reuss # of pages, incl. cover: 10

Comments: We have similar coalitions (bipartisan) in other states who WANT to help battered women - short term - and need the PVO clarification. It would be tragic - indeed a betrayal - if the Clinton admin. ENCOURAGED (see enclosed) states to elect the PVO + now opposes the clarification which will make it WORK!

THIS SOCIETY DOESN'T VALUE CHILDREN ANYMORE! YOU WOMEN WOULD RATHER PURSUE A SELFISH CAREER THAN STAY HOME WITH YOUR KIDS!

THIS SOCIETY DOESN'T VALUE WORK ANYMORE! YOU WELFARE MOTHERS WOULD RATHER STAY HOME WITH YOUR KIDS THAN GET A JOB!



Please call - or please advise John Hilley to fight for battered women in the budget discussions.

Please note that we have a new mailing address, but are still in our same office. Thanks

"Thank you for supporting our work through your generous year-end donation"
1914 on CFC/United Way

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

June 30, 1997

Members of the Budget Conference Committee:

We are writing to respectfully request the members of the Budget Conference Committee to adopt the Family Violence Option (FVO) provision contained in the Senate version of the Budget Reconciliation bill. As California finalizes its welfare reform package, we need to know whether we can offer temporary waivers to battered women without incurring federal monetary penalties. With the adoption of this provision, it will be explicitly clear that the waivers issued under the FVO and the 20% hardship exemption granted to the states are two very distinct categories.

As you know, the Family Violence Option gives states the flexibility to issue temporary waivers from various requirements for victims of domestic violence. In order to give states the maximum authority over their welfare plans, the Family Violence Option allows states to define what constitutes domestic violence and who shall receive these temporary waivers.

Recently, California's 18 member bipartisan Legislative Welfare Conference Committee voted to adopt the Family Violence Option contained in Senate Bill 1185 authored by State Senator Hilda L. Solis. They did stipulate, however, that their support was on the condition that the temporary waivers of the FVO would not count as part of the state's 20% hardship exemption. The Conference committee also wanted assurance that California would not be penalized if it failed to meet federal work participation requirements due to the granting of the temporary waivers. Thus, it is of great importance to our state that the federal government clarify this issue by adopting the FVO provision of the Senate Budget Reconciliation bill.

Members of the California Legislature want to achieve both safety and self-sufficiency for abused women and their families on welfare. The process of moving from welfare to work may take some of these women longer because of the difficult economic and emotional problems they must face. We urge you to help us accomplish this goal by adopting the Family Violence Option provision contained in the Senate version of the Budget Reconciliation bill.

Your attention to this important matter is sincerely appreciated.

Sincerely,



BILL LOCKYER
Senate President pro Tempore



CRUZ M. BUSTAMANTE
Assembly Speaker

SIGNATORS**Senators:**

Senator Barbara Lee (D), District 9, Oakland
Senator John Vasconcellos (D), District 13, Santa Clara
Senator Cathie Wright (R), District 19, Simi Valley
Senator Patrick Johnston (D), District 5, Stockton
Senator Diane E. Watson (D), District 26, Los Angeles
Senator John Burton (D), District 3, San Francisco
Senator Teresa Hughes (D), District 25, Los Angeles
Senator Hilda L. Solis (D), District 24, El Monte
Senator Dede Alpert (D), District 39, San Diego
Senator Tom Hayden (D), District 23, Los Angeles
Senator Betty Karnette (D), District 27, Long Beach

Assemblymembers:

