

NLWJC - Kagan

DPC - Box 059 - Folder-005

Welfare - Child Support [1]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. fax cover	from Mary Ann Salmon to Nancy Heinrich re memo on child support meeting (partial) (1 page)	03/01/1999	P6/b(6)
001b. fax cover	from Mary Ann Salmon to Nancy Heinrich re memo on child support meeting (partial) (1 page)	03/01/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Elena Kagan
 OA/Box Number: 14371

FOLDER TITLE:

Welfare - Child Support [1]

2009-1006-F
 kc130

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. fax cover	from Mary Ann Salmon to Nancy Heinrich re memo on child support meeting (partial) (1 page)	03/01/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elena Kagan
OA/Box Number: 14371

FOLDER TITLE:

Welfare - Child Support [1]

2009-1006-F

kc130

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

WR -
child support.

THE PRESIDENT HAS SEEN

3-4-99

Arkansas House of Representatives



When you do I want you to talk to John about this ASAP about this NB

*1. Co. Jph
Eves
Bald
were any
can do
fence
the rest*

THE PRESIDENT HAS SEEN
3-4-99

Podesta / Maria / Reed

Can we help them on this? Looks like they have a grant

Be

Date:

*5/6
2/2*

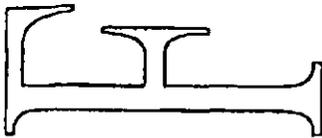
o: _____

(including cover sheet): 5

: Urgent ASAP _____ Routine _____

AGE:

My fax # is 501-753-249. If you need to get info to.



The message following this cover page is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communications in error, please notify c and return via the U.S.

Copied:

*Podesta
Echaveste
Reed*

transmission, 11 and the

Nancy - Carol Rasso was going to e-mail you concerning this fax. The memo on the Child Support meeting in D.C. pretty well explain where we are on the matter. The second memo is on Jodi was to get to the POTUS concerning the situation. The folks at U.S. Dept of Human Services will be making a decision ^{mid to} late part of this week. It means \$6.5 million dollars ^{from} for our stat. Please help. Thanks

I will be out this afternoon.

Mary Ann

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. fax cover	from Mary Ann Salmon to Nancy Heinrich re memo on child support meeting (partial) (1 page)	03/01/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Elena Kagan
 OA/Box Number: 14371

FOLDER TITLE:

Welfare - Child Support [1]

2009-1006-F
kc130

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

- C. Closed in accordance with restrictions contained in donor's deed of gift.
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
- RR. Document will be reviewed upon request.

THE PRESIDENT HAS SEEN

3-4-99

Arkansas House of Representatives

State Capitol, Room 350

Little Rock, Arkansas 72201-1089

Telephone: 501-682-7771

Handwritten notes:
C. J. Phillips
Cris
Balle
I have any
we can do
it's time
not



XX
AA
FF

Date: 3-1-99

To: Nancy Hermreich

From: Mary Ann Salom

Fax No.: 202-456-6703

Pages (including cover sheet): 5

Status: Urgent ASAP Routine

MESSAGE: *My fax # is 501-753-2492
If you need to get info to it.*

Nancy - Carol Raso was going to e-mail you concerning this fax. The memo on the Child Support meeting in D.C. pretty well explain where we are on the matter. The second memo is one Jodi Wank to get to the POTUS concerning the situation. The folks at U.S. Dept of Human Services will be making a decision ^{mid to} the latter part of this week. It means \$6.5 million dollars for our ^{floor} state. Please help. Thanks

I will be out this afternoon. Mary Ann

The message following this cover page is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communications in error, please notify us immediately by telephone and return the original message to us via the U.S. Postal Service.

If problems occur during transmission, please call (501) 682-7771 and the receptionist will assist you.

P6(b)(6)

**CHILD SUPPORT MEETING WITH HHS
FEBRUARY 22, 1999
SUMMARY REPORT**

Governor Mike Huckabee, State Representatives Mary Ann Salmon and Jim Magnus, State Senators Jodie Mahony, Doyle Webb and Morrill Harriman, DFA Director, Richard Weiss, DFA Deputy Director, Tim Leathers and Arkansas Child Support Administrator, Dan McDonald, met with representatives of HHS and Federal Child Support Administration in D. C. The purpose of this meeting was to seek relief from a disallowance of \$6.5 in federal matching funds for a mandated child support system.

The facts in this matter were not disputed at the meeting. Arkansas has an exemplary record of implementing and administering federally mandated child support programs. Arkansas has been at the forefront of adopting federally mandated laws to secure support for children. This disallowance of funding was not for improperly spending money. The funding for contracts was disallowed because the previous child support administrator did not seek prior approval of the contracts. Dan McDonald discovered the oversight when he came to Child Support and immediately sought approval of the contracts. HHS admits that the contracts would have been approved if they had been timely submitted.

HHS took the position at the meeting that they have been consistent in denying payments on contracts that were not preapproved, even though the law they cite for disallowing the contracts specifically states that they "may" disallow. The Arkansas group informed them that under these circumstances, HHS actions were arbitrary and capricious because they were not even considering exercising their authority under law and were automatically seeking to implement form over substance. It was also pointed out to the Federal officials that because of their mandating and approving the project before and after the fact, the disallowed contracts had their de facto approval.

The Arkansas delegation emphasized that Federal child support officials represent themselves as "partners" with state child support agencies and represent that they want to work together for the support of children. Since it is admitted that these contracts would have been approved and the money was not misspent, the only purpose the disallowance serves is to hinder the Arkansas program. This disallowance will damage the reputation of HHS.

and Arkansas Child Support Enforcement with the clients they serve. It will also hinder their ability to achieve support from Arkansas taxpayers and the Arkansas Legislature.

The Arkansas delegation pointed out that time is of the essence to resolve this matter. We are in the middle of our legislative session and must resolve this funding issue in the next few weeks. We pointed out that \$6.5 million is not a great deal of money in Washington circles, but it is a serious amount to take from a state budget of our size which is mostly spent on education, human services and prisons.

Governor Huckabee pointed out that regardless of what the HHS policy had been in the past, a policy adjustment was in order for this case. He suggested two alternatives to disallowance of funding. One alternative would be to impose a reduced penalty similar to the penalty for states that, unlike Arkansas, did not comply with mandated federal laws to implement their systems on time. He pointed out that Arkansas was being punished for following these requirements.

Governor Huckabee also suggested an alternative to let the formal disallowance stand, without any monetary penalty so long as Arkansas complies with federal mandates and guidelines. Technically, HHS would not be waiving the penalty, they would be encouraging compliance, which supposedly is the reason for the penalty. Also, the Arkansas Child Support program would not suffer.

The Federal officials promised to take our arguments under consideration and deliver a decision in 10 days.

MEMO TO The Honorable Bill Clinton
President of the United States
Washington, D. C.

FROM Jodie Mahony
Arkansas Senator
State Capitol
Little Rock, AR 72201

SUBJECT Child Support in Arkansas

DATE February 25, 1999

I'm proud of what we have done on Child Support in Arkansas. We have worked hard since 1984 in changing the entire mind-set concerning the obligation to support one's children financially.

Despite comparatively less resources, we have consistently outperformed our surrounding states. We have never failed to pass the requirements given to us by the Federal Congress. The leadership in our state has tried to go beyond those mandates, find out the things that were working in other states, and enact them into Arkansas law. We have seen our Constitution overridden, our laws and policies reversed, mandates given to our judges, our clerks and our lawyers. All of this was done because we were doing the right thing.

We were the first state in the nation to pass UIFSA and consistently in the forefront with other laws and policies, including administrative policies to simply and more effectively collect child support. We have bullied business interests to make sure kids had a better chance. (I can make a good argument that Child Support Enforcement, properly implemented is the most effective educational tool in Pre-K and Elementary grades.)

At the NCSI, we have consistently supported the Child Support mandates as being good and necessary ones.

When our Department of Human Services used Child Support money for lawyers to support other services, we moved Child Support to the Department of Finance and Administration to ensure the proper use of Federal Child Support "profit".

We were able for a number of years to be self-supporting (thanks to the federal contribution). That is no longer possible and hasn't been for the last two years. We are not happy with having to use state General Revenue, but we have not complained. It does however make our job in getting the right laws on the books and the right attitudes in place that much harder.

We got our automated system in place within the extended time frame. We have made good decisions in acquisition of hardware and software. We work with Region VI and Judge Ross when we have difficulties. We have spent money wisely.

We did get prior approval for our overall plan to implement automated systems. We have our clearing house in place.

California and other states did not and will not for some time. They were given a slap on the wrist – admittedly by the Congress. We have been given a near fatal shot to the body. It is a triumph of bureaucratic form over substance. California frittered away fifty plus million while we did not fritter away a penny. We think the penalty for a mistake which did not hurt anything should have a considerably more equitable punishment than is being contemplated.

The law says the Department “may” take the proposed actions – it does not say “shall”. There seems to be no good substantive reason for the harsh penalty.

- **ESEA Consultations:** IGA and DOEd will meet with the staff of Democratic governors on Tuesday to consult about our accountability proposal. The NGA Task Force on ESEA Reauthorization will include Governors Hunt (D-NC), Davis (D-CA), Barnes (D-GA), Patton (D-KY), Ridge (R-PA), Huckabee (R-AR), and Kempthorne (R-ID).

- **TANF:** Governors Thompson (R-WI), Ventura (Reform-MN), and Fordice (R-MS), have sent letters to you this week voicing their strong opposition to any budgetary cuts in the Temporary Assistance for Needy Families (TANF) funds. The NGA is inundating the Hill with letters opposing TANF cuts as an offset for the Central America disaster relief supplemental appropriation.

Reed
 • Will call the Gov
 well?

Arkansas/Child Support Enforcement: On February 22, Governor Huckabee (R-AR) met with senior officials at HHS and asked for relief from an HHS decision to deny Federal funds for several systems-related contracts which the Arkansas child support enforcement program neglected to submit for prior approval. The Office of Child Support Enforcement and the Office of the General Counsel at HHS have carefully reviewed Arkansas' request and have concluded that there is no relief they can offer.

Y2K

- **State Summit on Y2K Conversion sponsored by the National Governors Association:** Today I spoke to representatives from 39 states and the Federal government who are attending a two day session, designed to share information regarding state responses to the Y2K challenge to better coordinate efforts with federal officials. Other issues discussed included addressing public perception and state public outreach activities, state working relationships with local governments and small business, coordination with public utilities and banks, assessment of health care and water systems, maintaining state regulatory responsibilities, and business continuity planning.
- **IGA hosted a State/Local Y2K Sector Meeting:** On Tuesday March 9, we hosted a meeting with John Koskinen and representatives of the state and local government sector to discuss the current state of preparedness for the Y2K challenge and what additional outreach activities should be undertaken to improve state, local, tribal and federal government coordination.

NATIONAL LEAGUE OF CITIES

- To close out this year's National League of Cities (NLC) meeting, Mrs. Gore and Secretary Herman spoke to more than 3,000 elected officials from across the country on Monday, March 8. Mrs. Gore highlighted the problem of homelessness

WR-child support



Cynthia A. Rice

03/18/99 02:07:08 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
bcc:
Subject: NEW Update on Arkansas child support

In response to our questions, HHS has discovered an embarrassing (to them) fact but one that should help us provide the President a response more to his liking: Since 1992, HCFA has been interpreting the same regulation differently in Medicaid cases than ACF has been for child support. HCFA has been allowing federal match for computer systems without prior approval in certain limited circumstances (if the transaction would have been approved had prior approval been sought and if the state agrees to institute controls to ensure prior approval requirements are met in the future.) Rather astounding that they didn't discover this before Kevin met with the Governor. Anyway, HHS is pulling together their key people now to work through the implications of having a uniform agency wide policy (if ACF uses the HCFA rules for Arkansas, they may be subject to lawsuits from states they've turned down in the past). We've suggested some other possibilities too (using TANF or SSBG funds, spreading payments out over 10 quarters) for which they are examining the implications. I'll push them and keep you posted. Call me if you'd like to discuss (62846)

Cynthia A. Rice



Cynthia A. Rice

03/18/99 12:33:15 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP, J. Eric Gould/OPD/EOP
Subject: Update on Arkansas child support

Bruce asked me to send you a note on Arkansas child support. We're finishing a memo to the President but are pushing HHS to come up with some more responsive options.

Here's where things stand.

HHS policy since 1986 has been to deny federal match for contracts for which states have not received prior approval. They have never made an exception -- in fact during the last year, they've taken this position with California, Hawaii, Kansas, Nevada, Pennsylvania, South Dakota, and West Virginia. The contracts under dispute are for child support computer systems. The rationale for requiring federal approval is to ensure the contracted services meet basic programmatic requirements before the federal government commits to pay 66 percent or more of their costs.

Arkansas does not dispute that they didn't submit the contract for federal review early enough. But they've asked that the penalty be reduced or waived. HHS agrees that if the contract had been submitted earlier they would have approved it. However, HHS strongly opposes making an exception, even in this case.

As I said, we are working with HHS to develop some better options ASAP -- we'll send you more on that shortly. One issue to consider: there is apparently an on-going FBI investigation of child support contracts in Arkansas, related to contracts being awarded to members of the state legislature. The Lexis/Nexis search I did pulled up dozens of articles mentioning the investigation, which apparently began in November 1997 with a raid of State Senator Nick Wilson's office. As a result of the publicity surrounding this investigation, the legislature passed and Huckabee has signed into law new ethics rules. However, according to the press, the investigation is on-going, under the direction of US Attorney Paula Casey. I'm not saying that I have any indication that there's a connection between the contracts for which the state didn't see federal approval and this investigation, but I just wanted to flag for you that the issue of child support enforcement contracts in the state is under a great deal of scrutiny right now.

Message Sent To:

Maria Echaveste/WHO/EOP
Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Laura Emmett/WHO/EOP
J. Eric Gould/OPD/EOP

Wp-child support

PAGE 2

2ND STORY of Level 1 printed in FULL format.

Copyright 1998 Associated Press
AP Online

December 31, 1998; Thursday 14:24 Eastern Time

SECTION: Washington - general news

LENGTH: 367 words

HEADLINE: Government Collects From Deadbeats

BYLINE: DOUGLAS KIKER
AP-Child-Support-Collection ,0400

DATELINE: WASHINGTON

BODY:

Government efforts to force deadbeat parents to pay their delinquent child support appears to be working. Figures released Thursday by the Department of Health and Human Services show a significant increase in collection of overdue money.

The total number of delinquent child support payments that the government collected rose seven percent this year to a record \$14.4 billion, an increase of 80 percent over the past six years. The number is a compilation of both federal and state efforts nationwide.

Federal seizures of income tax refunds contributed greatly to the increase.

Thousands of deadbeat parents across the nation opened their tax refund envelopes only to find that the money they were expecting was used to pay their delinquent child support, officials said.

HHS seized \$1.1 billion in tax refunds from parents who were delinquent in their child support payments. More than a million American families in all 50 states received money owed to them by delinquent parents through the program.

Under the program, state governments report the names of parents who owe child support payments to HHS, which then notifies the delinquent parents of the impending tax refund seizure. If the parents do not pay their debt, the amount is deducted from their refund. HHS can also report the failure to pay to credit

agencies.

The White House also announced that next year's budget proposal will include funding to find and prosecute violators under new, strict laws that make moving across state lines to avoid paying child support a federal offense.

Coordinating collection and prosecution efforts between state and federal agencies has been very successful increasing the number of federal convictions 18-fold since the program's inception in May.

The program, currently in five states, would be expanded to 17 more states. The White House budget proposal asks for \$34 million from Congress to support legal staff in U.S. Attorneys' offices to deal specifically with deadbeat parents. Another \$12 million will be reappropriated by HHS to hire and train investigators.

A state-by-state breakdown of the \$14.4 billion in collections will be released later in the winter.

LANGUAGE: ENGLISH

LOAD-DATE: December 31, 1998

President Clinton Proposes New Child Support Crackdown and Announces a Record 80 Percent Increase in Child Support Collections
December 31, 1998 -- DRAFT 12/30 10:00am

Today, President Clinton announced a new child support crackdown aimed at the nation's most egregious child support violators. Despite record child support collections, there are still too many parents who flagrantly ignore their obligations to their children, and in his new budget, the President will propose to earmark \$[44] million to identify, investigate, and prosecute these deadbeat parents. The President took this action today as he released new evidence that his Administration's child support efforts are working: child support collections have gone up a record 80 percent since he took office, from \$8 billion in 1992 to an estimated \$14.4 billion in 1998, and the federal government captured a record \$1.1 billion of delinquent child support from federal tax returns this year.

highlight much more

Willful Failure to Pay Child Support is a Felony

In June, the President signed into law the Deadbeat Parents Punishment Act, creating two new categories of federal felonies for the most egregious child support violators, a measure he had called for in his 1997 State of the Union address. Many prosecutors say they would be able to prosecute even more child support cases if they had legal staff dedicated to the issue and if they received referrals after a complete financial investigation had been conducted.

??

New Child Support Law Enforcement Initiative

New Investigative Resources: Under this new initiative, the U.S. Department of Health and Human Services will establish investigative teams in five regions of the country to identify, analyze, and investigate cases for prosecution. These sites will serve 17 states plus D.C. which have 63 percent of the nation's child support cases. States will refer child support cases to these criminal child support screening sites, where trained investigative staff will locate the violator, document information needed for prosecution, and refer the investigated case to federal or state prosecutors as appropriate. These sites will be based upon a model law enforcement effort established in Columbus, Ohio earlier this year which has already resulted in 163 convictions or settlements and over \$3 million ordered to be paid. Additional sites will be established in New York, Baltimore, Dallas, and Sacramento. \$12 million in funds will be earmarked for this effort over the next five years, from the federal share of child support collections the law provides to the HHS Office of Child Support Enforcement for locating deadbeat parents, and the funds the HHS Office of Inspector General collects from its criminal investigations.

who?

??

New Prosecutorial Resources: To ensure U.S. Attorney's offices have the skilled legal staff they need to prosecute deadbeat parents, the President proposes to provide new funds for paralegals dedicated to the issue. His new budget will include \$[32] million over 5 years, \$5 million in FY 2000, for these staff. The U.S. Department of Justice expects to increase child support prosecutions significantly with these additional staff resources.

A Challenge to Law Enforcement in Every State: More and more law enforcement officials recognize that failure to pay court ordered child support is a crime and can be a major contributor to juvenile delinquency. Now, the Department of Health and Human Services and the U.S. Department of Justice will work in every state to encourage law enforcement to join our national effort to ensure America's children receive the support that they need and deserve by disseminating a model cooperative agreement as well as best practices on how law enforcement and child support officials can work together on behalf of America's children.

what kind of staff?
did it pro impact
how much of an impact in staff

extrajudicial

DRAFT

WR-child support

FOR IMMEDIATE RELEASE
Thursday, Dec. 31, 1998

Contact: Michael Kharfen
(202) 401-9215

**PRESIDENT CLINTON AND HHS SECRETARY SHALALA ANNOUNCE NEW RECORDS IN
CHILD SUPPORT COLLECTED**

President Clinton Announces Efforts to Increase Criminal Child Support Enforcement

President Clinton and HHS Secretary Donna E. Shalala announced today that the federal/state child support enforcement program broke two records in child support collections. They reported that the program collected an estimated \$14.4 billion for fiscal year 1998, an increase of 7 percent from 1997's \$13.4 billion and 80 percent since 1992 when \$8 billion was collected.