Assemblymember Michael Honda (D), District 23, San Jose
Assemblymember Sheila Kuehl (D), District 41, Encino
Assemblymember Carol Washington (D), District 52
Assemblymember Debra Bowen (D), District 53, Torrance
Assemblymember Jack Scott (D), District 44, Pasadena
Assemblymember Deborah Ortiz (D), District 9, Riverside
Assemblymember Michael Sweeney (D), District 18, Alameda County
Assemblymember Mike Machado (D), District 17, San Joaquin County
Assemblymember Lou Papan (D), District 19, Oakland
Assemblymember Tony Cardenas (D), District 39, Merced County
Assemblymember Sally Havice (D), District 65, Artesia
Assemblymember Scott Wildman (D), District 43, Glendale
Assemblymember Virginia Strom-Martin (D), District 1, Santa Rosa
Assemblymember Tom Torlakson (D), District 11, Martinez
Assemblymember Helen Thomson (D), District 8, Fairfield
Assemblymember Liz Figueroa (D), District 20, Fremont
Assemblymember Fred Keeley (D), District 27, Santa Cruz
Assemblymember Dennis Cardoza (D), District 26, Turlock
Assemblymember Howard Wayne (D), District 78, San Diego
Assemblymember Edward Vincent (D), District 51, Inglewood
Assemblymember Martha M. Eacutia (D), District 50, Huntington Park
Assemblymember Susan Davis (D), District 76, San Diego
Assemblymember Don Perata (D), District 16, Oakland
Assemblymember Valerie Brown (D), District 7, Santa Rosa
Assemblymember Elaine Alquist (D), District 22, Santa Clara
Assemblymember Kevin Shelley (D), District 12, San Francisco
Assemblymember Antonio R. Villaraigosa (D), District 45, Los Angeles
Assemblymember Carol Migden (D), District 13, San Francisco
Assemblymember Martin Gallegos (D), District 57, Irwindale
Assemblymember Diane Martinez (D), District 49, Alhambra
Assemblymember Dion S. Aroner (D), District 14, Oakland

Wp - Domestic violence

N O W Legal Defense and Education Fund

"Defining and Defending Women's Rights for 27 Years"

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F A X

Date: July 28, 1997

Fax#: 456-2878

To: Elena Kagan

From: Pat Reuss

of pages, incl. cover: 2

Comments:

Bruce/Christie/Diana

*FYI
sign-in letter
from Sen. Murray*



Please note that we have a new mailing address, but are still in our same office. Thanks

"Thank you for supporting our work through your generous year-end donation"

1914 on CFC/United Way

PATTY MURRAY
WASHINGTON

COMMITTEES:
APPROPRIATIONS
BUDGET
LABOR AND HUMAN RESOURCES
SELECT COMMITTEE ON ETHICS
VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510-4704

July 22, 1997

Senator William Roth
104 Senate Hart Office Building
Washington, D.C. 20510

Dear Senator Roth:

We are writing to express our deep concerns regarding the decision by the conferees to drop the Family Violence Option from the Budget Reconciliation Act. This is unacceptable.

As you are aware, the Murray/Wellstone amendment was unanimously adopted during Senate consideration of the FY'98 Budget Resolution and the Budget Reconciliation Act. In addition, the House included the provision in the FY' 98 Budget Resolution reported by the House Budget Committee. Consequently, there would appear to be overwhelming support for clarifying that states can waive victims of domestic violence and abuse from time limitations and work requirements as called for in the welfare reform legislation, without being penalized.

It is difficult to understand how a provision approved three times by the Senate can be dropped in conference. Each time we have brought this language to the floor we have been assured of the commitment of many Senators to addressing the needs of abused and battered women. We have always appreciated this support, but it is starting to look as if many Members are more than willing to help victims of domestic violence when the debate is in public view. It is not until a selected few go behind closed doors that this commitment does not appear that strong.

We are not asking for much. We simply want to make it clear that States can and should waive victims of domestic violence from time limitations and work and training requirements. We believe there is universal support for helping these victims and not subjecting them to requirements which will only serve to trap them and their children in violent situations.

We are ready to force this issue on the Senate floor. We have tried to use the appropriate legislative mechanism for addressing this issue. We have had this language accepted three times on the Senate floor and yet the Conferees chose to ignore the wishes of this body. As a result, we believe the only course available is to bring this language back to the floor for full consideration and debate, followed by a recorded vote. We will be looking at several legislative alternatives which would allow for a vote on the Family Violence Option. We are committed to continuing to try to help states help victims of domestic violence and anticipate a vote on the Senate floor which would give every Member the chance to tell victims of domestic violence and abuse that they will not be forgotten.

2930 WETMORE AVENUE
SUITE 903
EVERETT, WA 98201-4107
(425) 259-6515

2583 JACKSON FEDERAL BUILDING
815 2ND AVENUE
SEATTLE, WA 98174-1003
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W. 601 1ST AVENUE
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500 W. 12TH STREET
VANCOUVER, WA 98663-2871
(360) 696-7797

402 E. YAKIMA AVENUE
SUITE 399
YAKIMA, WA 98901-2760
(509) 453-7462

We understand the difficulties facing the Conferees, as you all work to craft a balanced budget. However, this should be an issue all Conferees can agree to. This should not be an issue that divides, but rather one we can all agree on.

We strongly encourage you to include the Murray/Wellstone amendment in any final Conference Agreement to accompany the Budget Reconciliation Act. Let's really stand up for victims of domestic violence both on the Senator floor and behind closed doors as well.

Sincerely,

Patty Murray
U.S. Senator

WELLSTONE

HARKIN

DASCHLE

KENNEDY

ROCKEFELLER

BOYER

WV - domestic violence 002

O:\HAI\BAI97.595

S.L.C.

AMENDMENT NO. ____

Calendar No. ____

Purpose: To clarify the family violence option under the temporary assistance to needy families program.

IN THE SENATE OF THE UNITED STATES—105th Cong., 1st Sess.

S. 947

To provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. MURRAY

Viz:

On page 960, between lines 3 and 4, insert the following:

SEC. ____ PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their

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1 welfare programs, by giving States the flexibility to
2 grant individual, temporary waivers for good cause
3 to victims of domestic violence who meet the criteria
4 set forth in section 402(a)(7)(B) of the Social Secu-
5 rity Act (42 U.S.C. 602(a)(7)(B));

6 (2) the allowance of waivers under such sections
7 was not intended to be limited by other, separate,
8 and independent provisions of part A of title IV of
9 the Social Security Act (42 U.S.C. 601 et seq.);

10 (3) under section 402(a)(7)(A)(iii) of such Act
11 (42 U.S.C. 602(a)(7)(A)(iii)), requirements under
12 the temporary assistance for needy families program
13 under part A of title IV of such Act may, for good
14 cause, be waived for so long as necessary; and

15 (4) good cause waivers granted pursuant to sec-
16 tion 402(a)(7)(A)(iii) of such Act (42 U.S.C.
17 602(a)(7)(A)(iii)) are intended to be temporary and
18 directed only at particular program requirements
19 when needed on an individual case-by-case basis, and
20 are intended to facilitate the ability of victims of do-
21 mestic violence to move forward and meet program
22 requirements when safe and feasible without inter-
23 ference by domestic violence.

24 (b) CLARIFICATION OF WAIVER PROVISIONS.—

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1 (1) IN GENERAL.—Section 402(a)(7) (42
2 U.S.C. 602(a)(7)) is amended by adding at the end
3 the following:

4 “(C) NO NUMERICAL LIMITS.—In imple-
5 menting this paragraph, a State shall not be
6 subject to any numerical limitation in the
7 granting of good cause waivers under subpara-
8 graph (A)(iii).

9 “(D) WAIVERED INDIVIDUALS NOT IN-
10 CLUDED FOR PURPOSES OF CERTAIN OTHER
11 PROVISIONS OF THIS PART.—Any individual to
12 whom a good cause waiver of compliance with
13 this Act has been granted in accordance with
14 subparagraph (A)(iii) shall not be included for
15 purposes of determining a State's compliance
16 with the participation rate requirements set
17 forth in section 407, for purposes of applying
18 the limitation described in section
19 408(a)(7)(C)(ii), or for purposes of determining
20 whether to impose a penalty under paragraph
21 (3), (5), or (9) of section 409(a).”