The second record is that the federal government collected over \$1.1 billion in delinquent child support from federal income tax refunds for tax year 1997. This amount was 3 percent higher than the previous year and a 70 percent increase since 1992. Nearly 1.3 million families benefited from these collections.

President Clinton also announced today new efforts to increase criminal enforcement efforts to collect child support. He announced the establishment of new task forces in four sites that will cover 17 states across the country to pursue chronic delinquent parents who owe large sums of child support. The new teams will be based on a model project in Columbus, Ohio. This year, HHS launched a Midwest law enforcement task force with the HHS Office of Child Support Enforcement and Inspector General's Office, U.S. Attorneys, state child support agencies and local law officials to work in a new investigative team. To date, the results have been very promising. Of 322 cases received from states, 260 were investigated resulting in 171 arrests with 163 convictions or settlements and over \$3 million ordered to be repaid. Also, the Department of Justice will work with HHS to enter into memorandums of understanding with state child support agencies to utilize the full federal criminal enforcement authority by insuring timely referrals of appropriate cases.

"Each year, we break child support records, more child get the help they need and deserve than ever before," said Secretary Shalala. "We will use every available means at our disposal to ensure that parents who simply refuse to meet their responsibilities but have the resources provide emotional and financial support to their children."

Under the federal tax offset program, state child support agencies report names of parents who owe child support payments and the overdue amount to the HHS Administration for Children and Families. These individuals are then notified in writing of the amount that will be withheld to cover their child support debt. That amount is then deducted from their income tax refund. The delinquency may also be reported to credit reporting agencies.

"For every child support dollar we collect, children have more hope they can rely on their parents instead of welfare for their well-being," said Olivia A. Golden, HHS assistant secretary for children and families. "We won't rest on our laurels, but spur ourselves to do more for the millions of children who don't receive child support."

Parents whose children receive Temporary Assistance to Needy Families (TANF) and whose unpaid child support totals \$150 or more may have their federal income tax refunds withheld. For tax year 1997, refunds were withheld on behalf of over 869,000 families with children receiving TANF. Parents of children who do not receive TANF must owe at least \$500 to have their refunds withheld. Nearly 428,000 non-TANF families benefited from the program this year.

For tax year 1997, the total amount collected was \$1.124 billion, up from \$661,771,371 in tax year 1992. For tax year 1997, the average collection was \$866.56. The average collection was \$873.06 for non-TANF families and \$863.36 for TANF families. Collections for tax year 1997 were made after tax returns for that year were filed in 1997 and refunds requested.

"This has been an exciting year for the child support enforcement program. Today's records add to our success with our new national directories of people employed and those who owe child support finding more than 1.2 million delinquent parents," said David Gray Ross, commissioner, HHS office of child support enforcement. "I congratulate all those dedicated workers in the nation's child support partnership that every day help put more food on the table and hope in the hearts of children."

Since taking office, the Clinton administration made child support enforcement a high priority, resulting in unprecedented financial support for children. In addition to the collection accomplishments, paternity establishment rose to nearly 1.3 million in 1997, an increase of over 250 percent, from 516,000 in 1992. The new child support enforcement measures included in the new welfare reform law are projected to increase collections by billions over the next 10 years.

The next page has a state by state list of the tax-offset collections and families.

###

Note: HHS press releases are available on the World Wide Web at: <http://www.dhhs.gov>.

DRAFT

State	Tax Offset Collection	Families
Alabama	\$25,751,891	27,391
Alaska	3,988,757	4,622
Arizona	11,404,946	11,953
Arkansas	13,537,260	15,700
California	151,286,394	150,052
Colorado	14,648,018	17,198
Connecticut	14,722,764	17,337
District of Columbia	2,936,434	3,368
Delaware	3,666,838	4,573
Florida	52,891,685	57,807
Georgia	30,919,451	34,949
Guam	274,383	275
Hawaii	5,411,774	6,506
Idaho	4,791,269	5,831
Illinois	39,218,600	45,563
Indiana	23,496,469	27,785
Iowa	17,851,601	21,837
Kansas	13,215,839	15,881
Kentucky	17,827,360	22,810
Louisiana	19,417,892	20,994
Maine	7,890,171	9,653
Maryland	22,458,245	25,487
Massachusetts	14,930,373	20,511
Michigan	60,701,723	73,422
Minnesota	9,471,659	13,278
Mississippi	16,786,885	18,730
Missouri	27,046,691	33,355
Montana	2,814,767	3,659
Nebraska	5,121,280	7,384
Nevada	5,168,632	5,909
New Hampshire	4,060,058	5,319
New Jersey	26,758,814	30,194
New Mexico	5,252,025	5,913
New York	48,758,599	56,134
North Carolina	27,267,247	32,418
North Dakota	2,843,006	3,835
Ohio	63,498,797	77,465
Oklahoma	12,553,545	14,069
Oregon	11,313,065	14,820
Pennsylvania	47,054,008	59,438
Puerto Rico	3,155,251	2,869
Rhode Island	2,618,691	3,529
South Carolina	10,203,403	11,648
South Dakota	3,075,695	4,248
Tennessee	24,840,377	25,445
Texas	94,726,951	104,203
Utah	6,174,805	7,304
Vermont	2,195,685	3,303
Virgin Islands	276,436	226
Virginia	21,806,163	26,988
Washington	27,410,054	33,523
West Virginia	8,588,782	10,979
Wisconsin	27,074,922	35,968
Wyoming	2,861,903	3,440
U.S.	\$1,124,018,361	1,297,104

Source: HHS Administration for Children & Families

WR - child support



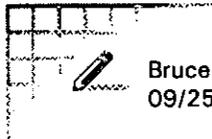
Cynthia A. Rice

09/25/98 12:51:29 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: FYI response from Bruce re: Draft Presidential quote

----- Forwarded by Cynthia A. Rice/OPD/EOP on 09/25/98 12:52 PM -----



Bruce N. Reed
09/25/98 12:48:47 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
bcc:
Subject: Re: For your review: Draft Presidential quote 

That's a long sentence for USA Today. How about something like, "No parent should be able to switch jobs or cross state lines to avoid paying child support. This deadbeat data bank [OR "powerful new tool"] will help us track down parents who owe child support and deduct it from their paychecks."

Rahm's out of town, but you should run it by Barry.
Cynthia A. Rice



Cynthia A. Rice

09/25/98 11:59:20 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cathy R. Mays/OPD/EOP
cc:
Subject: For your review: Draft Presidential quote

Bruce wanted Melissa Skolfield to get the President into the child support story she's giving to USA Today today. She thinks Rich Wolf will put in his story a quote from the President. Please review this quote. Once you've reviewed, I presume I should get Rahm and Barry Toiv to look at it as well?



Cynthia A. Rice

09/25/98 06:11:48 PM

Record Type: Record

To: John Podesta/WHO/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Dawn L. Smalls/WHO/EOP

Subject: Information about child support databases and privacy

John -- Bruce asked me to send you more information about child support privacy protections.

Q: Aren't there privacy concerns raised by these child support databases?

A: There are strong safeguards in place, required by federal law and enforced by the Department of Health and Human Services, to protect privacy and ensure that child support data are used only by authorized persons for authorized uses. These privacy protections were put in place on a bipartisan basis as part of the 1996 welfare law and penalties for violating these protections were strengthened as part of the Child Support Performance and Incentive Act of 1998 enacted in July.

Background

The 1996 welfare law required federal and state agencies using child support data to establish and implement safeguards against unauthorized use or disclosure of confidential information. HHS has put in place a series of security measures including

- 1) housing the data at the Social Security Administration's high security data facility;
- 2) transmitting data only over secured lines;
- 3) requiring staff working with data to undergo background checks and sign non-disclosure forms;
- 4) undergoing ongoing security assessments by an independent contractor as well as IRS, SSA, and GAO auditors.

HHS has also hired experts to train state staffs, and has the authority to withhold federal child support funds from any state that has not implemented proper safeguards. Potential violations would be reported to the HHS Inspector General for investigation.

A new provision enacted this July act requires agencies to put in place administrative penalties up to and including dismissal from employment and fines of \$1,000 for each act of unauthorized access, use or disclosure of the new hire data collected from employers. The statute requires these new penalties to be in place by October 1, 2000.

Diana Fortuna

06/24/98 01:05:19

PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Andrea Kane/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: House may pass Child Support Incentives bill today

It looks like the House and Senate are at or close to a pretty reasonable deal on the child support incentives bill. The House may pass the compromise today. Here are some highlights:

- On penalties for failure to have a certified child support computer system, they found a middle ground. Penalties would be 4%, 8%, 16%, 25%, and 30% for years 1-5, respectively, beginning in FY98.
- There are two breaks on penalties. First, if a state cleans up its act and gets certified during a fiscal year, it would have 90% of that year's penalty forgiven. Second, there is a special break for FY98 penalties: if a state asks HHS to review its computer system by August 1, 1998 and then gets certified as a result of that review, it would have no penalty for FY98.
- No special help or relief for LA County.
- The Cardin amendment will probably get jettisoned. The Senate doesn't like it. Cardin is trying to save it, but the House is prepared to proceed without it if he fails. (The Cardin amendment would require the INS to check for particularly egregious child support scofflaws who are legal immigrants at the border.)
- They reached a deal a while back on making it easier to establish medical support orders.
- Andrea will tell us more about the two welfare to work technical changes DOL is seeking.

The Senate is unlikely to take this up until after the recess, so that may give LA County some time to try to gin up support in the Senate over the break. (Procedurally, instead of a conference report, the House will take up the Senate bill, amend it, and send it to the Senate.)

WP-child support



Cynthia A. Rice

08/11/98 07:54:35 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP, Andrea Kane/OPD/EOP

cc:

Subject: Two technie child support rules to go final before Aug. 22nd

There are two very technical child support rules that will go final between now and Aug. 22nd (both were proposed in March in nearly the same form). Both relate to the \$400 million provided in the Personal Responsibility Act for child support computer systems. One simply finalizes the state formula for the funds. The other specifies what sort of Advanced Planning Document states must submit in order to get these funds. Under Keith Fontenot's guidance, OMB added safeguards to the rule last March to try to head off future state state computer systems problems, requiring states to meet milestones of progress to continue to get funds and to obtain review from independent computer systems experts.

WR-child support



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3130 - Child Support Enforcement and Incentives Act of 1998
Sponsors - Reps. Shaw (R) FL and Levin (D) MI

Last Day for Action

July 20, 1998 - Monday

Purpose

(1) Revises the Federal penalties on States for missing the statutory deadline to implement computerized child support enforcement systems, and (2) amends the formula used to calculate Federal child support incentive payments to States.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health and Human Services (HHS)	Approval
Department of Labor (DOL)	No objection
Department of Justice	No objection (Informally)
Department of State	No objection (Informally)
Department of the Treasury	No objection (Informally)
Social Security Administration	No objection (Informally)
Department of Agriculture	No comment (Informally)
Department of Education	No comment (Informally)
Department of Transportation	No comment (Informally)

Discussion

H.R. 3130 is bipartisan legislation primarily designed to: (1) revise the Federal penalty structure for States that failed to make the statutory deadline for automating their child support enforcement (CSE) systems, and (2) amend the Federal incentive payment system to encourage States to collect child support.

The major provisions of H.R. 3130 are summarized below. A more detailed description of the bill is enclosed with the HHS enrolled bill views letter.

Major Provisions of H.R. 3130

Alternative Penalties for States Without HHS-Certified Computerized CSE Systems.

The Family Support Act of 1988 required each State to implement, by October 1997, an HHS-approved, State-wide automated data processing system for enforcing child support orders. A State that failed to meet this deadline faced the penalty of losing its Federal CSE funding and, as a consequence, its Temporary Assistance for Needy Families (TANF) block grant. In January 1998, HHS notified 16 States and the District of Columbia of its intent to impose this penalty.

H.R. 3130 would create a less stringent penalty for HHS to impose on States in lieu of the current-law sanction for non-compliance with the automated CSE systems requirements of the Family Support Act. A State that missed the October 1997 deadline would be eligible to receive this alternative sanction if it: (1) demonstrates a good faith effort to meet the Act's system requirements and (2) has an HHS-approved corrective compliance plan for the CSE system's completion. Under the alternative penalty, a non-complying State would lose an amount equal to four percent of its Federal CSE funding for FY 1997. For each year without HHS certification, this penalty would increase up to a maximum of 30 percent of a State's prior year Federal reimbursement.

Under H.R. 3130, a State complying with the Act's CSE system requirements before the first day of the next fiscal year would have its current-year penalty reduced by 90 percent. The bill would allow HHS to waive the State penalty if it receives a State CSE system certification request by August 1, 1998, and subsequently certifies the system.

HHS Waiver of Single State-wide System Requirement. H.R. 3130 would expand HHS' current waiver authority to permit reimbursement of a States' costs for the components (i.e., computers and wiring) that comprise linked multiple CSE systems. To qualify for the waiver, States would have to demonstrate that their linked systems meet certain criteria, including that their alternative systems would process CSE cases as effectively and efficiently as would a single State-wide system.

CSE Incentive Payment Formula. H.R. 3130 would amend the formula used to calculate the Federal CSE incentive payments to States, phasing it in over three years. States would receive payments based on the amount of child support collected on behalf of welfare and non-welfare recipients, including former welfare recipients. The new formula, however, would more heavily weigh collections on behalf of former welfare recipients. In addition, the new formula would include five performance measures: (1) paternity establishment; (2) support orders obtained; (3) collection of current payments; (4) collection of payments in arrears; and (5) cost effectiveness of operating a CSE program. A State would receive a share of the Federal incentive payment pool based on its performance against the new "output" measures.

To ensure cost neutrality, the bill would cap the amount of the incentive payment pool. For FYs 2000-2008, the amounts (in millions) would be, respectively: \$422, \$429, \$450, \$461, \$454, \$446, \$458, \$471, and \$483. After FY 2008, the incentive payment pool would be indexed each year to the Consumer Price Index.

Medical Child Support Orders. H.R. 3130 would remove certain impediments to the administration and enforcement of medical child support orders – i.e., court-established requirements for non-custodial parents to provide employer-provided health insurance benefits to their children. The bill would require HHS and DOL to establish a National Standardized Medical Support Notice for employers to increase the likelihood that they would comply promptly with such an obligation. In addition, it would require HHS and DOL to: (1) establish a working group to identify impediments to the effective enforcement of medical support orders and (2) make recommendations to Congress on measures to remove such impediments. (H.R. 3130 would retain the current law proviso that does not compel any employer to provide health benefits that would not otherwise be provided to an employee or his or her child.)

Miscellaneous Provisions of H.R. 3130.

H.R. 3130 contains a number of other provisions, the most significant of which are summarized below.

National Directory of New Hires (NDNH). The NDNH is an automated data base containing employer-supplied information on newly hired employees. Currently, this information can be retained indefinitely and is primarily used to enforce non-custodial parents' child support obligations. H.R. 3130 would generally restrict the retention of NDNH information to 24 months after its entry. The bill would also establish penalties, including fines, for unauthorized access and use of NDNH information. In addition, under certain circumstances, it would require HHS to notify Congress about the purposes for which NDNH information will be used.

Welfare-to-Work. H.R. 3130 would allow a State's Welfare-to-Work program to count spending on certain non-custodial parents toward the current-law requirement that 70 percent of program funding be spent on low-income individuals.

Limitation on Use of TANF Funds. H.R. 3130 would restrict a State's use of its Federal TANF funds to meet the matching requirements for the Job Access and Reverse Commute (JARC) grants authorized in the Transportation Equity for the 21st Century Act (P.L. 105-178). TANF funds can only be used for this purpose if the JARC grant would: (1) provide new or expanded transportation services; (2) supplement, not supplant, other State transportation expenditures; and (3) primarily benefit TANF recipients or other low-income individuals.

Pay-As-You-Go

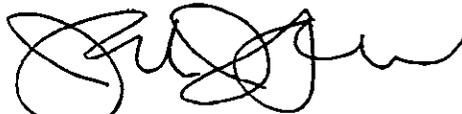
H.R. 3130 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. This Office estimates that the bill would result in net savings of \$36 million in FY 1998 and a total of \$348 million during FYs 1998 through 2003.

Conclusion and Recommendations

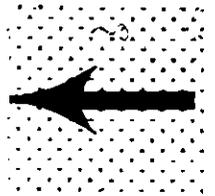
In its views letter, HHS "strongly supports enactment of H.R. 3130." HHS notes, however, that it remains concerned that the bill allows States to link county-based CSE systems as an alternative to an integrated State-wide system. In addition, HHS states, "[w]e are also disappointed that the ADP penalty provisions in effect extend the implementation deadline [for the CSE systems] and allow States to earn forgiveness of substantial portions of applicable penalties."

DOL, in its views letter, notes its technical concerns about the bill's provision restricting the use of Federal TANF grant funds to meet the matching requirements of the JARC program. Labor offers "to work with the Department of Transportation and HHS regarding [its] interpretation" of this provision. In addition, DOL states that it looks forward to working with HHS on recommendations to Congress for "additional appropriate legislation" necessary to address the remaining impediments to effective enforcement of medical child support orders.

We join HHS in recommending approval of H.R. 3130, which passed the House by voice vote and the Senate by unanimous consent.



Jacob J. Lew
Acting Director



Enclosures

DRAFT

President's Statement on Signing of HR3130 (to be released to press)

I am pleased to sign into law H.R. 3130, the Child Support Performance and Incentive Act. This Administration has conducted an unprecedented campaign to increase parental responsibility and ensure that parents support their children. We have had many successes. Through tougher enforcement, we have collected a record \$13.4 billion in child support, an increase of 68% since 1992, with 1.4 million more families now receiving child support. In addition, we located one million delinquent parents during the first nine months of a new collection system that tracks parents across state lines -- a system enacted as part of the 1996 welfare law and first proposed by my Administration in 1994. On paternity establishment, which is often the crucial first step in child support cases, we set a record in 1997 -- 1.3 million paternities established, or two and a half times as many as in 1992. Last month, I signed the Deadbeat Parents Punishment Act, a law based on my Administration's 1996 proposal to crack down on egregious child support evaders by creating a new felony offense for those who flee across state lines to avoid supporting their children.

But there is much more that we can and must do. H.R. 3130 will build on this progress and help ensure that parents give their children all the support they need and deserve. First, the new law puts in place additional tough penalties for states that fail to automate their child support computer systems on time. Under this new law, states that fail to establish these state-wide systems face automatic and escalating penalties, ranging from 4% of funds for the first year to 30% for the fifth year in which a state fails to meet national standards for system performance. Second, the law incorporates a proposal that my Administration sent to Congress last year to reward states for their performance on a wide range of key child support goals, such as the number of paternity establishments and child support orders, rather than only on cost-effectiveness, as current law provides. Third, the law will make it easier for states to secure medical support for children in cases in which the non-custodial parent has private health insurance, by facilitating the creation of a medical support notice that all insurance companies will recognize.