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) takes effect as if it had been in-
24 cluded in the enactment of section 103(a) of the
25 Personal Responsibility and Work Opportunity Rec-

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1 conciliation Act of 1996 (Public Law 104-193; 110
2 Stat. 2112).

3 (c) FEDERAL PARENT LOCATOR SERVICE.—

4 (1) IN GENERAL.—Section 453 (42 U.S.C.
5 653), as amended by section 5938, is further
6 amended—

7 (A) in subsection (b)(2)—

8 (i) in the matter preceding subpara-
9 graph (A), by inserting “or that the
10 health, safety, or liberty of a parent or
11 child would be unreasonably put at risk by
12 the disclosure of such information,” before
13 “provided that”;

14 (ii) in subparagraph (A), by inserting
15 “, that the health, safety, or liberty of a
16 parent or child would be unreasonably put
17 at risk by the disclosure of such informa-
18 tion,” before “and that information”; and

19 (iii) in subparagraph (B)(i), by strik-
20 ing “be harmful to the parent or the child”
21 and inserting “place the health, safety, or
22 liberty of a parent or child unreasonably at
23 risk”; and

24 (B) in subsection (c)(2), by inserting “, or
25 to serve as the initiating court in an action to

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1 seek and order," before "against a noncusto-
2 dial".

3 (2) STATE PLAN.—Section 454(26) (42 U.S.C.
4 654), as amended by section 5956, is further
5 amended—

6 (A) in subparagraph (C), by striking "re-
7 sult in physical or emotional harm to the party
8 or the child" and inserting "place the health,
9 safety, or liberty of a parent or child unreason-
10 ably at risk";

11 (B) in subparagraph (D), by striking "of
12 domestic violence or child abuse against a party
13 or the child and that the disclosure of such in-
14 formation could be harmful to the party or the
15 child" and inserting "that the health, safety, or
16 liberty of a parent or child would be unreason-
17 ably put at risk by the disclosure of such infor-
18 mation"; and

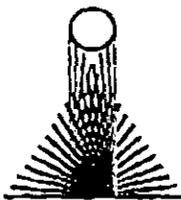
19 (C) in subparagraph (E), by striking "of
20 domestic violence" and all that follows through
21 the semicolon and inserting "that the health,
22 safety, or liberty of a parent or child would be
23 unreasonably put at risk by the disclosure of
24 such information pursuant to section 453(b)(2),
25 the court shall determine whether disclosure to

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1 any other person or persons of information re-
2 ceived from the Secretary could place the
3 health, safety, or liberty of a parent or child
4 unreasonably at risk (if the court determines
5 that disclosure to any other person could be
6 harmful, the court and its agents shall not
7 make any such disclosure);".
8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect 1 day after the
10 effective date described in section 5961(a).



**NOW LEGAL DEFENSE
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April 29, 1997

STATES CAN STOP THE CYCLE OF POVERTY

Statement of Martha Davis, Legal Director, NOW Legal Defense and Education Fund

States across the country face a critical decision in implementing their welfare reform plans. As study after study shows, domestic violence makes women poor and keeps women poor. True and enduring reform will only be a reality if states address the pervasive violence in women's lives.

NOW Legal Defense and Education Fund's study, *Report From the Front Lines: The Impact of Violence on Poor Women*, shows that many low-income women are or have been abused by a partner. The 25 New York City-based direct service providers interviewed for the research, who work as job training, counselors, job placement professionals, program coordinators, and vocational counselors, estimated that from one-third to three-quarters of their clients are impeded by domestic violence in their efforts to move from welfare to work.

Interviewees cited frequent stalking at their programs and described the gradual escalation of domestic violence as women achieve job readiness goals through their programs, until the harassment by abusers forces the women to drop out. NOW Legal Defense and Education Fund's survey, and the other growing data on this issue, clearly demonstrates that domestic violence plays a key role in sabotaging women's efforts for financial independence. As the Taylor Institute's recent report, *Trapped by Poverty, Trapped by Abuse* shows, until states address the violence, welfare reform will not succeed.

The Family Violence Option provides states with a win-win tool for implementing successful reform. The Option allows states to waive temporarily time limits, rigid work mandates and other requirements for domestic violence victims who might be otherwise harmed by application of these rules. But because the Health and Human Services Department has been slow to issue its regulations, state policymakers are confused about how the Option interacts with other welfare reform provisions -- particularly the hardship exemption, which permits long-term exemption from time limits in cases of hardship. Senator Wellstone's legislation puts states on notice that the Option in no way hampers states' efforts to utilize the 20% hardship exemption states are allowed.

It is of utmost importance that this legislation move quickly through Congress so that states do not deny victims of domestic violence the waivers they temporarily need. The legislation provides the states with guidelines that demonstrate that they will not be fined for doing the right thing -- which is providing temporary waivers to victims of domestic violence from work requirements and time limits. If states delay in implementing the Option for fear of not following HHS rules, it could cost not only women's lives, but state money as well, as the cycle of poverty continues for these women.

NEWS RELEASE

NATIONAL ORGANIZATION FOR WOMEN

Press Office

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**FOR IMMEDIATE RELEASE
TUESDAY: APRIL 29, 1997**

CONTACT: MELINDA SHELTON, 767

NOW BACKS BILL TO CLARIFY WAIVERS FOR BATTERED WOMEN

The National Organization for Women today announced its support for legislation, sponsored by Sens. Paul Wellstone (D-MN) and Patty Murray (D-WA), to clarify the status of welfare recipients under the hardship exemption of the new welfare law. Because of the very real danger of increased violence that many women on welfare will face when they attempt to become more independent, this clarification is essential and we urge Congress to pass it immediately.

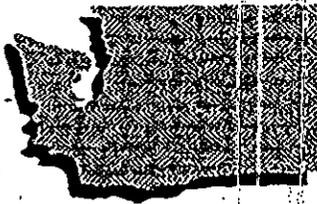
"For a woman who is already in danger, enforcing the new rules would be like making her stand on a trap door -- knowing it could drop out from under her feet at any time. Without these temporary waivers, states will be putting battered women at even greater risk of brutality," said Kim Gandy, NOW's Executive Vice President.

The legislation makes it clear to states that they will not be penalized for temporarily exempting battered women, and that those exemptions will not be counted against the state's 20% hardship exemptions. As states proceed to implement their new welfare programs under Temporary Assistance to Needy Families, it is imperative that Congress give states guidance on this question.

The hardship exemption, provided for in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), allows welfare recipients to be exempted from the five year lifetime limit on benefits in cases where the limit would cause undue hardship. Advocates for battered women recognized that this was an inadequate provision considering that the number of potential applicants among this group alone could total more than 20% of a state's caseload.

Recent studies of recipients of Aid to Families with Dependent Children (AFDC), the old welfare cash assistance program, show that about one-fifth of women receiving federal assistance are currently experiencing violence from a partner. Up to 65% reported having experienced domestic violence at some point in their adult lives. Batterers often attempt to keep women from education, job training and employment by refusing transportation or child care services, or giving them a severe beating before job interviews. Stalking and harassing of women on the job are other methods of interference. As many as 49% of the low income women studied in Massachusetts, New Jersey and Illinois indicate that intimate partners had interfered with their with education, training or work.





NEWS from U.S. Senator PATTY MURRAY

Washington • Democrat

**STATEMENT OF U.S. SEN. PATTY MURRAY (D-Wash.)
ON INTRODUCTION ON THE FAMILY VIOLENCE OPTION II AMENDMENT
April 29, 1997**

I am pleased to join with Senator Wellstone in introducing legislation to clarify the family violence option under the temporary assistance to needy families program. It is painfully obvious that clarification is necessary at both the federal and state level.