Many members of Congress, Administration officials, state officials, experts, and children's advocates worked together constructively in a bipartisan fashion to craft this valuable piece of legislation, and I wish to thank them for their efforts. In particular, I would like to thank Reps. Levin and Shaw, and Senators Moynihan, Roth, Rockefeller, and Baucus.

WP-child support

**PRESIDENT CLINTON:
STRENGTHENING CHILD SUPPORT ENFORCEMENT**

June 24, 1998

"This bill today is a gift to our children and the future. The quiet crisis of unpaid child support is something that our country and our families shouldn't tolerate. Our first responsibility, all of us, is to our children."

President Bill Clinton
June 24, 1998

Today, at an Oval Office bill signing event, President Clinton announces the release of new statistics showing that the Administration's child support enforcement efforts have led to significant increases in child support collections, paternity identifications, and location of delinquent parents. The President will sign the Deadbeat Parents Punishment Act of 1998, which establishes tougher penalties for parents who repeatedly fail to support children living in another state or who flee across state lines to avoid paying child support.

LOCATING OVER ONE MILLION DELINQUENT PARENTS. As part of the 1996 welfare reform law, the National Directory of New Hires was established to help track parents across state lines and withhold wages from them. The New Hire directory enables child support officials to match records of delinquent parents with wage records from across the nation and begin collection procedures against them. This directory has now located over one million delinquent parents since its launch on October 1, 1997.

ESTABLISHING A RECORD NUMBER OF PATERNITIES. Improving paternity establishment has been a top priority of the Clinton Administration and is the crucial first step for children born out of wedlock to obtain the child support they need and deserve. In 1997, a record 1.3 million paternities were established, over two and a half times more than five years ago. Much of this success is due to the voluntary program begun by the President in 1994, which encourages fathers to acknowledge paternity at the hospital when the child is born.

RECORD INCREASES IN CHILD SUPPORT COLLECTIONS. With the passage of welfare reform, states were given new tools to go after parents who chose to walk away from their child support obligations, including the New Hire directory, streamlined paternity establishment, uniform interstate child support laws, computerized state-wide collections, and tough new penalties like driver's license revocation. In addition, the establishment of more paternities means more fathers are now legally obligated to pay support. These efforts have led to record results:

- In 1997, the state and federal child support enforcement program collected a record \$13.4 billion for children, an increase of 68 percent from 1992;
- The number of families actually receiving child support payments has increased to 4.2 million, a 48 percent increase since 1992.

INCREASING PENALTIES FOR DEADBEAT PARENTS. In July 1996, the President directed the Attorney General to draft legislation with stronger penalties for parents who neglect to pay child support, and today he will sign into law a bill with overwhelming bipartisan support.. The Deadbeat Parents Punishment Act of 1998 creates two new categories of felonies against those who evade child support:

- Traveling across state or country lines with the intent to evade child support payments will now be considered a felony if the obligation has remained unpaid for a period longer than one year and is greater than \$5,000;
- When a child support obligation has remained unpaid for over two years, or is in excess of \$10,000, willful failure to pay this support to a child residing in another state will be considered a felony.

SUPPORTING RESPONSIBLE BANKRUPTCY REFORM THAT DOES NOT HURT CHILDREN. The President will reaffirm his commitment to bankruptcy reform legislation that does not make it harder to collect child support and alimony. The Administration will work with Congress to produce responsible reform legislation that will continue to make protecting child support and alimony a top priority.

Final Paper
for
Child Support
Event 6/24

WR-child support

THE WHITE HOUSE
WASHINGTON

June 23, 1998

BILL SIGNING CEREMONY
H.R. 3811, THE DEADBEAT PARENTS PUNISHMENT ACT OF 1998

DATE: WEDNESDAY, JUNE 24, 1998
LOCATION: OVAL OFFICE
TIME: 9:00 AM - 9:30 AM
FROM: LARRY STEIN *LS*
BRUCE REED

I. PURPOSE

To sign H.R. 3811, the Deadbeat Parents Punishment Act of 1998 and highlight your Administration's leadership on child support initiatives.

II. BACKGROUND

The bill you are signing into law, the Deadbeat Parents Punishment Act of 1998 (H.R. 3811), is based on your 1996 proposal for tougher penalties for parents who repeatedly fail to support children living in another state or who flee across state lines to avoid paying child support.

This new law will strengthen the criminal sanctions in the Child Support Recovery Act of 1992 by toughening penalties (through reclassifying some offenses from misdemeanors to felonies) and creating new gradations of offenses to more effectively target and punish the most flagrant child support evaders. The need for the bill arose after lawmakers heard from police officers and prosecutors that current penalties were inadequate to penalize a parent who moves interstate, or out of the country, to intentionally evade child support penalties.

This new law will establish two new felonies in order to deal more effectively with egregious cases. First, traveling across state or country lines with the intent to evade child support payments will now be considered a felony if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000. In addition, when the obligation has remained unpaid for a period of longer than two years or is greater than \$10,000, willful failure to pay child support to a child residing in another state will be considered a felony. Those convicted under the new law will be subject to a maximum two year prison term.

H.R. 3811 was introduced in the House of Representatives on May 7, 1998 by Representative Henry Hyde (R-IL). The measure was quickly passed (402-16) by the House on May 12, 1998 and passed by the Senate, by unanimous consent, on June 5, 1998. Key sponsors for this legislation include Representatives Steny

Hoyer (D-MD), Representative Henry Hyde (R-IL), Senator Herb Kohl (D-WI) and Senator Mike DeWine (R-OH).

In addition to signing H.R. 3811, you will announce new statistics highlighting the success of Administration child support enforcement efforts. First, you will announce that a new child support collection system launched nine months ago has already located one million delinquent parents. The National Directory of New Hires was created under the new welfare reform law to compile all new hires and all wage and unemployment compensation records and match those records against delinquent parents. Since approximately one-third of child support cases are interstate, the directory is a key tool in our efforts to track down these parents. These one million matches would not have been found without this new system. Second, you will announce that the child support enforcement program established a record 1.3 million paternities in 1997. Overall, 68 percent more child support was collected in 1997 than in 1992.

Finally, you will reiterate that bankruptcy reform legislation should not make it harder to collect child support and alimony.

III. PARTICIPANTS

Pre-Brief Participants

The President
Attorney General Janet Reno
Rahm Emanuel
Larry Stein
Bruce Reed
Tracey Thornton
Cynthia Rice
Karen Skelton

Attending Signing Ceremony

Members of Congress

Senator Kohl (D-WI)
Senator DeWine (R-OH)
Senator Ron Wyden (D-OR)
Representative Steny Hoyer (D-MD)
Representative Lynn Woolsey (D-CA)

Agency Staff

Judge David Ross, Commissioner, Office of Child Support Enforcement, HHS
John Monahan, Principal Deputy Assistant Secretary for Children and Families, HHS
Donald Deering, Chief of Law Enforcement, Office of Child Support Enforcement, HHS
Nicholas Soppa, Assistant to the Commissioner, Office of Child Support Enforcement, HHS

Mother affected by legislation who is introducing you

Ms. Sonia Evans (Biography attached) and her twin sons Jesse and Jonathan.

Mothers

Ms. Leslie Sorkhe

Ms. Bobbie Coles

Prosecutors

Helen F. Fahey, U.S. District Attorney for the Eastern District of Virginia (Ms. Fahey has taken a leading role in the prosecution of child support evaders.)

Jerry Smagala [smuh-GAH-luh], U.S. Assistant District Attorney for the Eastern District of Virginia (Mr. Smagala, has successfully prosecuted 23 cases in the last year, including one of the largest cases in the country.)

Advocates within the Women's Community

Joel Bankus, National Child Support Enforcement Association

Janet Chung, National Partnership for Women and Families

Christina Firvida, National Women's Law Center

Geraldine Jensen, President of the Association for Children for Enforcement of Support (ACES), advocacy group that pushed for this bill

Vicki Turetsky, Center for Law and Social Policy

IV. SEQUENCE OF EVENTS

- **The President**, accompanied by Sonia Evans, enters the Oval Office and proceeds to the toast lectern.
- Sonia Evans makes brief remarks and introduces **the President**.
- **The President** makes remarks.
- **The President** proceeds to the desk, where he joins Attorney General Janet Reno, five members of Congress, Jerry Smagal, Leslie Sorkhe and Bobbie Coles.
- **The President** signs the act.
- **The President** greets guests and departs.

V. PRESS PLAN

Open Pool Press

VI. ATTACHMENTS

- Biography of Ms. Sonia Evans

Biography of Ms. Sonia Evans

Sonia Evans is a mother of twin nine year old boys. Their father fled before his children were born and moved from state to state (New Jersey, Pennsylvania, and Colorado) for many years refusing to pay child support. About two years ago, when he returned to Minnesota, she was able to get support withheld from his paycheck until he lost his job and disappeared again. Just two months ago, using new computer databases created by the 1996 welfare reform act, the Minnesota child support office was able to find him and begin garnishing his wages again. Now, Sonia has received three child support checks in a row and she couldn't be happier. "I never would have found him without help from the child support office," she said. Sonia strongly supports the provisions of the Deadbeat Parents Punishment Act, which the President signed into law today, saying she thinks a threat of a felony will keep her children's father from fleeing again. Sonia lives in Blaine, Minnesota, just north of the Twin Cities, and works for a bank as a fraud control officer. Her twin sons, Jonathan and Jesse, will join her today in introducing the President.

**President Clinton Hails Child Support Progress and Signs into Law
Tough New Penalties for Deadbeat Parents**

June 24, 1998

Today, President Clinton will announce new statistics highlighting the success of Administration child support enforcement efforts and will sign into law tough new penalties for parents who repeatedly refuse to pay child support. At an Oval Office ceremony, the President will announce that a new child support collection system launched nine months ago has already located one million delinquent parents and the child support enforcement program established a record 1.3 million paternities in 1997. Overall, 68 percent more child support was collected in 1997 than in 1992. The bill he will sign into law, the Deadbeat Parents Punishment Act of 1998, is based on his 1996 proposal for tougher penalties for parents who repeatedly fail to support children living in another state or who flee across state lines to avoid supporting them. Finally, the President will reiterate his position that bankruptcy reform legislation should not make it harder to collect child support and alimony.

New Hire Directory Finds One Million Delinquent Parents. Today, the President will announce that the new National Directory of New Hires had located one million delinquent parents since its October 1, 1997 launch. The directory, proposed by the President in 1994 and enacted as part of the 1996 welfare reform law, helps track parents across state lines and withhold their wages by enabling child support officials to match records of delinquent parents with wage records from throughout the nation. Approximately one-third of all child support cases involve parents living in different states.

A Record Number of Paternity Establishments. The President will also announce that the child support enforcement program established a record 1.3 million paternities in 1997, two and a half times the 1992 figure of 510,000. Much of this success is due to the in-hospital voluntary paternity establishment program begun by the Clinton Administration in 1994 which encourages fathers to acknowledge paternity at the time of the child's birth.

A Record Increase in Child Support Collections. In 1997, the state and federal child support enforcement program collected a record \$13.4 billion for children, an increase of 68% from 1992, when \$8 billion was collected. Not only are collections up, but the number of families that are actually receiving child support has also increased. In 1997, the number of child support cases with collections rose to 4.2 million, an increase of 48% from 2.8 million in 1992.

New Felony Penalties for Egregious Failure to Pay Child Support. The President called for these tough new penalties in July 1996 and again in his 1997 State of the Union address. This new law creates two new categories of felonies, with penalties of up to two years in prison, for more egregious child support evaders:

- Traveling across state or country lines with the intent to evade child support payments will now be considered a felony if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000.

- When the obligation has remained unpaid for a period of longer than two years or is greater than \$10,000, willful failure to pay child support to a child residing in another state will be considered a felony.

This bill was sponsored in Congress by Representatives Hyde and Hoyer and Senators DeWine and Kohl, and had overwhelming bipartisan support in both houses.

Responsible Bankruptcy Reform that Doesn't Hurt Children. Finally, the President will reiterate his position that bankruptcy reform legislation should not make it harder to collect child support and alimony. The Administration will work with Congress to produce a bankruptcy reform bill that asks responsibility of both creditors and debtors, while stemming abuse. In those discussions, the President will continue to make protecting child support and alimony a top priority. The House and Senate bills still raise the concern that additional debts will survive bankruptcy and compete with child support and alimony payments for scarce funds.

**Number of Delinquent Parents
Located through National Directory of New Hires
10/01/97 - 6/11/98**

State	Estimated NDNH Case Hits
AK	3,828
AL	13,753
AR	13,205
AZ	44,449
CA	123,313
CO	23,513
CT	19,967
DC	4,517
DE	3,807
FL	33,230
GA	14,423
GU	153
HI	6,339
IA	22,141
ID	4,886
IL	26,837
IN	15,437
KS	18,165
KY	12,822
LA	14,935
MA	25,114
MD	13,878
ME	6,038
MI	50,146
MN	15,228
MO	42,349
MS	21,287
MT	5,701
NC	14,391
ND	3,846
NE	24,603
NH	7,440

NJ	20,413
NM	2,726
NV	5,488
NY	55,447
OH	34,719
OK	8,627
OR	8,494
PA	25,464
PR	1,031
RI	2,853
SC	8,895
SD	3,643
TN	16,658
TX	75,962
UT	16,096
VA	23,928
VI	28
VT	2,128
WA	21,452
WI	32,706
WV	10,702
WY	5,151
TOTAL	1,032,352

Child Support Q&A

June 24, 1998

Announcement

Q: What did the President announce today?

A: Today, President Clinton announced new statistics highlighting the success of Administration child support enforcement efforts and signed into law tough new penalties for parents who repeatedly refuse to pay child support.

At an Oval Office ceremony, the President announced that a new child support collection system launched nine months ago has already located one million delinquent parents and the child support enforcement program established a record 1.3 million paternities in 1997. Overall, 68 percent more child support was collected in 1997 than in 1992.

The bill he signed into law, the Deadbeat Parents Punishment Act of 1998, is based on his 1996 proposal for tougher penalties for parents who repeatedly fail to support children living in another state or who flee across state lines to avoid supporting them.

Finally, the President reiterated his position that bankruptcy reform legislation should not make it harder to collect child support and alimony.

New Child Support Data

Q: How have you located a million delinquent parents in nine months?

A: The 1996 welfare reform law contains many proposals made by the President to help track deadbeat parents across state lines. One of those provisions is the New Hire Directory, which enables child support officials to match records of delinquent parents with wage records from throughout the nation. This information helps child support agencies not only locate deadbeat parents, but garnish their wages for the child support owed. The national directory went on line October 1, 1997 and has already helped locate over one million delinquent parents, many of whom had been on the run for years.

Q: What data is collected by the National Directory of New Hires?

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

procedures against them.

Q: What happens when a match occurs?

A: When a match occurs between employment information submitted to the-NDNH and child support case/order data, the information is returned to the state child support enforcement agency for processing. The agency will then initiate the next appropriate action, which could include establishing paternity, obtaining an order for support, or immediately issuing an income withholding order to have child support payments automatically withheld from the noncustodial parent's wages or other form(s) of income.

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

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

Q: Why has there been such an increase in paternities established?

A: Improving paternity establishment has been a top priority for the Clinton administration and a major issue for the nation's children in need. For children born out of wedlock, paternity establishment is the crucial first step to obtaining the child support they need and deserve. We have been moving forward aggressively on this issue by stronger enforcement tools and easier means to establish paternity, and the new data released by the President today show a remarkable rise in paternity establishments, from 510,000 in 1992 to nearly 1.3 million today.

Q: How much child support does the federal government collect each year for families?

A: In 1997, the state and federal child support enforcement program collected a record \$13.4 billion for children, an increase of 68% from 1992, when \$8 billion was collected. Not only are collections up, but the number of families that are actually receiving child support has also increased. In 1997, the number of child support cases with collections rose to 4.2 million, an increase of 48% from 2.8 million in 1992. (These data were released earlier this year, but have not received much attention.)

Q: What is behind the increases in collections?

A: There are a number of reasons for the record increase in collections. With passage of the new welfare law (Personal Responsibility and Work Opportunity Reconciliation Act of

1996), states were provided tough new tools to go after those who choose to walk away from their children. These tools included the new hire reporting, which requires that employers report all new hires to state agencies to compare against outstanding child support orders. Those records are also shared with the new National Directory of New Hires to find those parents who may have crossed state lines to avoid paying support. The new law also untangles the different state procedures for interstate collections which will make it easier to collect faster. As over 30 percent of child support cases are interstate, these two measures will ensure that a delinquent parent can no longer hide by moving to a different state. States are also using license revocation to boost child support payments and improved automation to make the program run more efficiently and effectively. Lastly, the huge increase in paternity establishments means that more fathers are now legally obligated to pay support.

Q: What else has the Administration done to increase child support collections?

A: The President has used executive authority to increase child support collections. He directed the Treasury Department to collect past-due child support from federal payments, including federal income tax refunds and employee salaries. The administration has taken steps to deny federal loans to any delinquent parents and make the federal government a model employer in child support enforcement.

Q: Didn't the President direct the federal government to become a model employer in terms of child support at one time. What ever happened to this pledge?

A: The goal of President Clinton's February 1995 Executive Order was to make the federal government a model employer with respect to child support. Following the order, HHS and the Office of Personnel Management undertook an extensive orientation for federal agencies to inform and make child support a priority. The main provisions directed federal agencies to cooperate and expedite the processing of state child support orders, ensuring that federal paychecks were withheld to get support to children, and to allow HHS to match records of federal employees with outstanding state orders. Both of these requirements were implemented. In fact, the federal government was a leader in the matching of employee records as it is now part of the requirements for all employers under the new welfare law. The Order directed further study in other areas to ensure more federal efforts, some are now features of the child support measures included in the new welfare.

Deadbeat Parents Punishment Act

Q: What does the Deadbeat Parents Punishment Act do?

A: This bill creates two new categories of felony offenses, subject to a two-year maximum prison term: (1) Traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000. (2) Willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period of longer than two years or is greater than \$10,000.

Q: **Where did this legislation come from?**

A: This bill results from the President's directive to the Attorney General of July 21, 1996 which asked the Attorney General to take several specific steps to strengthen child support enforcement efforts including "to draft legislation to amend the Child Support Recovery Act to establish a felony offense for a person who willfully fails to pay child support for a child in another State where there has been an egregious failure to meet child support obligations." In response, the Department of Justice transmitted legislation accomplishing this goal to the 104th Congress. The Department of Justice transmitted a similar bill this Congress and worked with Congress to produce this bill now being signed into law.

Q: **What does the current law provide?**

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

Q: **Why is this bill necessary?**

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

Q: **Why is there a need for federal prosecution in child support cases?**

A: The Department of Justice's prosecution effort is designed to create maximum deterrence, by aggressive criminal enforcement of the most egregious cases to not only punish defendants in those cases, but also influence the conduct of many other potential defendants who have failed or might otherwise fail to pay child support. Often, the threat

of prosecution is enough to force a parent to pay child support.

Q: How often has the Department of Justice prosecuted under current statute?

A: Overall, the Department of Justice has prosecuted approximately 437 child support cases. We are happy to report that the number of Child Support Recovery Act cases filed and the number of convictions obtained has increased every year since the Act's enactment.