Last year when the Senate considered welfare reform, I joined with Senator Wellstone in support of an amendment which would have allowed states to take into account the effects of domestic violence and abuse when establishing their welfare program, by allowing states the flexibility to grant individual waivers to victims of domestic violence. I felt strongly that victims of domestic violence needed not just a safety net, but a strong and reliable safety net. I was concerned at the time and am now more concerned, that the punitive and rigid requirements contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 would trap victims and their children in violent situations.

The recently released Taylor Institute Report confirms what many of us know; there is a direct link between domestic violence and poverty. Many current welfare beneficiaries are in fact victims of domestic violence. The Report provides further evidence that we must do everything at the federal level to provide the guidance and flexibility to the states so that they can maintain an effective safety net for the victims of domestic violence and their children.

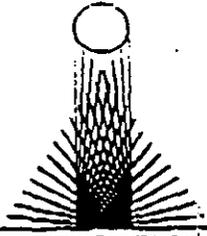
Unfortunately, there has been some lack of clarity at the federal level and many states have felt that they did not have the flexibility to respond to the epidemic of domestic violence and welfare. While HHS has been extremely effective in its outreach efforts, it lacks the clarity to effectively implement the Wellstone/Murray Family Violence Option. We are here today to introduce legislation which gives HHS and the states the clarity they need.

No woman or child should be trapped in a violent home or environment simply because they are unable to meet arbitrary requirements. Due to the growing body of evidence of the direct link between welfare and domestic violence and abuse, states must have as much flexibility as possible to meet the unique needs of these victims.

###

For more information contact Rex Carney or Rebekka Bonner at (202) 224-0229.

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DOMESTIC VIOLENCE AND POVERTY FACT SHEET

Economic Dependence and Violence

- * The level of economic resources available to an abused woman is the best indicator of whether or not she will permanently separate from her abuser (Horn, 1992).
- * More than half of battered women surveyed stayed with their batterer because they did not feel that they could support themselves and their children (Sullivan, 1992).
- * 27% of battered women surveyed said they were prevented from having any access to money by their abuser; 51% lacked access to charge accounts (Walker, 1994).
- * Women with greater economic dependence on their husbands experience a greater severity of abuse compared to employed women who are abused (Strube and Barbour, 1983).

Violence and Employment

- * 24% of battered women surveyed had lost a job at least in part because of the effects of domestic violence (Shepard and Pence, 1988).
- * 55% of battered women surveyed had been absent from work because of abuse (Shepard and Pence, 1988).
- * 56% of battered women surveyed had been harassed by their abuser at work (Shepard and Pence, 1988).
- * 33% of battered women surveyed had been prohibited from working by their batterer, and 25% had been prohibited from attending school (Shepard and Pence, 1988).
- * The Department of Justice estimated in 1981 that 175,000 days of paid work were lost because of domestic abuse (Horn, 1992).
- * 64% of women surveyed in a battered women's shelter stated that they needed employment resources (Sullivan, 1992).

NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

NOW Legal Defense & Education Fund 119 Constitution Ave., NE., WDC 20002 (202) 544-4470 (202) 546-8605 (fax)

The Wellstone/Murray Family Violence Amendment to the Welfare Bill (House Report 725)

August 12, 1996

Now that Congress has passed a welfare bill eliminating the federal entitlement and imposing a host of new requirements for recipients, advocates need to work in their states to ensure that battered women and victims of sexual assault are not unfairly penalized by these new rules. An important tool is the Family Violence Amendment, a state option to increase services and to waive requirements in cases of domestic violence and sexual abuse. Senators Paul Wellstone (D-MN) and Patty Murray (D-WA) amended the Senate version of the welfare bill to require states to provide these services and to make necessary waivers, but the Conference Committee converted the Family Violence Amendment to a state option.

Why State Welfare Legislation Should Address Domestic Violence and Sexual Abuse

The Amendment recognizes that violence makes and keeps women poor, and that it may be difficult and dangerous for battered women and victims of sexual assault to meet the welfare bill's new requirements. As documented by research such as Jody Raphael's report *Prisoners of Abuse: Domestic Violence and Welfare Receipt* (Taylor Institute 1996), the physical and mental effects of domestic violence, as well as direct efforts by abusers to interfere with their victims' education and employment, have serious implications for welfare-to-work programs. Arbitrary and inflexible time limits may need to be modified where violence prevents a woman from working. Child support cooperation requirements may subject women to retaliatory abuse. Residency requirements may harm women crossing state lines to flee a dangerous living situation. Imposing a child exclusion ("family cap") provision, as some states do, in cases of physical and sexual violence, is a particularly unfair penalty to the woman and the child.

To address these issues, the Amendment's provisions encourage states to include both increased services and flexible waivers in their state programs. Specifically, the Amendment invites states to:

- ▶ SCREEN APPLICANTS FOR DOMESTIC VIOLENCE WHILE MAINTAINING CONFIDENTIALITY;
- ▶ PROVIDE REFERRALS TO COUNSELING AND SUPPORTIVE SERVICES;
- ▶ MAKE GOOD CAUSE WAIVERS FOR CERTAIN WELFARE PROGRAM REQUIREMENTS.

Flexible Waivers In Cases of Battering or Extreme Cruelty

The waiver provision is an important tool for advocates, who should urge their states to adopt it. Waivers apply to the two-year time limits (before work is required) and five-year time limits (capping lifetime aid), which would be waived for as long as necessary. States should be able to exclude waived individuals from mandatory participation rates. The waivers also apply to the residency requirements, child support cooperation requirements and child exclusion provisions. Waivers are to be granted where the requirements would make it harder for welfare recipients to escape domestic violence, or where the requirements would unfairly penalize past, present or potential victims of physical or sexual violence.

The provisions apply to cases of "battering or extreme cruelty," which is defined broadly in another section of the bill to include acts of physical and sexual violence (including marital rape) as well as threats and attempts of physical and sexual violence, child sexual abuse, mental abuse and deprivation of medical care.

How States Can Implement the Family Violence Amendment

Under the welfare bill each state must submit a plan to the federal government, describing how the state will spend its block grant funds. In that plan, states can provide for these services and for waivers of federal requirements without incurring penalties. The state is required to make a summary of its plan available to the public. *Additionally, a separate welfare bill provision that applies only to the 5-year time limit on welfare receipt permits a state to make hardship exemptions of up to 20% of the caseload. Hardship explicitly includes battering and extreme cruelty, defined the same way as for the purposes of the Wellstone/Murray Amendment. The Family Violence Amendment contains no limitation on how many cases a state may address when increasing services or making flexible waivers.*

Advocates must pressure their state legislatures to include all of the provisions of the Family Violence Amendment as part of their state plans. Since the Amendment is only a state option, states may be tempted to avoid providing additional services or tailoring welfare-to-work programs to address violence against women. They may instead attempt to use the Amendment to exclude battered women from existing services or they may simply ignore the problem of violence in the lives of welfare recipients. Only diligent efforts at the state level will ensure that the Family Violence Amendment is implemented properly or implemented at all. But these efforts can pay off by increasing the safety and economic self-sufficiency of many recipients.

The National Task Force on Women, Welfare and Abuse will be developing more extensive materials for state activists seeking to ensure that their state welfare program addresses the correlation between violence and poverty. These materials will be available after October 1, 1996. For further information, contact: Martha Davis, NOW LDEF/ NYC (212) 925-6635, Jody Raphael, Taylor Institute (312) 342-5510; or Eat Reuss or Pamela Coukos, NOW LDEF/DC (202) 544-4470.