Other Child Support Issues

Q: Rep. Hyde and some advocates believe that the child support enforcement program would work better if it was federalized with either the IRS or Social Security. Do you agree?

A: No. The federal/state partnership in child support enforcement has made substantial gains in securing support for children. Since 1992, there's been a 68 percent increase in collections, a 48 percent increase in the number of families receiving support and as announced today record numbers of delinquent parents found through the new hire reporting directory and more children than ever having paternity established. The new welfare law gave this partnership the toughest enforcement measures ever to ensure that parents meet their financial and emotional obligations to their children. We know that there are still children deprived of support and programs that can improve their services. Yet, the new measures are just now going into effect and we expect even greater accomplishments. Our goal is to achieve over \$20 billion collections by the year 2000 and we're well on the way. We're in the right direction with the state and federal partnership, we need not change course.

Sonia Evans

Sonia Evans is a mother of twin nine year old boys. Their father fled before his children were born and moved from state to state (New Jersey, Pennsylvania, and Colorado) for many years refusing to pay child support. About two years ago, when he returned to Minnesota, she was able to get support withheld from his paycheck until he lost his job and disappeared again. Just two months ago, using new computer databases created by the 1996 welfare reform act, the Minnesota child support office was able to find him and begin garnishing his wages again. Now, Sonia has received three child support checks in a row and she couldn't be happier. "I never would have found him without help from the child support office," she said. Sonia strongly supports the provisions of the Deadbeat Parents Punishment Act, which the President signed into law today, saying she thinks a threat of a felony will keep her children's father from fleeing again. Sonia lives in Blaine, Minnesota, just north of the Twin Cities, and works in the financial services industry as a quality control auditor. Her twin sons, Jonathan and Jesse, will join her today in introducing the President.

Diana Fortuna

06/26/98 05:12:03

PM

Record Type: Record

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

cc: Cynthia A. Rice/OPD/EOP, Andrea Kane/OPD/EOP, Laura Emmett/WHO/EOP

Subject: Child support incentives bill has passed both houses

the House yesterday and the Senate today.

Diana Fortuna

06/24/98 05:41:49

PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Latest on that other child support bill

The House will probably pass the child support incentives bill tomorrow morning, and the Senate may pass it Friday. (Another signing?)

In case we get asked what we think of it, we've drafted the following positive but vague response (we haven't actually seen the compromise yet, so we should be a bit careful). Laura, can you ask Elena to clear this?

While we have not yet had a chance to review the legislation just passed by the House, we are pleased that Congress appears to be moving toward passage of such a bill. We strongly support the bill's provisions to reward states based on their performance on key child support enforcement goals -- provisions that are based on an Administration proposal. We also support the bill's concept of an alternative penalty structure to guarantee that states face automatic and escalating penalties if they fail to automate their child support enforcement systems on time. We look forward to enactment of a bill that would accomplish these important goals.

Diana Fortuna

05/20/98 11:48:06

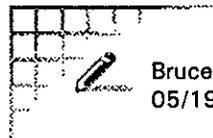
AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Cathy R. Mays/OPD/EOP
bcc:
Subject: Re: Developments on LA County child support 

This appears to be under control. HHS has agreed to a "do not oppose" position. (At first they pushed to keep opposing, which is why Monahan put in a call to you. You don't need to return that call.) Calls are going out to all the relevant players today to make our position clear. Karen Skelton has clarified our position to LA County. (Folks there thought we were supporting the exemption after Karen first talked to them, so we had to correct that misimpression.) The conference could happen quickly.

Bruce N. Reed



Bruce N. Reed
05/19/98 12:17:28 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP
cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP
Subject: Re: Developments on LA County child support 

I'm glad to know somebody is against this. Why don't we just clarify with Dennis Smith and Ron that our position is do not oppose (not support), so Dennis can kill it. Karen said she didn't care whether it happened or not, just that VP get credit for trying, which I'm sure she's already given him.

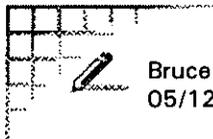
Diana Fortuna 05/13/98 03:10:24
PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP
bcc:
Subject: Re: Info from Haskins on LA County child support exemption 

I will do as you suggest in the attached, but I'm not sure how Kay's call to Ron will be any different than my call to Ron, or how it will allow the VP to claim credit for this if she doesn't step over the line and endorse it. Ron will tell her what he told me -- if we support it, they'll cave.

Bruce N. Reed



Bruce N. Reed
05/12/98 08:39:20 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Re: Info from Haskins on LA County child support exemption 

Diana, why don't you ask Kay Casstevens to discuss this with Ron -- not to endorse it, just to sound out the chances. I.e., what if we were to drop our opposition etc.

I still don't think this is good policy, and it's better if they tell us no -- but this way the VP could get points for trying.

Wp-child support

Diana Fortuna

05/19/98 12:09:25

PM

Record Type: Record

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

cc:

Subject: Developments on LA County child support

Bruce, after you talked to Karen, somehow the word got out on the Hill that we support this, rather than we don't oppose it. My best guess is Karen conveyed this to LA County last night, wittingly or unwittingly. (Kay Casstevens talked to Haskins, but she didn't go over the "do not oppose" line.) Dennis Smith is mad, since he brokered the Senate's lesser penalties with Feinstein. He says he now wants to reopen other issues that had been closed and says HHS needs to come up with a way to pay for this.]

I am putting together a conference call to clarify, since the difference between these 2 positions may be important. HHS is mad that the word went out without them knowing we were changing positions, and they may be calling around to complain on substance and process. They may still try to argue we should outright oppose this.

WR-child support

Diana Fortuna

05/04/98 11:07:38

AM

Record Type: Record

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

cc: Cynthia A. Rice/OPD/EOP, Julie A. Fernandes/OPD/EOP, Laura Emmett/WHO/EOP

Subject: Cardin amendment to child support incentives bill

We have voiced general support for the Cardin amendment to the House child support incentives bill, but we do have some concerns about it. It would exclude aliens who owe child support from admission to the U.S. and make them ineligible for visas. The INS is very concerned about the administrative burden this would create, since a check could be required every time an alien leaves the country, even if only for a day. The Center on Budget is working on an alternative that it hopes to sell Cardin on. (Cardin is motivated by one particular child support scofflaw -- a wealthy foreign businessman who isn't detected by other enforcement tools like wage withholding.) The Center's compromise is that a state can create a list of people for whom the usual enforcement techniques don't work, and the INS denies admission to those people based on that more limited list it maintains at the border. If Cardin OK's this compromise, I am told others on the Hill will be satisfied with it, too. I am assuming we would go along with this, but let me know if you disagree.

Diana Fortuna

05/07/98 03:50:33

PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP
Subject: LA County pushing on child support penalty exemption

Feinstein and LA County DA Gil Garcetti are pushing hard on an exemption for LA County from the child support penalty. Feinstein has called Erskine and the VP. Today at the briefing for LA County officials, Garcetti raised the issue to Podesta, according to Karen Skelton. Garcetti said Feinstein told him that "the issue was on the President's desk." Garcetti also said that it will be an uphill battle to get the President to change his mind from opposing a waiver to supporting one. Podesta supposedly responded that it may be possible for the WH to say that it does not oppose a waiver, though the WH would be hard pressed to say it supports a waiver. Feinstein is spreading the rumor that the Hill will support this if only we will support or not oppose, but that's not what we are hearing from Hill leaders -- they continue to show no interest in doing this.

While Karen wishes we would change our minds, she isn't taking this up the chain to try to overturn our current position of oppose. So in the meantime, we continue to tell LA County we're not persuaded that it's a good idea. Let us know if this doesn't make sense to you.



HARVARD LAW SCHOOL

CAMBRIDGE • MASSACHUSETTS • 02138

ELIZABETH WARREN
LEO GOTTLIB PROFESSOR OF LAW

Direct Phone: (617) 495-3101
Direct Fax: (617) 496-6118

Bankruptcy and Single Parents Professor Elizabeth Warren April 14, 1998

Many middle class families use the bankruptcy courts when they are in financial collapse. Both the Senate and the House have proposed legislation expressly to make access to bankruptcy harder and to change payment priorities for those in bankruptcy. (S. 1301 and H.R. 3150) The proposed changes would have a strong and disproportionate effect on single parents, mostly divorced women and other women relying on support payments to raise families.

During 1997, an estimated 243,000 to 325,000 bankruptcy cases involved child support and alimony orders.¹ In about half of these cases, women were *creditors* trying to collect alimony and child support from their bankrupt ex-husbands and others. In about half, women filed for bankruptcies themselves as they tried to stabilize their post-divorce economic condition. In the past five years, well over a million women collecting alimony and child support have been involved in bankruptcy cases.

Current law gives these women priority in collection. Alimony and support obligations are *not* dischargeable. The pending legislation, largely supported by the credit card companies, would put credit card charges on the same footing as support obligations, but there are only so many dollars available for collection from ex-partners.

¹The reported data are from the Consumer Bankruptcy Project, Phase II. Principal researchers are Dr. Teresa Sullivan, Vice-President of the University of Texas, Professor Jay Westbrook, Benno Schmidt Chair in Business Law, University of Texas, and Elizabeth Warren, Leo Gottlieb Professor of Law, Harvard Law School. These estimates are based on data collected in 1991 in sixteen judicial districts around the country. For more details about the study, see Sullivan, Warren and Westbrook, *Consumer Debtors Ten Years Later: A Financial Comparison of Consumer Bankrupts 1981-91*, 68 AMERICAN BANKRUPTCY LAW JOURNAL 121 (1994). The data reported here will be discussed in fuller detail in Sullivan, Warren and Westbrook, *THE FRAGILE MIDDLE CLASS* (Yale University Press forthcoming 1999). These data have not yet been published and are not for citation without permission.

While the points listed below are equally applicable in gender-reversal cases (husbands who collect alimony and child support from their ex-wives), as a practical matter women rearing families would be hardest hit by the proposed changes. In effect, both husband and wife often want the ex-husband's bankruptcy to succeed so that he can make his legally-required support payments. An increasing number of unmarried people are the recipients of support orders; these provisions apply to them as well.

Women as Creditors in Bankruptcy Would Be Hurt by Pending Legislation

Currently, alimony and child support, past taxes and educational loans survive a Chapter 7 bankruptcy. Recipients of child support and alimony are benefited when their financially troubled ex-spouses can discharge their other debts and get their finances in order so that they can make the payments on their non-dischargeable debts, including their alimony and support.

Because, in most cases, only the three debts listed above can survive a Chapter 7, a single parent who tries to collect post-discharge has a relatively clear shot at her ex-spouse's resources. Sadly, H.R. 3150 and S. 1301 would increase the amount of potentially non-dischargeable debt. For example, under the amendments, a debtor could not discharge credit card debt incurred within 90 days of bankruptcy or when the debtor could not reasonably contemplate repayment--or the compounding interest, penalties and late fees. A woman trying to collect child support would be in direct competition with credit card issuers and other commercial lenders in direct competition for the limited resources of the post-discharge ex-husband.

For debtors who file for Chapter 13, ex-spouses currently enjoy a preference in repayment. Typically, past-due alimony and child support can be paid on an accelerated schedule in Chapter 13. The proposed amendments would force debtors to pay all unsecured debt in pro rata installments with nondischargeable debts. This increases the length of time it will take a woman to collect past due support that she needs for basic living expenses while credit card issuers share pro rata with her. Because of the high failure rate in Chapter 13 (two of every three cases fail) and the impossibility of paying off the past due alimony and child support debt early in the plan, the proposals also increases the likelihood that a woman will never be repaid in full through a bankruptcy plan.

The proposed amendments also expand the range of nondischargeable debt in Chapter 13, so that more debt will survive bankruptcy, again increasing the competition for the ex-spouse's limited post-discharge income and decreasing the chance that nondischargeable alimony and support will, in fact, be paid.

Women as Debtors in Bankruptcy Would Be Hurt by Pending Legislation

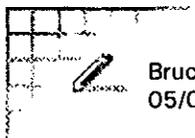
Efforts to close the doors to the bankruptcy courts fall on single parents who are trying to

stabilize their falling economic fortunes. These women are jointly liable on debts incurred during the marriage, including past due tax obligations, and their post-divorce incomes are often inadequate to provide for their going-forward expenses, with nothing left over to pay off past due debts.

The express provisions of HR 3150 actually force larger families (those with five or more members) out of Chapter 7 more often than smaller families (those with four or fewer members). The means test is pegged to median household income in the population generally, which declines as family size increases above four members. This provision falls hard on everyone raising children, including married couples, but it falls particularly hard on anyone raising a large family on a single income.

Single parents and others receiving support are not identified specifically in these proposed amendments to the Bankruptcy Code, but increasing the access credit card issuers and other consumer creditors have to their ex-husbands' incomes, puts these women into terrible competition for a very limited pool of dollars. Unlike other lenders, they have no opportunity to diversify their collection options, they cannot cumulate their debts at 23% interest or charge late fees and penalties, and they have no access to the sophisticated collection apparatus of a large bank. When women compete with sophisticated consumer lenders, they lose. Proposed HR 3150 and 1301 will set the stage for that competition.

Finally, it is worth emphasizing that the National Bankruptcy Review Commission declined to support any of these proposed changes. While there was no record vote on them, at best, only two Commissioners supported any of the proposals. The three Presidential appointees were outspoken in their opposition to these proposals—largely for the reason noted above.



Bruce N. Reed
05/05/98 07:50:01 PM

Record Type: Record

To: Jason S. Goldberg/WHO/EOP @ EOP
cc: Elena Kagan/OPD/EOP @ EOP
Subject: Your note on Feinstein request for mtg with EB & me on Child support

Feinstein is asking for a special exception for LA County, as part of a bill that already virtually excuses California altogether for its pathetic record on child support. (We included an item on this in our most recent weekly to the President, which you should have. We have not yet received his response.)

We should wait to hear back from the President. The DPC-OMB-HHS consensus recommendation was that in the absence of a compelling political reason to go along, we should say no to her request, because it will just invite dozens of other county exceptions, and it's very hard to justify on the merits. But he's not a big penalty guy, and may feel differently.

Once we hear from him, we can decide how best to deal with Feinstein, who is not the sort to take no for an answer. My advice would be, if the answer is no, Donna (or Donna and I) should talk to her and defend it on policy grounds. If the answer is yes, Erskine should deliver the good news.

*Yes or no the
news should come
from Bruce or Donna -*

Wp-child support

Diana Fortuna

05/11/98 12:59:14

PM

Record Type: Record

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

cc: Laura Emmett/WHO/EOP

Subject: Info from Haskins on LA County child support exemption

I just spoke to Haskins. He said Shaw doesn't want to take the lead on such an exemption but that, if someone else took a strong position on it, he would probably go along and not cause trouble. This is even though they think it's a bad precedent. I raised the possibility of our taking "not opposed" position, and he said this thing is dead if we don't do something on it. So our support would appear to boost an exemption's prospects more than we thought, but not a "not opposed" position. What do you think?



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

WR-child support

March 5, 1998
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 3130 - Child Support Performance and Incentive Act of 1998 Reps. Shaw (R) FL and Levin (D) MI

The Administration supports H.R. 3130, which would spur States' compliance with the current-law requirement for federally certified automated child support enforcement systems by imposing automatic and escalating penalties for those that fail to meet statutory deadlines. In addition, H.R. 3130 would reform the current incentive funding system to encourage States to operate more effective child support enforcement programs.

The Administration, however, is concerned about the provision of the bill that would allow Federal reimbursement for linked county-based child support enforcement systems. Such reimbursement may encourage States to try inappropriately to link local computer systems instead of creating functioning State-wide systems. If this provision is enacted, it will have a small impact on Federal costs. HHS, however, will ensure overall cost neutrality by serving as the final authority to determine whether a county-based system is equally functional to a State-wide system and scrutinizing State cost estimates, including baseline costs.

The Administration understands that an amendment to H.R. 3130 that would make aliens ineligible to receive visas and exclude them from admission to the United States for failure to pay child support. Although the Administration supports the goal of this amendment -- to provide additional incentives for aliens to pay child support -- we want to work with the Congress to address concerns regarding implementation of this proposal.

Pay-As-You-Go Scoring

H.R. 3130 would affect direct spending; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that H.R. 3130 would result in a net decrease in direct spending of \$35 million in FY 1998 and a total of \$166 million during FYs 1998-2003.

Wp-child support

Diana Fortuna

04/23/98 03:28:36

PM

Record Type: Record

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

cc: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP, Julie A. Fernandes/OPD/EOP

Subject: Position on House vs. Senate child support incentives bill

We are readying our position on the child support incentives bill. It's going pretty much as we would wish. Both bills have the same incentives, which we support. The chief difference is in the penalty structure. The penalty percentages are similar, but the Senate is much more generous because it allows states an extra year to comply without penalty, and lets them "earn back" prior penalties once they come into compliance. We plan to favor the House bill since it's tougher.

3 other issues: 1. The House bill includes a Cardin amendment to catch immigrants who owe a lot of child support at the border -- We presumably will favor but will propose to target more; INS may have issues. 2. The Senate bill would create standard form to do medical support orders (putting kids on non-custodial parents' health insurance) -- we favor, but DOL may have technical issues. 3. Senate wants to require HHS to discard data from the New Hire Data Base after 1 year if there is no "hit" on child support. HHS argues that they need it for 2 years to make sure employers are complying. Also, they want to keep some data indefinitely to evaluate the success of welfare reform. We're looking into this last point.

Let me know if any of this seems wrong. Also, you should know that the LA County DA is stepping up his push for an exemption for LA County from any Calif. penalty. He is pushing Karen Skelton, and she is asking us why we don't agree to their demand. So far, none of the players on the Hill are sympathetic to them either, but the heat may get turned up further.

Diana/Cynthia -

I didn't put this in last week's weekly. Let's give him something for next week that reminds him of where we are generally, and what the remaining issues are, and how they're being addressed. Thanks.

Elena



Cynthia A. Rice

01/27/98 03:25:43 PM

Record Type: Record

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

cc:

Subject: Sorry to bother you -- but pls look re: child support

Shaw is holding his child support computer systems subcommittee hearing on Thursday. If there's a quorum, they may mark up the Shaw-Levin bill.

Shaw and Levin have made every effort to be cooperative, and have incorporated every change we've asked for -- except one. The bill imposes the new penalties starting in June 1, 1998 -- that is, any state which completes its system between October and June will not be penalized. Flaskins says he needs that to get the support of states that are almost certified and that imposing new penalties retroactively is legally problematic. We told him that we've taken the strong position that we will not extend the deadline beyond October 1st.

The current plan is for HHS' testimony to be silent on this issue but Monahan, if asked, will say we oppose changing the date. Is this an acceptable solution to you?



Cynthia A. Rice

01/30/98 08:58:58 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: This AP story ran yesterday on child support

WASHINGTON (AP) -- Fourteen states would avoid severe penalties for failing to computerize their child support systems under bipartisan legislation.

Under current law, states that failed to put systems in place by last fall are supposed to lose all of their federal money to run child support collection systems. They also stand to lose their entire welfare block grants -- meaning millions and sometimes billions of dollars.

States facing penalties are Alaska, California, Hawaii, Illinois, Indiana, Maryland, Michigan, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania and South Carolina, plus the District of Columbia and the Virgin Islands.

The legislation, which is supported by the Clinton administration and has bipartisan support in the House, would reduce this year's penalty to 4 percent of the federal child support grant.

If states still haven't computerized by next year, the penalty would increase to 8 percent. It would grow to 16 percent in 2000 and to 20 percent in 2001 and subsequent years.

Computerization is important because they it lets states track parents who owe child support when they move from county to county or from state to state. Once every state is operational, a child support worker in Maine could ask a federal computer to search records for a deadbeat dad who might have moved and gotten a job in New Hampshire, New York or New Mexico.

In 1980, Congress agreed to pay 90 percent of the cost of computerization. In 1988, it required states to automate. Although the deadline has been extended once already -- and though \$2.6 billion in federal and state money has been spent -- 14 state systems are still not functioning statewide.

The rest of the states and territories have had their systems certified or they are ready to be certified.

No state would lose its welfare money for failing to computerize under the legislation, which is co-sponsored by Reps. Clay Shaw, R-Fla., and Sander Levin, D-Mich.]

The proposed changes in the child support collection system grant penalties would mean a lot to states.

For instance, under the current penalties, California would lose about \$340 million this year. Michigan would lose \$106 million, and Maryland would lose \$59 million.

Under the new legislation, California's penalty would drop to about \$13 million this year, \$26 million in 1999, \$52 million in 2000 and more than \$68 million in 2001.

The bill also provides for a new way to divide federal money to aid state child support collection programs.

The new system, which has wide support, would reward states that do the best job collecting payments.

The House was expected to vote on the bill by early March.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Diana Fortuna/OPD/EOP
Andrea Kane/OPD/EOP
Emil E. Parker/OPD/EOP



Cynthia A. Rice

02/11/98 12:37:57 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP
Subject: Denying federal licenses for failing to pay child support

HHS has produced a long list of federal licenses granted by 14 agencies, but -- without going to each agency -- we haven't yet been able to find out how many people hold these licenses and whether through executive action we could deny them to those who owe child support.

Thus, I'm afraid we need to go to the agencies.

Cabinet affairs has suggested I make this pitch at the next Chief of Staffs breakfast. I would probably thank them for their federal hiring efforts too. Does that sound okay to you?

Cynthia —
Ym bar.
Elea



Cynthia A. Rice

01/27/98 06:24:45 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP
bcc:
Subject: Re: child support

Good news -- we have I think persuaded Ron to move back on this issue -- not to impose the new penalties only after June 1, but to impose them on states that did not follow current law (notify HHS by Dec. 31st that they had statewide systems, and subsequently be found, through certification, to actually have one.) We'll know more when we see the revised language.

Bruce N. Reed



Bruce N. Reed
01/27/98 05:35:01 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: Re: Sorry to bother you -- but pls look re: child support

that sounds OK, I guess.

Cynthia -
What ever happened to this?
And where are we on this
bill generally?
Elena



Cynthia A. Rice

02/11/98 07:05:27 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP
Subject: Re: child support/booting cars

Judge Ross checked into the car booting idea -- here's what he said. It looks like we would be able to call on Congress to pass legislation and cite Virginia as a model, but that we wouldn't be able to do it as an executive action.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 02/11/98 07:03 PM -----



dross @ acf.dhhs.gov
02/11/98 06:19:00 PM

Record Type: Record

To: Cynthia A. Rice
cc:
Subject: Re: Re: Federal Licenses

We have talked about it and decided that, absent legislation - similar to what we have in the law regarding state license revocation, booting cannot be mandated by regulation. As you may know, the State of Virginia has begun a very aggressive program of booting and the State Director there tells me that it has been very successful. I have asked the editor of our Child Support Report that goes to employees across the nation, to feature the Virginia project in an article. We also do a best practices manual. If the results continue to be beneficial, we will include it in a future edition. It might be worthwhile, however, for the President to mention it in some future child support radio address. Hope this helps. David Ross.



Cynthia A. Rice

01/13/98 02:01:07 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP
bcc:
Subject: Child Support in State of the Union

We should know by mid-week next week if we can endorse the Shaw child support bill in the State of the Union.

The good news is that Haskins' timing works perfectly for the State of the Union: He's planning to introduce what will hopefully be a Shaw-Levin bill on Jan. 27th and hold a hearing with Judge Ross testifying on the 29th. We will see the draft bill this Thursday the 15th and will have a chance to make suggestions before it is introduced.

The bad news is that Haskins is planning to include a provision related to computer system statewideness about which HHS is likely to have serious concerns. California and some other states would like some exceptions written into current law so they can link together current county computer systems and have it count as a statewide system. The technical question is whether such linked systems can in the real world be as effective. HHS and GAO are looking at these issues now, but Haskins has made clear that he needs to satisfy the Californians on Ways and Means.

It's also interesting that Haskins is now planning to fold the incentives legislation into the penalty bill -- thus, what we say in the State of the Union could have a "carrot and stick" angle, such as:

To create more success stories like [Name] we must do even more to promote work and personal responsibility. -- increasing child support collections even further, We' ve increased child support collections by 63 percent, but we must ensure that all parents take responsibility for the children they bring into this world. We should start by passing the Shaw-Levin child support bill, which establishes tough new penalties for states that have failed to put systems in place to crack down on deadbeat parents and creates new incentives for states to increase child support collections. -providing vouchers to help families move closer to where the jobs are

It's a bit of a mouthful, but I'm sure Waldman could rescue it.

As you may recall, we now distribute over \$400 million a year to states based only on their child support system's cost effectiveness (ratio of collections to costs). We proposed early last year and there is now bipartisan consensus to distribute these incentive funds based on five more meaningful performance measures: 1) establishment of paternities 2) establishment of child support orders 3) collections on current child support due 4) collections on past child support due and 5) cost effectiveness.

Bruce N. Reed

WR-child support

1) language below
2) 800 m OK? what happened to mand review?



Cynthia A. Rice

01/09/98 07:38:26 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Emily Bromberg/WHO/EOP
Subject: Here's the child support language OMB sent HHS Friday night

We managed to push them pretty far, I think, although they pushed back a bit on the legislation issue (see third graph). I believe this does not commit us to send legislation to the Hill -- we only prepare legislation if we can get members of Congress to work with us on it.

The Child Support Enforcement Financing

The Federal government has a strong interest in seeing that the national child support system is effective. Funding of the Child Support Enforcement (CSE) program, however, remains needlessly complicated. States get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government.

Federal retention of TANF-related payments is a legacy of the old AFDC program in which States and the Federal government shared in the funding of AFDC, and therefore in the collection of child support for AFDC recipients. With welfare reform, States have great freedom to design assistance packages for families with dependent children. However, States must continue to share a portion of child support collections with the Federal government. This makes it difficult The need to share collections under both prior and current law may serve as a disincentive for States to pass through the full amount of child support to families and creates an unintended incentive for States to serve ~~TANF~~ needy families through programs funded only with State dollars. Spending on these "State-only" programs continues to count under the TANF maintenance of effort requirement, but child support collections on behalf of these families do not need to be shared with the Federal government.

The Administration will ~~hold~~ ~~begin~~ a dialogue with the stakeholders of the child support program to look at ways to address these problems, and in working with members of Congress will prepare legislation to be transmitted to Congress later this Spring. The Budget would also take a first step towards simplifying the child support funding structure by 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

what if
not by
Cant to
prepare//
in can be

Conforming paternity testing payments with the basic administrative match rate will simplify the funding structure and greatly increase the incentive for States to control paternity testing costs. These costs vary enormously from State to State. Paternity establishment is a vital step

in establishing and collecting support orders. With the expansion of voluntary paternity establishment authority and inclusion of paternity establishment in the child support incentive payment formula, we believe that the right incentives are in place to maximize the establishment of paternities without an enhanced match for paternity testing payments.

The hold harmless provision in welfare reform guaranteed States at least their FY 1995 State share of TANF-related collections no matter what their level of performance was. We believe that this sends States the wrong message and propose to eliminate this provision in order to assure that poorly performing States have an incentive to increase their TANF-related collections.

Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.



Cynthia A. Rice

01/14/98 01:08:35 PM

Record Type: Record

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

cc:

Subject: LA Time article on child support penalties

Unfortunately, this article refers to Shaw's plan to "reduce the sanction California faces this year from a projected \$ 4 billion to about \$ 10.8 million" and says that Shaw also "hopes to relax the law's requirement that states build strictly integrated, centralized systems." (this is the statewideness issue I flagged for you yesterday -- California wants permission to link county-based computer systems instead of creating a statewide one).

Note however, that California still complains.

Copyright 1998 Times Mirror Company
Los Angeles Times
January 14, 1998, Wednesday, Home Edition

LAWMAKER BACKS STATE'S BID FOR LOWER CHILD SUPPORT PENALTY

BYLINE: MELISSA HEALY and VIRGINIA ELLIS, TIMES STAFF WRITERS

DATELINE: WASHINGTON

BODY:

Under intense pressure from California state and county officials, the principal author of the 1996 welfare reform law is ready to propose changes to the landmark measure that could shield California from a devastating \$ 4-billion penalty in 1998.

Less than 18 months after the welfare law was enacted, Rep. Clay Shaw (R-Fla.) says Congress must scale back the automatic penalties that it would impose on states that fail to build centralized computer systems to track parents who owe child support.

Shaw is set to propose a new penalty formula that could reduce the sanction California faces this year from a projected \$ 4 billion to about \$ 12 million. Shaw also hopes to relax the law's requirement that states build strictly integrated, centralized systems.

Shaw's proposal would ease California's path to compliance by allowing the state to establish a loosely linked network of dissimilar county child support enforcement systems. ✓

Shaw, chairman of the House Ways and Means Committee's subcommittee on human resources, acknowledged that his draft plan is designed specifically to bail California out of its failure to meet the welfare law's requirements for a single, statewide computer system for child support enforcement.

The state has missed the first deadline to create such a system, and its efforts to build one have been stymied by massive technical and political problems.

"It's not entirely fair to those who really busted their backs to get the job done and tried to comply," said Shaw, who intends to air his proposals this month. "However, California's problems are more immense than many other states and there will be some penalty involved. But it won't take so much money out that it will be tremendously regressive."

Shaw's proposal, which has sparked controversy, comes as California's child support enforcement effort languishes in disarray. California collects support for less than 14% of the families that apply for it, and 3 million children receive nothing from the absent parent.

Many experts fault California's system of county-administered child support enforcement, whose parts are not linked by a single computer system. As a result, a Sacramento mother hoping to get child support from a father living in San Diego might have to deal with two distinct systems that do not easily communicate with each other and that may have vastly different rules and regulations.

The welfare reform law set out to fix that problem, mandating that each state have a "seamless" system that would track an absent parent's moves from county to county and make it easy to track whether that parent has kept up with child support payments.

Although California has spent \$ 100 million to build a computer system that would satisfy the requirements of the welfare law, Gov. Pete Wilson in November abandoned the project and canceled a \$ 103-million contract with computer giant Lockheed-Martin IMS. Wilson's action came after his administration concluded that it would cost more to correct problems with the Lockheed system than to launch a new effort.

But with that new effort not yet underway, the state is nearly certain to

remain out of compliance with the welfare law for several years. And under the terms of the law now on the books, that infraction could cost California its entire welfare block grant for each year that its system fails to meet the federal standard.

Under Shaw's plan, the secretary of the Department of Health and Human Services still would have to sanction California for each year it fails to institute an integrated system to track noncustodial parents. But the secretary would have the latitude to adopt a less punitive formula, dunning the state for 4% of its federal child support enforcement block grant--or about \$ 12 million--in the first year of noncompliance.

The amount of the less punitive sanction would increase over consecutive years from 8%--or \$ 24 million in California's case--of the block grant in the second year, to a ceiling of 20%--\$ 60 million in California--in the fifth year of noncompliance.

If a state initially fails to meet the requirements but comes into compliance later within the same year, Shaw's plan would allow the secretary to return 75% of the penalty to that state.

Shaw's proposal comes in response to feverish lobbying by California state officials as well as pressure from California lawmakers of both parties. Even district attorneys from throughout the state, who administer the separate county child support enforcement programs, have besieged Shaw with ideas to improve the law.

"I've spent more time on the California problem than on any other," he said.

The congressman's position represents a compromise. Many California officials have pressed for even more forgiveness for the state; children's advocates and the Clinton administration have sought slightly stiffer penalty provisions. The administration and children's advocates also have resisted any bid to ease the requirement for states to build centralized systems that can track the whereabouts and employment status of parents who owe child support. } ✓

In Sacramento on Tuesday, the director of the state's Social Services Department said the proposed penalties would represent an improvement over the current law. But she blamed federal officials for giving the state incomplete and sometimes inconsistent guidance in overseeing the program, and suggested that any penalty levied against the state would be unfair.

"If my choice is between \$ 10 million and \$ 4 billion, I will go with the \$ 10 million, but I would really rather not have that much," said Eloise Anderson. "What are they spanking our hand for? We tried to do exactly what they told us

to do and it didn't work. . . . I'm pretty upset about it because we really tried hard."

Healy reported from Washington and Ellis from Sacramento.

Wp-child support



Cynthia A. Rice

01/09/98 07:33:13 PM

Record Type: Record

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

cc:

Subject: Re: Please look at this child support proposal

fyi

----- Forwarded by Cynthia A. Rice/OPD/EOP on 01/09/98 07:37 PM -----



Cynthia A. Rice

01/09/98 05:30:23 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc:

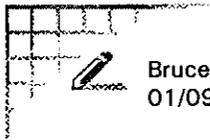
bcc: Records Management

Subject: Re: Please look at this child support proposal 

The enhanced match was added in the Family Support Act when states were first required to meet federal standards for establishing paternities, so it pre-dates us. I think we can argue that the enhanced match for these blood tests was necessary to get states to begin testing, but is no longer needed (this proposal will drop the federal match from 90 to 66%, the percent we pay for all child support enforcement costs). I'm not wild about it but I think we can justify it.

OMB may push back on our proposal to say we "will invite Congress to work together to prepare legislation" instead of "will prepare legislation to be transmitted to Congress." But I'll send this to them and let's see what they say.

Bruce N. Reed



Bruce N. Reed

01/09/98 05:13:37 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: Re: Please look at this child support proposal 

I guess that's OK. Was the enhanced match for paternity establishment a Clinton achievement, or

does that pre-date us?



Cynthia A. Rice

01/09/98 04:02:57 PM

Record Type: Record

To: Laura Emmett/WHO/EOP

cc:

Subject: Here it is 

Here is OMB's language with our proposed changes:

The Child Support Enforcement Financing

The Federal government has a strong interest in seeing that the national child support system is effective. Funding of the Child Support Enforcement (CSE) program, however, remains ~~needlessly~~ complicated. States get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government.

Federal retention of TANF-related payments is a legacy of the old AFDC program in which States and the Federal government shared in the funding of AFDC, and therefore in the collection of child support for AFDC recipients. With welfare reform, States have great freedom to design assistance ~~packages~~ for families with dependent children. However, States must continue to share a portion of child support collections with the Federal government. ~~This makes it difficult~~ The current structure may serve as a disincentive for States to pass through the full amount of child support to families and creates an unintended incentive for States to serve ~~TANF~~ needy families through programs funded only with State dollars. Spending on these "State-only" programs continues to count under the TANF maintenance of effort requirement, but child support collections on behalf of these families do not need to be shared with the Federal government.

The Administration will begin a dialogue with the stakeholders of the child support program to look at ways to address these problems, and will invite Congress to work together to prepare legislation to be transmitted to Congress later this Spring. The Budget would also take a first step towards simplifying the child support funding structure by 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

Conforming paternity testing payments with the basic administrative match rate will simplify the funding structure and greatly increase the incentive for States to control paternity testing costs. These costs vary enormously from State to State. Paternity establishment is a vital step in establishing and collecting support orders. With the expansion of voluntary paternity establishment authority and inclusion of paternity establishment in the child support incentive

payment formula, we believe that the right incentives are in place to maximize the establishment of paternities without an enhanced match for paternity testing payments.

The hold harmless provision in welfare reform guaranteed States at least their FY 1995 State share of TANF-related collections no matter what their level of performance was. We believe that this sends States the wrong message and propose to eliminate this provision in order to assure that poorly performing States have an incentive to increase their TANF-related collections.

Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.



Cynthia A. Rice

01/08/98 03:13:29 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
bcc:
Subject: Child support update 

Barbara Chow says she's trying to get in to see Frank to show him a version of the budget description she wants us to review. She decided to do one version instead of two to move closer to us and says she's going to try to sell Frank on language that does not take a position. Bottom line, though, is that we don't have language yet.

We are closer to having a substitute \$300 million saver, though -- there are discussions back and forth between HHS and OMB about the savings estimates for HHS' proposal to require mandatory, rather than optional, review of child support orders every three years.

Cynthia A. Rice



Cynthia A. Rice

01/07/98 05:08:51 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Andrea Kane/OPD/EOP, Emily Bromberg/WHO/EOP, Emil E. Parker/OPD/EOP, Diana Fortuna/OPD/EOP
bcc: Records Management
Subject: Re: Raines reaction re: yesterday's child support budget meeting 

Elena's response was:

we should see their paper first; that seems the courteous thing to do.

Cynthia A. Rice



Cynthia A. Rice

01/07/98 02:17:29 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Andrea Kane/OPD/EOP, Emily Bromberg/WHO/EOP, Emil E. Parker/OPD/EOP
cc: Laura Emmett/WHO/EOP, Diana Fortuna/OPD/EOP
Subject: Raines reaction re: yesterday's child support budget meeting

I spoke to Barbara Chow, who said Raines asked her to draft two versions of the budget description:

Version #1: expressing concerns about the problem and expressing a desire to work on it (the version we were urging yesterday);

Version #2: outlining in general terms the modified proposal we discussed yesterday, that would let states keep all child support collections in exchange for a lower match (the version Raines still prefers).

I told her that since the President's senior advisors still seem to disagree, that it appears we will have to bring them together to discuss and decide whether we need to send a memo to the President for him to decide.

Shall I go ahead and set up a Raines-Reed-Sperling meeting? OMB would of course rather have us wait until we see their paper (I made Chow promise we'd have it no later than first thing tomorrow morning).

On a related issue, I expect to have paper shortly from HHS on their proposed substitute \$300 million saver. Very generally, I understand the proposal would a) require mandatory, rather than optional, review of child support orders every three years, which would result in more frequently updated child support orders, more collections for families as well as the federal government; and b) would revise a "hold harmless" provision related to child support incentive payments, which is garnering some states more than expected.

Message Sent To:

Elena Kagan/OPD/EOP
Andrea Kane/OPD/EOP
Emily Bromberg/WHO/EOP
Emil E. Parker/OPD/EOP
Diana Fortuna/OPD/EOP



Cynthia A. Rice

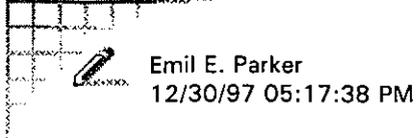
01/09/98 10:28:33 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Emily Bromberg/WHO/EOP, Emil E. Parker/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP
Subject: OMB's latest on child support budget proposal

Barbara Chow says that with some effort, she has gotten Frank to be willing to include in the budget language a statement limited to expressing concern about the problem and pledging that we will send legislation to the Hill this year. "The problem" will be defined more broadly than we suggested (we wanted it to be only our concerns about loss of federal funds due to separate state programs, they want to also have a statement of concern about the overall financing of the child support system.)