THE WELLSTONE/MURRAY FAMILY VIOLENCE AMENDMENT

Sec. 103 - Block Grants to States - SubSec. 402(a)(7) OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE

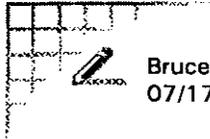
(A) IN GENERAL. -- At the option of the State, a certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to --

- (i) screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;
- (ii) refer such individuals to counseling and supportive services; and
- (iii) waive, pursuant to a determination of good cause, other program requirements, such as time limits (for as long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

(B) DOMESTIC VIOLENCE DEFINED. -- For purposes of this paragraph, the term "domestic violence" has the same meaning as the term "battered or subject to extreme cruelty" as defined in section 408(a)(7)(C)(iii).

.....
SubSec. 408(a)(7)(C)(iii) -- Battered or Subject to Extreme Cruelty Defined: ...an individual has been battered or subjected to extreme cruelty if the individual has been subjected to - (I) physical acts that resulted in, or threatened to result in, physical injury to the individual; (II) sexual abuse; (III) sexual activity involving a dependent child; (IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities; (V) threats of, or attempts at, physical or sexual abuse; (VI) mental abuse; or (VII) neglect or deprivation of medical care.

Wp - domestic violence



Bruce N. Reed
07/17/97 07:06:29 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: fyi

Welfare Limit for Victims of
Violence

By Laura Meckler
Associated Press Writer
Thursday, July 17, 1997; 5:14 p.m. EDT

WASHINGTON (AP) -- For the third time, congressional negotiators have rejected a provision exempting victims of domestic violence from welfare time limits.

"Victims of domestic violence are being victimized once again by closed-door meetings in Congress," Sen. Patty Murray, D-Wash., complained Thursday.

She and Sen. Paul Wellstone, D-Minn., persuaded the Senate to include the exemption in last year's welfare overhaul and in the budget resolution outlining the spending plan. But each time it was stripped out during negotiations with the House, Murray said.

Now Senate negotiators, working on the massive balanced-budget package, have agreed to remove the provision again, replacing it with a federal study of family violence among welfare families, according to Murray and Republican and Democratic aides in the House and Senate.

As negotiators finish their first week of talks, the higher-profile issues concerning welfare have yet to be resolved. That includes whether welfare recipients on work assignments should be guaranteed the minimum wage and other worker protections and which immigrants should remain eligible for disability benefits.

The new welfare law already allows states to exempt up to 20 percent of recipients from the limit of five years on welfare. But under Murray's provision, domestic violence victims would not be counted in the 20 percent.

Critics say this could become a giant loophole in the law, with

many women claiming to be such victims. They argue the 20 percent exemption was meant to include domestic violence victims.

“When we said states could exempt up to 20 percent of the caseload, we reasoned there would be a certain number of all types of cases where people would be in trouble” and unable to leave the rolls, said Scott Brenner, spokesman for the House Ways and Means Committee.

In another brewing welfare battle, the Senate has agreed to the House’s strict work requirements for welfare recipients, according to House and Senate aides of both parties, who spoke on condition of anonymity.

In meeting work requirements, the welfare law allows states to enroll 20 percent of recipients in vocational training programs. But it was unclear if that meant 20 percent of the entire caseload or 20 percent of those who were working.

VOC ED

The House bill offered a narrow interpretation that would allow fewer people into training, while the Senate took the opposite tack. Now Senate negotiators have ceded to the House position.

A Senate Democratic aide said Democrats were not pleased with these concessions. But he added they have told GOP negotiators that the immigrant benefits issue is most important to them, and the Senate has not moved on that.

Meanwhile, Senate Republicans were working to devise a compromise on the new children’s health program. The House plan would allow states great flexibility in spending the money, but the Senate mandates a comprehensive set of benefits.

A plan being circulated Thursday would allow states to choose among seven benefit packages, including several that are less generous than the Senate plan, which mandates vision, hearing and mental health benefits.

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