I think this could be promising, but the devil is in the details. I'll keep pushing for actual language and will let you know as soon as I get it.



Emil E. Parker
12/30/97 05:17:38 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP, Gene B. Sperling/OPD/EOP, Peter A. Weissman/OPD/EOP, Cathy R. Mays/OPD/EOP
Subject: Child support enforcement update

Cynthia asked me to update you on child support enforcement (CSE) issues in her absence.

Block grant. As you know, OMB has been assuming a child support enforcement offset of \$60 million in FY 1999 and \$300 million over five years. OMB proposes to achieve these savings by converting the CSE program, under which the Federal government reimburses States for 66 percent of their child support collection costs (without a cap) and provides incentive payments, into a block grant. Under the current structure, many States make a profit on the child support enforcement program--Federal payments (matching and incentive) and the State share of TANF collections exceed State child support enforcement spending--making the program an attractive target for savings.

A proposal to convert the CSE program into a block grant would likely be poorly received by both States and child support advocates. The OMB proposal would endanger the Administration's hard-won and well-deserved legacy in the child support area; I also doubt the Congressional Republicans would embrace this approach. Cynthia and I are in complete agreement that there are better ways to achieve this relatively modest level of savings from the CSE program, and we have urged HHS to develop an alternative package that generates comparable savings.

With Barbara Chow away for vacation, I have been unable to determine the status of the OMB proposal. There is a rumor that OMB is no longer carrying the \$300 million in savings but that the policy change remains very much alive. To my knowledge, none of the principals in the budget process except possibly Director Raines has focused on this issue. To put forward a block grant proposal without any external or even much internal vetting would be most unwise.

Systems penalty. On another note, HHS staff met with Ron Haskins today to provide technical assistance regarding his child support enforcement automated systems penalty proposal. His approach is quite similar to the options we have been discussing internally--replacing the current penalty (termination of Federal child support enforcement and possibly TANF funding) for failure to put an automated system in place with a smaller sanction. The proposed penalty would start at 4 percent of FY 1997 Federal CSE matching funds and rise by 4 percentage points each year, up to a high of 20 percent in the fifth year

and thereafter. We were contemplating somewhat larger penalties--5 or 10 percent. Under the Haskins proposal, a State would earn back 75 percent of the most recent penalty (but not earlier penalties) once its system was certified--this is also similar in principle to the approach under consideration internally.

Haskins was receptive to the HHS comments, which were largely technical in nature (e.g., would the new reduced penalty apply to failure to enact required legislation, as well as to automated system development--answer was no; could States enter into multi-year corrective action plans--answer was yes). He intends to hold a meeting including Republican and Democratic House and Senate staff, States, advocates and the Administration on January 8 to discuss his systems penalty proposal. Health and Human Services would like to arrive at a firm Administration position prior to that meeting; they suggest a pre-meeting on January 6.

Please let me know if you have questions.

WR - child support



Cynthia A. Rice

12/03/97 12:00:40 PM

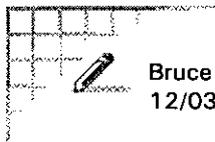
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Laura Emmett/WHO/EOP
bcc:
Subject: Re: Raines child support idea 

How was the idea received in the meeting?

I think I'll try to sit down with OMB (Barbara Chow, Keith Fontenot and their staff) and try to get the pros and cons laid out more clearly. I don't think you need to be there, but I'd be happy to include you if you like.

Bruce N. Reed



Bruce N. Reed
12/03/97 09:24:31 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Re: Raines child support idea 

Yes, I heard him bring that up yesterday. I don't know if it's bad policy, but it sounds like a tough sell -- giving states less \$ to collect from deadbeats. I suspect the child support advocates would hate it.



Cynthia A. Rice

01/06/98 01:59:41 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Another reason to not block grant child support 

(I meant of course \$300 million saver)

Cynthia A. Rice



Cynthia A. Rice

01/06/98 01:58:37 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: Another reason to not block grant child support

It sounds like the new TANF financial data have led HHS and OMB budget staff to conclude that TANF outlays will be lower than previously projected -- more than \$2 billion lower over 5 years. Maybe then we can argue we no longer need the \$300 billion saver (she says hopefully)?

Message Copied To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Diana Fortuna/OPD/EOP
Andrea Kane/OPD/EOP
Laura Emmett/WHO/EOP



Cynthia A. Rice

01/05/98 07:49:06 PM

Record Type: Record

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

cc:

Subject: Child Support Computer Systems

Ron Haskins has apparently drafted a proposal on child support computer systems problem, and he has invited HHS to a meeting on Thursday to discuss. While I will be discussing the legislation in more detail with HHS tomorrow, the proposal does seem to adhere to have the following features, which I like:

- 1) Penalties that are simple to administer and automatic, with little HHS discretion.
- 2) An up-front penalty imposed immediately upon failure, which should be large enough to motivate states to improve their systems development, but not so large as to severely disrupt states' child support efforts or to lead states to believe the penalty would never be imposed.
- 3) The penalties should include an incentive for early completion, either by providing an earn-back of the initial penalty or by imposing subsequent incremental penalties, or both.
- 4) HHS should retain the ability to disapprove the state child support plan and withhold all federal child support funds.

Under Haskins' proposal, states without completed, statewide computer systems would get a penalty starting at 4 percent of FY 1997 Federal CSE matching funds, a penalty which would rise by 4 percentage points each year, up to a high of 20 percent in the fifth year and thereafter. We were contemplating somewhat larger penalties--5 or 10 percent. Under the Haskins proposal, a State would earn back 75 percent of the most recent penalty (but not earlier penalties) once its system was certified--this is also similar in principle to the approach we had discussed internally. How does this sound to you?



Cynthia A. Rice

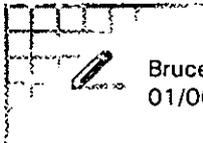
01/06/98 01:48:55 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP
bcc:
Subject: Re: Child Support Computer Systems 

I think we can sell it as a crackdown if release the amount of penalty per state we are going to impose and say "this is what we'll penalize them the day after we sign this change into law."

Bruce N. Reed



Bruce N. Reed
01/06/98 12:29:30 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: Re: Child Support Computer Systems 

Sounds pretty good. Can we sell it as a national crackdown -- for the first time, we're putting in place real, inescapable penalties if states don't get their act together -- or will it come across as a weakening of penalties?



Cynthia A. Rice

12/18/97 09:58:16 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP
Subject: HHS Reaction to OMB Child Support Proposals

HHS is officially responding to OMB's child support proposal as part of a larger budget passback document but here's a summary of their views via John Monahan (see below):

If the most viable option is saving \$300 million by imposing fees on non-custodial parents, it seems to me we could do that without converting the system to a block grant and forcing us to endure months of grief and possibly creating unintended consequences.

Where are things in the budget talks on this issue?

From Monahan:

In short, it is difficult to list all the objections to the OMB proposal. Among them are the fact (1) that raising such a radical change in the program through a last-minute budget decision would be a severe blow to the bi-partisan process that has served child support well over the last few years, (2) the numerous unintended consequences of changing so many funding flows (many of which offset within states among various agencies, (3) the blockgranting this program would seem to run contrary to our collective efforts to impose on states a variety of national programmatic requirements over the past few years.

Perhaps most importantly, blockgranting CSE will send the wrong signal to state agencies about trying to provide child support services to all children in need of them. Despite OMB's suggestion of including our incentives proposal in the mix, the most powerful fiscal incentive, by far, for states will be to make cost-effective recoveries for TANF children. Thus, hard-to-serve TANF cases and non-TANF (which include many working poor families, as you know) will get less attention in a world of a fixed federal payment, and state financial incentives focused on cost-effective TANF recoveries.



Cynthia A. Rice

12/16/97 06:16:15 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP
Subject: OMB Child Support Options

OMB has sent to HHS for comment three child support options, saying "a decision has been made to include the following items on a list of potential proposals for the FY 1999 budget."

All the options would convert child support enforcement funding into a block grant and require states to impose a \$25 collection fee on non-custodial parents from non-welfare families (states could pass legislation to reduce or increase this fee).

Converting funding to a block grant may discourage state spending to collect support for families, since states will have to pay 100% of any "extra" costs. The fee collection position is a reversal for the Administration, which has apparently opposed such fees in the past, and would likely to be opposed by women's and other advocacy groups (who believe that since so many non-custodial parents don't pay the full amount owed, families will end up with \$25 less per month in child support, since the fee will be deducted from the less-than-full-amount paid).

The options would also let states keep all the collections from welfare families and, as in current law, would distribute incentive funds based on performance.

Three Specific Options: Within this framework, OMB has proposed three options:

Option #1 would set the block grant at a level to save about \$300 million, the amount that states would collect through the new \$25 fees. In other words, since states would collect \$300 million in fees, the federal government would reduce its contribution to the states by \$300 million.

Option #2 would set the block grant at a level to save about \$1.8 billion.

Option #3 would set the block grant at a level to save about \$3.0 billion.

Current Structure: Currently, the federal government pays 66 percent of general child support costs incurred by the states. States must provide the federal government with a share of child support collections from non-custodial parents of welfare families (to recoup the costs of welfare payments made to those families). The federal government also pays states incentive payments based on performance. Overall, the federal government loses money on child support enforcement and the state governments gain money.

Block Grant Proposal: Raines' proposal would provide states with a block grant for operating expenses and require them to maintain their current spending in exchange for being able to keep all the collections from welfare families. In addition, the feds would distribute incentive funds based on performance. The block grant amount could be set so that overall, the federal government saves money compared to current spending (OMB has drafted two versions, one which saves \$1.8 billion, and the other which saves almost \$3.0 billion, although a revenue neutral proposal could be structured). OMB envisions that while this option would provide states with less money to collect child support, they could easily make up the difference by add a fee to the child support collected from non-custodial parents of non-welfare families.



Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: child support enforcement

I'm sure that you know this---but states will go nuts over OMB's child support enforcement block grant proposal if we decide to move forward with it. I'm all for fixing the weird incentives and the other problems, but not this way. More importantly, I am worried about the optics of cutting child support enforcement for the obvious reasons and about what would happen to the block grant once we were gone. Seems to me child support enforcement is an important legacy for us. I assume you have similar feelings about this. Does Rahm know about this proposal? I think he might agree to help us if he knew.



Cynthia A. Rice

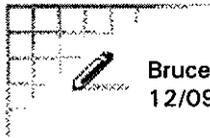
12/09/97 07:31:56 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP, Emily Bromberg/WHO/EOP
bcc:
Subject: California child support 

HHS is having the California computer systems folks in on Thursday to discuss next steps. The state needs to devise a plan for how to develop an operating, statewide child support computer system in order to get any more federal funds for those systems, and HHS plans to provide them with lots of technical assistance.

Bruce N. Reed



Bruce N. Reed
12/09/97 08:57:34 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Elena Kagan/OPD/EOP, Emily Bromberg/WHO/EOP
Subject: Re: I'm going to tell HHS they can send this California child support letter today 

That sounds fine. How are we actually going to fix the problem?



Cynthia A. Rice

12/08/97 12:26:54 PM

Record Type: Record

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

cc:

Subject: I'm going to tell HHS they can send this California child support letter today

unless any of you want to scrutinize further. Here's the description you all received Friday --

On November 20th, California and Lockheed Martin mutually decided to cancel their child support computer systems contract due to operational problems and cost overruns. This puts the state out of compliance with what is called the Advance Planning Document -- the plan that the state submits to HHS for approval in order to get federal funds to help pay for the computer systems costs.

HHS has drafted a letter from one of their OCSE staff to the state saying that the feds will not pay for any more computer systems development until the state submits, and has approved, a new Advanced Planning Document. (The rest of federal financial support for child support enforcement will continue to be provided.) Although this letter is from a mid-level staffer to the state welfare director, I reviewed it for content and tone. Do you want to see this letter?

Keep in mind that this letter is particular to California, because of its problems with its contractor. However, after January 1, HHS will need to send to all the states that do not have operating statewide computer systems a notice of intent to disapprove their child support enforcement plans. As you know, states without approved state plans get no federal child support dollars of any kind. However, states will continue to receive federal funds until the appeal process is concluded, which could last until 1999 (longer for judicial appeals)



Cynthia A. Rice

12/05/97 07:27:13 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: I need your input on child support enforcement

I need your input on several areas of child support enforcement:

1. Raines Child Support Idea

I've spoken with OMB at greater length about this issue. Attached is an analysis of the options and what I see as their advantages and disadvantages. My questions are:

a.) Do you agree that we should oppose including these options in the budget?

I do oppose converting to a block grant -- but I do think a version Keith and I devised ("revised match") may be worth pursuing -- see attached.

b.) Should we ~~should~~ have a broader process to consider them i.e., a DPC-OMB-IGA-NEC mtg? I do, because I fear that unless people understand what these policies do, they will be tempted simply by the prospect of a \$1.8 to \$3.0 billion saver.



cse1204.wp

2. Child Support Computer Systems Penalty Legislation

As you know, I have brought NEC, HHS, and OMB together several times since September to discuss the child support computer systems situation and possible solutions. Many of the issues are analogous to the penalty issues we discussed in the TANF regulations. With some pushing from me and from OMB, HHS now agrees that a new penalty structure should include:

- 1) Penalties that are simple to administer and automatic, with little HHS discretion.
- 2) An up-front penalty imposed immediately upon failure, which should be large enough to motivate states to improve their systems development, but not so large as to severely disrupt states' child support efforts or to lead states to believe the penalty would never be imposed.
- 3) The penalties should include an incentive for early completion, either by providing an earn-back of the initial penalty or by imposing subsequent incremental penalties, or both.
- 4) A "system completion plan" should be signed by the governor.
- 5) HHS should retain the ability to disapprove the state child support plan and withhold all federal child support funds.

HHS has prepared several, more detailed options based on these principles. We have not authorized HHS to share any of these options with the Hill because 1) we hadn't run them up the flagpole; 2) Haskins offered to take a first cut at drafting and to send it to us for our reaction. Monahan and others from HHS have met with Haskins and company to provide background information on the problem and to share our general principles (mainly to tell Ron -- much to his surprise -- that we think giving HHS a lot of discretion is a bad idea).

Do you think we should be taking a more pro-active approach? Any comments/ suggestions?

You should know that we will have a delicate line to walk in our budget, even without including the new Raines idea. Here's why. If the budget assumes we will withhold all federal child support funds from states without computer systems, it will show child support savings, giving any legislative fix a cost -- not what we want. If the budget assumes no savings from denying funds to states without computer systems, then we have to explain why this doesn't fit with our "get tough" rhetoric. The answer will have to hinge on the length of the administrative and judicial appeal process (up to three years) with an assumption that by the end of those three years all states will have in place the required state wide computer systems.

3. Response to Senator Feinstein

As you may recall, Senator Feinstein raised the idea of a six month moratorium on child support penalties when she met with the President on crime issues in September, and then she subsequently sent him a letter. I wanted to wait until the end of the session to reply to her.... and finally I've drafted the attached. I think similar language can be used in replies to Rep. Clay Shaw (who sent a letter to the President arguing against Feinstein) and to the LA County Board of Supervisors (who sent a letter making the same arguments as Feinstein). Please comment on this version, and then I will send a revised copy with the incoming letters to you via Cathy.



fein1204.wp

4. California Letter

On November 20th, California and Lockheed Martin mutually decided to cancel their child support computer systems contract due to operational problems and cost overruns. This puts the state out of compliance with what is called the Advance Planning Document -- the plan that the state submits to HHS for approval in order to get federal funds to help pay for the computer systems costs. HHS has drafted a letter from one of their OCSE staff to the state saying that the feds will not pay for any more computer systems development until the state submits, and has approved, a new Advanced Planning Document. (The rest of federal financial support for child support enforcement will continue to be provided.) Although this letter is from a mid-level staffer, I reviewed it for content and tone and plan to show it to Emily, before telling HHS they can send it. It is in unquotable bureaucratize. **Should I do anything else? I need to respond to HHS Monday.**

Keep in mind that this letter is particular to California, because of its problems with its contractor. However, after January 1, HHS will need to send to all the states that do not have operating statewide computer systems a notice of intent to disapprove their child support enforcement plans. As you know, states without approved state plans get no federal child support dollars of any kind. However, states will continue to receive federal funds until the appeal process is concluded, which could last until 1999 (longer for judicial appeals).

5. Thompson Idea

What did you think of Gov. Thompson's idea that he and Carper and you should barnstorm the country on child support enforcement? I kind of like the idea....I think we do need to pump up the volume on this issue. **Should I try to flesh out an idea for a campaign that could be a bipartisan State of the Union announcement?**

Child Support Enforcement Restructuring

There are two separable questions involved here:

- Should we cut federal spending on child support enforcement?
- Should we restructure the current system, in which the federal government shares in state costs of collecting child support by paying about two-thirds of costs, to one in which the states receive a federal block grant?

Should we cut federal spending for child support enforcement in the FY '99 budget?

ARGUMENTS	COUNTER-ARGUMENTS
Could provide \$1.8-\$3.0 billion in savings for other Presidential initiatives	Taking funds used to obtain child support for kids in order to provide more money for kids in other ways would be robbing Peter to pay Paul.
The federal government pays more for child support than it receives in collections from states.	The federal government funds child support collection efforts to provide more support for <u>children</u> , not the federal coffers -- thus it is losing money because it is paying for a service to American families.
States are profiting from the child support enforcement system, collecting almost \$500 million more a year than their costs -- funds they do not have to spend on further child support collection activities.	The new incentive legislation which we support and is now on the Hill would require states receiving incentive funds to reinvest those funds in child support enforcement.

Should we restructure the financial contribution to child support enforcement?

Current Structure: Currently, the federal government pays 66 percent of general child support costs incurred by the states. States must provide the federal government with a share of child support collections from non-custodial parents of welfare families (to recoup the costs of welfare payments made to those families). The federal government also pays states incentive payments based on performance. Overall, the federal government loses money on child support enforcement and the state governments gain money.

Block Grant Proposal: Raines' proposal would provide states with a block grant for operating expenses and require them to maintain their current spending in exchange for being able to keep all the collections from welfare families. In addition, the feds would distribute incentive funds based on performance. The block grant amount could be set so that overall, the federal government saves money compared to current spending (OMB has drafted two versions, one which saves \$1.8 billion, and the other which saves almost \$3.0 billion, although a revenue neutral proposal could be structured). OMB envisions that while this option would provide states with less money to collect child support, they could easily make up the difference by adding a fee to the child support collected from non-custodial parents of non-welfare families.

Revised Match Proposal: Another alternative would allow states to keep all the collections from welfare families, but reduce the federal match rate to a percentage lower than 66 percent to make up the difference. In addition, the feds would distribute incentive funds based on performance.

	Current Structure	Block Grant Proposal	Revised Match Proposal
Pays states incentive payments based on performance?	Yes*	Yes*	Yes*
The federal government pays a percentage of state child support collection costs.	Yes	No	Yes
The state must give the federal government a share of child support collections for welfare families.	Yes	No	No

* Bipartisan, Administration-sponsored legislation to change definition of performance on which payments are made is now on Hill and expected to pass next session. This legislation would require states to invest the child support incentive payments in child support enforcement activities, which is not now required.

	ADVANTAGES	DISADVANTAGES
Current Structure	Encourages state investment in child support enforcement, because it matches 66% of each additional dollar.	The system is a complicated combination of federal payments and collections.
	It treats fairly states in different situations -- i.e., those who already made substantial investments, and those that will make investments in the future.	There is a potential for future federal costs if states move child support paying families out of TANF into state-only programs.
Block Grant Proposal	It simplifies the federal/state payment structure.	It would be unfair to states that have not, but will, make substantial investments in child support enforcement.
	It greatly reduces the potential for future federal costs if states move child support paying families out of TANF into state-only programs.	It puts states at risk of financial costs, and may make them less eager to invest in child support enforcement and collect support for families.
		The proposal will divert the energy of the state leadership from improving child support systems to opposing this proposal.
Revised Match Proposal	Encourages state investment in child support enforcement, because it matches each additional dollar (although at a lower rate than the current 66%).	The system would be a complicated combination of federal payments and collections.
	It treats relatively fairly states in different situations -- i.e., those who already made substantial investments, and those that will make investments in the future.	The proposal will divert the energy of the state leadership from improving child support systems to opposing this proposal -- although not as much as the block grant proposal.
	It greatly reduces the potential for future federal costs if states move child support paying families out of TANF into state-only programs.	

WR - child support



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

JAN 6 1998

MEMORANDUM FOR FRANKLIN RAINES

I am writing to let you know why I believe it is critical not to block grant the child support enforcement program as proposed in the FY 1999 Budget Mandatory Passback by the Office of Management and Budget. The OMB proposal could seriously threaten the bipartisan, Federal/State partnership which has supported the President's record of achievement in child support reform, jeopardize the President's commitment to strengthen the Nation's child support enforcement program, reduce child support collections, and decrease the establishment of paternities.

- o **The block grant provisions that OMB has proposed reverse the substantive direction of the President's child support enforcement reforms, which have aimed to establish a National, interstate system of support for needy families.**

A block grant funding arrangement represents a fundamental change in policy and would signal a reversal of the direction charted by the Administration toward establishing an effective interstate system of child support services. It would also imperil the ability to maintain national standards and uniformity in the long term. We also harbor concerns that this proposal would impose large inequalities from State to State.

While the OMB proposal suggests that key federal requirements for interstate case processing be retained, the proposal fails to provide the right fiscal incentives to ensure an effective interstate system. In order to achieve higher collections, states need to invest more in uniform processing and in working difficult cases like interstate cases (representing about 30 percent of the caseload) and cases requiring paternity establishment services. Reimbursing a share of expenditures creates an incentive for States to invest in these critical activities. By contrast, a fixed block grant provides no incentive for States to invest in program improvements or in tackling the most difficult cases but rather to keep expenditures low — achievable only by providing the easiest and least costly services.

Further, the flexibility inherent in any block grant would be seen as inconsistent with uniform standards and would jeopardize existing Federal statutory requirements for paternity establishment and enforcement techniques vital to ensuring strong programs.

- o **The OMB block grant proposal would undermine the broad-based, bipartisan consensus in Congress and State capitals that has supported the child support reforms championed by the President for the last five years.**

President Clinton's leadership has forged a strong national and bipartisan consensus on child support enforcement that would be undermined by the process and substance of the OMB proposal. The historic welfare reform legislation signed by the President in 1996 contained the toughest child support provisions in this country's history. Indeed, the child support provisions in the welfare legislation passed by Congress were nearly identical to those originally proposed by this Administration in 1994. They were premised on the need to maintain a Federal/State partnership and to create more uniformity in the child support system by mandating national standards throughout the country. These provisions received broad bipartisan support from Congress and State Governors. The President has also strengthened the Federal role in child support enforcement through a series of Executive Orders and the child support incentive legislation overwhelmingly approved by the House in 1997 was developed from Administration recommendations.

Introducing a block grant proposal as part of the President's budget, without any consultation with or support from key Congressional and State leaders, would signal a breach of faith with the Administration's long-standing allies in the effort to develop and enact tough child support reforms. This could also have the unintended consequence of jeopardizing the passage of the Administration's child support incentives legislation which is expected to receive favorable Senate consideration this year.

In sum, a block grant proposal is likely to be received negatively by key Congressional supporters of the past child support reforms, by states which will oppose increasing federal requirements in the context of a fixed funding stream, and by advocates as an abandonment of federal support for state reforms.

- o **The OMB proposal creates an incentive for states to focus on their easiest to serve in-state cases and thereby conflicts with the President's promise to build the toughest child support program possible to serve all children who need support.**

The commitment of the President has been to serve all children who need child support enforcement services. Both the 1993 OBRA legislation and the 1996 Welfare Act contained provisions requiring States to move toward more universal paternity establishment and continued requirements that States provide child support enforcement services to all parents that request services.

The OMB proposal discourages States from providing services to all of those in need and encourages States "creaming" of cases. First, the elimination of the administrative match provides an incentive for States to work the least costly, least labor-intensive cases and to ignore the more difficult cases which require a greater investment of resources. This would be especially harmful to cases requiring paternity and support order establishment services and cases where a parent has been successful in evading ordinary State efforts. Further, State

retention of all TANF-related collections as the sole funding stream provides an inducement for States to focus their efforts on in-State TANF cases at the expense of other families needing services, notably the working poor. Imposition of fees for non-TANF cases compounds the impact on near-poor and working poor families by discouraging services in those cases where the parents are just scraping by.

The cumulative effect of these provisions would adversely impact welfare reform's goal of assisting all at-risk, low-income families in achieving and maintaining self-sufficiency. A block grant proposal does not support the long-term investment and national focus required in child support -- similar in many respects to education, job training, and other policies that provide a benefit to families in the long term from the public investment.

- o **The Administration should not be in favor of user fees that are essentially a "tax on children".**

Currently States are allowed the option of charging limited application and user fees. Few States exercise that option. Most States view such fees as counterproductive to the goal of providing services to needy families. The OMB proposal would force all States to adopt such fees or risk the loss of comparable funding levels. The Administration has gone on record during the welfare reform debate as opposing such user fees as "taxes" on children. Whether the fees are imposed on noncustodial parents or custodial parents they ultimately result in less child support going to children. States typically deduct such fees up-front from custodial parents. Such fees also often discourage poor families and those families most in need from receiving services. Welfare recipients are particularly economically vulnerable when they leave welfare and any reduction in child support payments or services upon leaving the TANF program will only make this transition more difficult. This Administration should not be in a position of reversing its position and supporting a tax on children.

- o **The block grant proposal would end the Federal share of collections and thereby forever break the connection between the success of the national child support enforcement program and increased revenues to the Federal government.**

Currently the Federal government receives a share of the TANF collections based upon the FMAP formula. As a result, when tougher child support enforcement results in increased TANF collections, the federal government shares in that success. This funding arrangement not only directly financially benefits the Federal government but also generates support with Congress and with the public for tough child support provisions. If this arrangement is ended it could erode support for the entire child support enforcement program and the program would be an easy target for future cuts in funding. Support for the national effort to track delinquent parents across State lines through the national data base and information sharing between States would also be jeopardized.

It is critical to the Administration's record of achievement and to the President's legacy that we continue the progress that we are making to ensure that every child has the support of both parents, whenever possible. While legitimate concerns may remain on some elements of child support program effectiveness and efficiency, we believe the only way to tackle these

issues is through open and dynamic dialogue with the many parties involved. We look forward to working with you on these issues in the upcoming months after budget decisions have been made. Please let me know if I can answer any further questions.



Donna E. Shalala

Child Support Enforcement Proposal

This proposal is too controversial:

- It will anger advocates, governors, and Congressional Democrats -- even Governor Tommy Thompson told us recently that there should be more federal involvement in child support.
- It reverses our policy of generally opposing block grants and specifically attacking child support collection fees (as a "tax on children").

A block grant could discourage investments in child support enforcement:

- States would have to live within a fixed budget rather than have 66 percent of their costs reimbursed by the federal government.
- States may focus on cheap, easy-to-collect cases while ignoring more difficult ones, or ignore efforts like paternity establishment which have long-run rather than immediate payoff.

A block grant may jeopardize the strong federal role in child support enforcement:

- The new welfare law requires every state to put in place tough new rules -- such as denying drivers and professional licenses to parents who don't pay and requiring centralized collections and wage withholding. A proposal to block grant child support enforcement could encourage efforts to roll back these tough new federal rules and let states set policies.

We can save \$300 million without a block grant:

- The \$300 million savings in the current proposal is not due to the block grant, but from a new requirement that states impose fees on noncustodial parents accompanied by a commensurate reduction in federal funds. This could be done within the current matching structure as well as a block grant. We could also require those opposing this policy to develop a new \$300 million offset.

We can protect against future child support losses without a block grant:

- We all agree that we must prevent states from moving families to state-only welfare programs to avoid sharing child support collections with the federal government -- that's why our proposed regulations penalize states that do so. (Currently, states must share with the federal government child support collections from TANF families but not from non-TANF families.)
- We don't need a block grant to protect future federal collections -- instead, we could let states keep all child support collections and make up the revenue by reducing the federal matching rate.

We can require states to re-invest all funds into child support without a block grant:

- Currently, states receive a federal match for the funds they spend on child support collections. They also receive incentive funds based on performance which they are not required to reinvest in the child support program. This state "profit" has been cited as a reason to block grant the program.
- There are other ways to solve this problem -- and legislation now on the Hill would require states to spend all child support incentive payments on the child support program. We could also develop additional proposals to address this problem.



Cynthia A. Rice

01/13/98 11:08:34 AM

Record Type: Record

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

cc:

Subject: Child Support Computer Systems Update

fyi

----- Forwarded by Cynthia A. Rice/OPD/EOP on 01/13/98 11:12 AM -----



Cynthia A. Rice

01/13/98 11:07:29 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP

Subject: Child Support Computer Systems Update

On Thursday, Ron Haskins has asked HHS to a meeting in which he will give them legislative language for us to review which contains:

- 1) Revised computer systems penalties language
- 2) House passed incentives bill language, revised to make it cost neutral
- 3) A proposal on state-wideness
- 4) Proposal re: IVE penalties regarding inter-jurisdictional adoptions

HHS will get one copy each to me, to Emil and to Keith/Edwin. My assistant Donna will schedule a meeting for us to discuss on Tuesday 1/20 (probably 3:00).

Haskins' planned schedule is as follows:

- Jan. 29th hearing -- inviting Judge Ross to testify
- Feb 3rd 4:30 subcommittee markup
- Feb 25th full committee markup
- 1st week of March -- House floor

Message Sent To:

Emil E. Parker/OPD/EOP
Keith J. Fontenot/OMB/EOP
Edwin Lau/OMB/EOP
Emily Bromberg/WHO/EOP
Sky Gallegos/WHO/EOP



Cynthia A. Rice

12/02/97 10:29:29 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: Raines child support idea

Wednesday I will write you a more comprehensive note about child support enforcement.... but I can't leave tonight without telling you that apparently, as part of a directors review, Frank Raines brainstormed his way to an idea of how to completely revamp the financial structure of the child support system, and OMB wants to put this on the table for the budget discussions. Before you get too jazzed, Elena, he does not want to hand over responsibility to the IRS!

Below is a quick summary... They view this as a possible saver in the budget (although why we would want to be seen as cutting funding for child support enforcement, I don't know). Process-wise, I think it's critical that we have an OMB-DPC discussion before this becomes part of the larger budget discussion. HHS doesn't know any of this yet, but OMB wants to tell them they're adding it to the list for consideration.

Current Structure

There are three basic parts to the current financial structure:

- 1) The federal government reimburses states for 66 percent of their child support expenditures, with an enhanced match for certain expenses.
- 2) The federal government gives states incentive payments based on performance. We have a proposal with bipartisan support on the Hill now which would revise the measures on which performance is based.
- 3) At the same time as the federal government pays states funds for child support, it collects from states a share of child support collections from AFDC families -- under the theory that the federal government helped (through AFDC, and now TANF) to support these families when the absent parent would not, and should therefore obtain a share of the support later collected from that absent parent. Overall, the federal government gives states about \$1 billion more a year in child support funds than it obtains in collections.

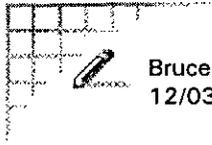
Proposed Structure

Raines' idea is to provide states with a block grant, and require them to maintain their current spending in exchange for being able to keep all the collections from welfare families. In addition, the feds would distribute incentive funds based on performance. The block grant amount would be set so that overall, the federal government saves money compared to current spending. Keith Fontenot says that even though this would provide states with less money to collect child support, they could easily make up the difference by add a fee to the child support collected from non-custodial parents of non-welfare families.

It seems to me that this could get us into an enormous pissing match with states just when we're trying to threaten, prod, and cajole them into focusing on getting their state-wide computer systems up and running and implementing the new child support rules we enacted last year. Even

if we make the new structure revenue neutral at the national level, it will not be revenue neutral at the state level, since a block grant will hurt states incurring large new expenses and help those that already invested, say, in computer systems.

Wp-child support



Bruce N. Reed
12/03/97 09:24:31 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Laura Emmett/WHO/EOP

Subject: Re: Raines child support idea

Yes, I heard him bring that up yesterday. I don't know if it's bad policy, but it sounds like a tough sell -- giving states less \$ to collect from deadbeats. I suspect the child support advocates would hate it.

wp-child support



Cynthia A. Rice

09/05/97 04:13:59 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cathy R. Mays/OPD/EOP, Diana Fortuna/OPD/EOP
Subject: Can we talk Monday am about the attached child support info?



cse0904.wp I've laid out the issues in the attached -- maybe we can talk Monday morning at the team leaders' meeting? The urgency is that Shaw is holding a child support hearing on Wednesday (Judge Ross is testifying) and Haskins wants to start working with HHS right away on legislation providing a new range penalties -- weaker than the current "deny all federal child support funding" penalty -- for states who don't meet the October 1 computer systems deadline. Shalala wants to work with the Hill to get cover for a weaker, but more likely-to-be-used penalty structure. We have to decide how tough we want to be on states.

Child Support Computer Systems

Background

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

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

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

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

Issues to Resolve

1. Are we willing to press the 'nuclear button' and withhold all federal child support funds from states that have not met the computer systems deadline?
2. Are we willing through executive action to enter into corrective action plans with states which do not meet the October 1st deadline? What penalties and financial incentives should those corrective action plans include?

Did we
do this?

- 3. Shall we work with Congress on new legislation providing a range of penalties and explicitly authorizing a corrective action plan process?
- 4. Will we support California's proposal to allow a combination of systems linked electronically to count as a single state-wide system?

**Child Support Computer Systems
Options**

Initial HHS	Revised HHS	OMB (tentative)	Alternative
<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met.</p> <p>2. Issue "Action Transmittal" outlining Corrective Action Plan Process.</p> <p>3. Negotiate Corrective Action Plans with States.</p> <p>4. Pursue Legislative Strategy to Develop Calibrated Penalties.</p>	<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met.</p> <p>2. Pursue Legislative Strategy to Develop Calibrated Penalties.</p> <p>3. Issue "Action Transmittal" outlining Corrective Action Plan Process (if needed).</p> <p>4. Negotiate Corrective Action Plans with States.</p>	<p>1. Send warning letter to states threatening loss of all federal child support funds if systems requirements are not met.</p> <p>2. <u>Pursue Legislative Strategy to Develop Calibrated Penalties which include financial penalties and incentives as part of Corrective Action Plan (i.e., lower federal match until progress made on CAP).</u></p> <p>3. Issue "Action Transmittal" outlining Corrective Action Plan Process (if needed).</p> <p>4. Negotiate Corrective Action Plans with States -- include financial penalties and incentives (i.e., lower federal match until progress made on CAP).</p>	<p>1. Send warnin states threateni of all federal ch support funds i requirements ar and withholding 2 percent of T per section 40 (states will be r to provide addit funds to make shortfall).</p> <p>2. Pursue Legis Strategy to De Calibrated Pena which include f penalties and in as part of Corre Action Plan (i.e federal match u progress made</p> <p>3. Issue "Actio Transmittal" ou Corrective Acti Process (if nee</p> <p>4. Negotiate C Action Plans wi -- include finan penalties and in (i.e., lower fed until progress CAP).Correctiv Plans with Stat include financia penalties and in (i.e., lower fed until progress CAP).</p>



Cynthia A. Rice

09/30/97 07:09:07 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Child support computer systems: more than you ever wanted to know

HHS reports that the following is the list of states that will not meet the Oct. 1 computer systems deadline [17 states, D.C., 1 territory] and those that will (either certified or ready to be certified) [33 states, 2 territories]. They are providing this information to interested reporters.

States not ready to be certified [19]:

California, Michigan, Illinois, Ohio, Pennsylvania, Nevada, South Carolina, New Mexico, Alaska, Maryland, Indiana, Hawaii, Massachusetts, North Dakota, South Dakota, Oregon, Missouri, District of Columbia, Virgin Islands.

Certified [17]:

Montana, Delaware, Georgia, Virginia, Washington State, West Virginia, Arizona, Utah, Connecticut, Wyoming, Mississippi, Louisiana, New Hampshire, Idaho, Colorado, Oklahoma, Wisconsin.

Pending certification (reviews have been made and reports being written) [6]:

Alabama, New York, New Jersey, Rhode Island, Puerto Rico, Guam.

Ready to be certified (basically operating statewide systems with review requests submitted) [12]:

Vermont, Maine, North Carolina, Kentucky, Tennessee, Arkansas, Nebraska, Minnesota, Florida, Kansas, Texas*, Iowa*.

*review scheduled

Cynthia A. Rice



Cynthia A. Rice

09/30/97 05:47:14 PM

Record Type: Record



Cynthia A. Rice

09/09/97 01:19:45 PM

Record Type: Record

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

cc:

Subject: HHS letters to states re: child support enforcement

I will fax you each copies of the two letters:

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

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

Please let me know if you have any comments.

wp-child support

Child Support Computer Systems

Nine or more states -- including California -- are expected to fail to meet the 10/1/97 deadline for to have in place state-wide child support computer systems. Under current law, HHS must disapprove a state's child support plan if it does not meet the computer systems requirement -- thus withholding all federal child support funds from those states, a process that will take six months or more. Senator Feinstein wants to enact a temporary moratorium on penalties to states failing to meet this deadline.

HHS, OMB, and DPC oppose such a moratorium. Now -- just as welfare reform's tough new child support rules are beginning to take effect -- is the wrong time to signal to states that we are willing to let them off the hook. Instead, we proposed to accept the invitation of the Ways and Means Committee to work with them to develop a legislative solution to develop a new, more effective penalty system -- one that will impose tough, immediate penalties rather than withhold all federal funds. We can develop this proposal and enact it before the current penalties actually take effect.

Background

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

The states expected to fail are California, Michigan, Illinois, Pennsylvania, Ohio, Maryland, D.C., Nevada, and Hawaii. Other possibilities include New York, Florida, Texas, Indiana, South Carolina, and New Mexico. We won't actually know on October 1st how many states have failed, because under the law states have until December 31st to submit to HHS a state plan amendment indicating that their child support system was completed and operating as of October 1st. HHS must then conduct certification reviews to assess states compliance. Under current law, HHS must disapprove a state's child support plan if it does not meet the computer systems requirement -- thus withholding all federal child support funds from those states, a process that will take six months or more. (The federal government pays 66% of administrative child support enforcement costs, and 90% for computer systems costs before FY 1997 and 80% up to a total of \$400 million for costs thereafter.) In addition, HHS must reduce the TANF grant by between one and five percent. California says it will lose \$300 million in federal child support payments and between \$37 and \$185 million in TANF payments.

Summary of Child Support Systems Strategy

BACKGROUND

Current law requires every State to be operating a statewide, automated child support enforcement system which meets Federal certification standards no later than October 1, 1997. Because operating a statewide, automated system is a requirement of the Title IV-D Child Support program, States without ACF-certified systems face disapproval of their State Title IV-D plans. As a result, States which miss the system deadline are at risk of losing all Federal child support funds. Moreover, since States must certify that they will operate child support enforcement programs under approved Title IV-D plans as a condition of eligibility for a TANF block grant, non-complying States also risk the loss of their TANF block grant funding. The recent welfare reform legislation includes new systems requirements and related deadlines which assume timely completion of these systems. Implementing a number of the new provisions, such as incentive payments, will be problematic without the necessary data from statewide systems.

Under current law and procedure, States must submit a Title IV-D State Plan amendment no later than December 31, 1997, indicating that their CSE system was completed and operating statewide as of October 1, 1997. If a State fails to submit such a plan amendment, ACF will formally disapprove its Title IV-D plan. A State may seek reconsideration of the decision through appeal to the Departmental Appeals Board.

States have had difficulty meeting the October 1, 1997 deadline for a variety of reasons such as political tensions, management deficiencies, and technical problems. Although each State is in a unique position, there are some common barriers that have hampered their system development including problems in procurement processes, poor vendor performance, jurisdictional issues within the State, and inadequate State management. The States that are most likely to miss the deadline tend to have faced challenges in several of these areas, often simultaneously.

Current regulations provide that ACF shall conduct certification reviews of all State child support enforcement computer systems to assess their compliance with statutory and regulatory requirements. At this point, 15 States have systems that have been certified by ACF. ACF expects that 32 more States will either be reviewed or will have requested a review by December 31, 1997, the date on which the State Plan amendments are due. While ACF expects most of these States to have their systems certified, it is difficult to predict with confidence the exact number of States expected to meet certification requirements by early 1998. As of August 1997, ACF's best assessment is that the reviews will result in letters to nine States notifying them of our intent to disapprove their State Plans and that at least six other States are at significant risk of disapproval.

The documents attached outline a strategy to assist the States which miss the October 1, 1997 deadline in implementing a compliant CSE system as quickly as feasible. The proposed strategy also looks at short- and long-term changes to improve the way in which ACF assists States in developing automated CSE systems.

PROPOSED STRATEGY- Overall Approach

The proposed strategy has the following steps:

- I. **Send a letter from the Secretary to the Governors of States that are not yet certified.** This letter would stress the importance of the State's implementing a CSE system and indicate that the State is at risk of having its State plan disapproved -- and losing all Federal CSE funds -- if it fails.
- II. **Conduct certification reviews.** ACF will continue with our plan to certify as many States as possible by the end of the calendar year.
- III. **Implement a triage strategy of individual technical assistance to the nine States most at risk of missing the deadline, and, where possible, to other States at risk.**
- IV. **Issue an Action Transmittal which outlines a corrective action plan (CAP) process for all States which fail to implement a certified system by October 1, 1997.** The CAP would detail the specific steps that a State would need to take in order to install a compliant automated system and set a timeframe for implementation.
- V. **Pursue a legislative strategy in which Congress and the Administration develop a set of calibrated sanctions for non-complying States as an alternative to State Plan disapproval process and its single penalty of denying FFP.**

ADVANTAGES OF THE PROPOSED STRATEGY:

1. **ACF would be taking demonstrable steps to ensure State compliance as quickly as possible.**
2. **ACF and the States will have agreed-upon timetables for corrective action, which will focus public attention on the States' obligations.**
3. **If the State fails to develop a realistic Corrective Action Plan or fails to carry out its plan and meet the agreed-upon timeframes, ACF would disapprove its State Plan.**

4. ACF will be exploring the possibility of legislation to provide financial incentives and realistic sanctions, rather than the extreme threat of State Plan disapproval, for early implementation of a system that is compliant with the Family Support Act (FSA) and the Personal Responsibility Work Opportunity Reconciliation Act (PRWORA).

DISADVANTAGES OF THE PROPOSED STRATEGY:

1. There are no immediate financial implications for the States which fail to meet the October 1, 1997 deadline.
2. Since, some CAPs may extend for several years, the initiation of the State plan disapproval process may be delayed for a long time.
3. Critics may charge that the Federal government is doing too little (failing to take any immediate sanction), too late (less than a month before the October 1, 1997 deadline).

ATTACHMENTS

1. Details of Proposed Strategy

August 12, 1997

DRAFT CSE SYSTEMS STRATEGY**Short Term Actions****I. Letter from Secretary Shalala to Governors**

Secretary Shalala will send a letter to the Governor of each State not yet certified that indicates the importance of automation for child support collections, expresses our concern over the status of their State's progress, and offers ACF's assistance. The letter also indicates that HHS will be conducting an on-site review, that HHS will provide State officials with detailed results of that review including a description of the technical assistance resources that may be needed to complete the CSE system, and that the Secretary will personally forward a copy of that review to the Governor if the situation remains serious. (See attached).

Action date: August 1997

II. Certification reviews

ACF will continue conduct reviews as quickly as possible, aiming to certify as many States as possible by the end of the calendar year. Eight more States will be reviewed before October 1, 1997. Sixteen States will request reviews the last day of September and six will request reviews on December 31, 1997, when the state plan pre-print is due.

Action Date: August-December 1997

III. Triage (Individualized Technical Assistance)

ACF will provide individual technical assistance to the nine States that ACF estimates are most at risk of missing the deadline. They are: California, Michigan, Illinois, Pennsylvania, Ohio, Maryland, the District of Columbia, Nevada, and Hawaii. The status of these system development efforts is highly volatile, and ACF may find additional States whose schedules also slip. Such additional States that might also benefit from individualized technical assistance include New York, Florida, Texas, Indiana, South Carolina, and New Mexico. ACF will provide them with help, as resources permit.

The individualized technical assistance aims to accelerate systems development in each State by:

- o focusing the State's attention and resources on the problem

- o clarifying circumstances under which ACF will conditionally certify a State's system
- o informing States that ACF is available to provide on-site reviews or assistance.

The triage plans will build on work that ACF has already completed in the nine States at risk of missing the deadline. In these States, ACF has already conducted six Functional (pre-pilot) reviews and have scheduled two pilot reviews and four technical assistance visits in the next two months. To start this triage process, the RO/CO systems staff have developed individualized plans for each at-risk State (See attached). The plans will be further refined during the next week(s), as Central and Regional office staff discuss the strategy on conference calls. In some States, ACF may seek to elevate the issues (e.g. having Secretary Shalala call the Governor), so long as that heightened scrutiny will move the State closer to the goal of implementing a system and not produce the unintended consequence of slowing progress toward the goal.

Action Date: August-December 1997

IV. Issue An Action Transmittal Establishing a Corrective Action Plan (CAP) Process

OGC has advised informally that, while a corrective action plan process is not explicitly contemplated by statute or regulation, ACF could establish such a process via an Action Transmittal (AT). Essentially, this process would require ACF to hold in abeyance the initiation of action to disapprove a State's Plan, on the condition that the State enter into and carry out a CAP, approved by ACF, to correct its systems problems.

This process would involve the following steps:

- A. Based on our certification review, notify the State of our intent to disapprove the State's Plan. [NOTE: For States with troubled system (i.e. CA) ACF may consider suspending the project.]
- B. Give the State the option, via AT, of establishing a corrective action plan prior to making the decision to ask for a hearing or a reconsideration of the decision.
- C. The CAP would involve at a minimum:

- State's commitment to completing an FSA-compliant system by a specified date (that may differ for each State) and complying with new PRWORA requirements within the statutory deadlines. [NOTE: Should ACF consider having the CAP signed by the Governor or his designee, rather than the IV-D director?]
- Firm timeframes for each step in systems development and implementation
- Frequent and detailed reporting on progress and expenditures
- Frequent Federal monitoring/TA visits
- Acknowledgment by the State that failure to carry out the CAP would result in immediate disapproval of its State Plan and cessation of Federal funding.

This approach would not affect the State's ability to ask for a hearing, rather it would add a step before that process begins.

Action Date: September 1997

V. Consider, with the Hill, legislation to give HHS better tools to manage

The CAP process, as outlined above, is essentially voluntary on the part of the State. The primary enforcement mechanism would remain the disapproval of the State's plan and the withdrawal of all Title IV-D funding, as required by statute. Unfortunately, withdrawal of all Title IV-D funding is potentially counterproductive to reaching our strategic goal, which is to maximize child support collections by ensuring that all States operate automated systems which meet the FSA certification requirements as quickly as possible. Furthermore, the administrative strategy may have a State under a corrective action plan for years, visibly out of compliance with statutory requirements for a very long time. Therefore, a legislative change is a more effective course of action. Moreover, key Congressional staff have expressed an interest in taking a candid look at why many States will miss the deadline and what steps can be taken to encourage States to meet the certification requirements.

A legislative proposal to address the problem would have the following characteristics:

- o Substitutes a time-limited corrective action plan process for the current State plan disapproval process;
- o Reduces FFP for non-compliant States in order to send a clear message about the importance of automated systems and to encourage the fastest possible implementation of certified State systems.
- o Impose a calibrated monetary penalty on non-compliant States consistent with the following principles. These penalties would apply not only to failure to meet FSA standards, but also to failure to achieve PRWORA requirements.

An effective financial penalty should:

- Be simple enough and substantial enough to get State and public attention.
- Provide a financial incentive to finishing the CSE system as quickly as possible.
- Be moderate enough that it does not adversely affect the program or stop system development.
- Include an incentive for States to meet PRWORA automation standards within statutory timeframes.
- Provide the States with an opportunity to earn back all or some of the penalty when they complete the CSE systems.

Numerous penalty options could potentially meet the principles outlined above, and ACF would welcome the opportunity to discuss the specifics with Congress. However, any proposed penalty mechanism will likely need to address the following issues: 1) the amount of the penalty, 2) the base to which the penalty is applied, and 3) the amount and method for States to recoup the penalty.

For illustrative purposes, ACF looked at 5-10% penalties and various options for the base amounts and recoupment methods.

1) Impose an immediate 5 or 10% penalty, although larger and smaller amounts could be considered (See chart below).

Impose the 5 or 10% penalty based on either :

- A) amount of total administrative expenses each quarter, or

Pros:

- Cleaner to calculate because ACF won't have to wait until 97 claim data is processed to determine the base.
- By using total administrative expenses as base, indicates that failure to develop system is related to overall program performance.

Cons:

- Not based on CSE systems development costs.

B) amount of total enhanced funding for CSE system development over the last 15 years

Pros:

- The penalty is related to Systems development costs.

Cons:

- The penalty wouldn't be as severe on States that haven't made much progress and thus haven't spent much money on System development.
- There will be a delay in obtaining 1997 claim data, and since the States have two years after expending to claim the FFP, the penalty may be based on incomplete data.

C) amount of total enhanced and regular funding for CSE system development over the last 15 years.

Pros:

- The penalty would be based on what the Federal government has been paying to maintain legacy systems in State and county as well as system development.

Cons:

- There will be a delay in obtaining 1997 claim data, and since the States have two years after expending to claim the FFP, the penalty may be based on incomplete data.

2) Provide the States the ability to recoup a percentage of the funds based on how long it takes them to complete the statewide CSE system. The options for this include:

A) Allowing them to recoup 50% of the penalty whenever they complete FSA automation requirements and 75% or 100% of the penalty if they meet the PRWORA requirements by 2000.

Pros:

- Gives States ability to recoup half the penalty even if FSA requirements are several years late.
- Gives States ability to recoup entire penalty if they can get the combined FSA/PRWORA requirements up by 2000.

Cons:

- Provides limited incentive for getting FSA requirements done quickly.

B) If they finish within a year of the deadline, they can recoup 75%, within 2 years 50%, within 3 years 25%, no recoupment if over 4 years.

Pros:

- Provides a progressive incentive to finish the FSA requirements as quickly as possible.

Cons:

- Some large States may not be able to recoup any of the penalty

Estimates of Potential Penalties

State	5% of Total CSE Admin in 1995	10% of Total CSE Admin in 1995	10% of Total EFPF and RFPF all years	10% of Total EFPF all years
CA	19,713,904	39,427,809	32,652,990	9,459,568
DC	642,053	1,284,107	1,095,640	694,103
FL	5,298,216	10,596,433	8,283,695	2,396,786
HI	1,034,003	2,068,066	1,905,415	1,181,855
IL	4,928,582	9,857,164	8,924,873	2,347,651
MD	3,257,905	6,515,810	3,993,571	2,796,528
MI	5,966,627	11,933,253	7,811,150	6,513,614
NV	1,204,658	2,409,315	2,114,951	1,627,378

NY	9,138,028	18,276,056	14,292,715	5,146,741
OH	7,813,432	15,742,685	7,381,676	2,812,619
PA	5,494,048	10,988,095	11,099,673	3,069,081
IN	1,682,672	3,365,345	3,443,043	2,560,526
SC	1,808,862	3,617,723	5,759,316	2,471,850
NM	875,890	1,751,779	2,958,070	2,303,173
TX	7,461,306	14,922,613	17,617,399	3,515,549

Action Date: Hopefully before October 1, 1997

Promulgate the PRWORA NPRM on Allocating Enhanced Funding

PRWORA required the Secretary to issue regulations regarding the allocation of the capped \$400 million in enhanced funding available for systems development. That NPRM has been at OMB since June 2, 1997. The States and the advocacy groups have been lobbying for the NPRM to be issued so the States can have a better idea of their share of enhanced funding for PRWORA system development.

On July 30, 1997, OLAB facilitated a discussion with OMB regarding the allocation NPRM. ACF has since made the revisions to the NPRM they requested and provided additional information. ACF believes it has addressed all of OMB's concerns and hope that clearance of the NPRM will occur shortly.

Ensure that the NPRM on CSE Automation Regulation is Issued on Time

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) directed the Secretary of HHS to prescribe final regulations for implementing section 454A of the Social Security Act no later than two years after enactment (August 22, 1998). PRWORA extends the States systems implementation deadline one day for each day the automation regulations are late. Currently, the CSE automation NPRM is in the ACF clearance process. However, OMB has inquired about the NPRM and indicated its interest in improving fiscal oversight in light of the number of States missing the deadline or having failed systems.

**Action Date: August 1997 for Allocation NPRM
December 1997 for CSE Automation NPRM**

Work with States & Advocates to issue PRWORA Functional Requirements focused on results

ACF has changed the approach to developing system certification guidelines. Instead of asking the States to comment on drafts developed by the Federal government, ACF is now involving the States in every stage of the guideline development process. Working with the States, ACF's goal is to review the aspects of the certification process to retain the requirements which serve the goals of improved child support collection well and to provide flexibility where appropriate. The State IV-D Directors noted that need for uniformity and standardization will continue in the areas of reporting program outcomes and effective exchange of information between states.

The certification requirements for PRWORA would focus on systems requirements that most cost-effectively meet performance measures, increase collections, paternity and orders established, etc. The approach to PRWORA system requirements is to inform States of the options available and explain how automation could assist in meeting program requirements. To maximum extent feasible, give States flexibility in how they meet a requirement to allow them to match degree of and approach to automation to their business practices.

While this new approach is appropriate for the certification requirements of PRWORA and aspects of the FSA standards impacted by PRWORA, ACF does not intent to revise the core Family Support Act requirements for two reasons. First, ACF has an existing process that has been used for several years that enables us to consider alternatives to any FSA Certification requirements. ACF has issued literally hundreds of Qs and As which provide flexibility regarding the requirements in the Guide.

Second, many States have entered into firm fixed price contracts with vendors that require systems to meet the requirements in the certification guide. Some States are having difficulty getting vendors to provide any programming above ACF minimum functional requirements. Changing the FSA rules at this point could cause States and vendors some contract difficulty.

A State-Federal workgroup is developing the revised functional requirements. This workgroup will be guided by work it has already done and by other workgroups examining key aspects of PRWORA implementation, such as New Hire, Distribution etc. The workgroup is planning to meet in Denver, CO September 17-19th, and its goal is to have the draft functional requirements for PRWORA ready by October 1, 1997.

PRWORA deadline

The current systems deadline is October 1, 2000, unless the automation regulations are not published by August 22, 1998 and then the deadline is delayed one day for every day the automation regulations are late.

ACF has serious concerns whether this is a realistic deadline for PRWORA system enhancements. One important factor is the calendar year 2000 issue that is going to be draining programmers and systems resources around the world at the same time.

Longer-Term Actions

In order to ensure improved performance as States continue to engage in systems procurements, ACF should consider the following strategies:

- o Incorporate systems requirements into GPRA or some similar performance-based approach, OCSE's and OPS/OSS' emphasis to T/A and "consulting" on how States can best re-engineer and automate business practices. A statutory change may be necessary to implement this option.
- o Assess how the set-aside for technical assistance can be used to maximize the benefits of automation. ACF has been working with States to pursue information technology training, a resource center, and contractor expertise in information technology.
- o Investigate a contracting mechanism at the Federal level that States can draw upon to obtain contractor resources for CSE system development or related activities such as clean-up, conversion or addressing undistributed collections. The Federal Acquisition Streamlining Act of 1994 permits the Federal government to open up its GSA contracts to State and local governments. However, because of controversies, Congress has imposed successive moratoriums on the program since enactment. Small business groups are urging repeal.
- o Hold a CSE systems conference or forum in which all stakeholders in CSE automation, including vendors are invited to participate in facilitated sessions addressing different aspects of CSE automation.
- o Seek the assistance of organizations such as the National Research Council's Computer Science and Telecommunications Board to provide independent advice regarding automated systems for CSE.



Cynthia A. Rice

09/23/97 02:47:08 PM

Record Type: Record

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

cc:

Subject: FYI: Child Support Incentives bill markup Wednesday

FYI -- tomorrow, the full Ways and Means human resources committee will mark up the child support incentives bill which flew through the human resources committee last week. The committee is taking up the Administration proposal, which was developed last winter as a result of a requirement in the welfare legislation. Currently states are paid financial child support incentives based only on their performance on one measure -- cost effectiveness. This proposal provides financial incentives based on state performance in five areas --

- 1) establishment of paternities
- 2) establishment of child support orders
- 3) collections on current child support due
- 4) collection on past child support due; and
- 5) cost effectiveness

→ It also requires states, for the first time, to spend their incentive funds in the child support program.