

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

SPECIAL

CSE - Defense
Dept

October 28, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-3978

TO: Legislative Liaison Officer -

HHS - Frances White - (202)690-7760 - 328
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
STATE - Julia C. Norton - (202)647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
NEC - Sonyia Matthews - (202)456-6630 - 429
NSC - William H. Itoh - (202)456-9220 - 249
OPM - James N. Woodruff - (202)606-1424 - 331

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

OMB CONTACT: Chris MUSTAIN (395-3923)
Secretary's line (for simple responses): 395-7362

SUBJECT: DEFENSE Proposed Report RE: HR 4570, Child
Support Responsibility Act of 1994

DEADLINE: 2:00 PM November 4, 1994

THIS TRANSMISSION CONTAINS 6 PAGE(S) (total).

COMMENTS: The attached report addresses questions raised at a
September 29th hearing of the House Military Forces and
Personnel Subcommittee. Also attached for your reference is
section 425 of HR 4570.

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

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OCT 27 '04 17:07
OCT-25-1994 19:23

FROM OSD LRS
HLM

TO FORGOREN
IU
PAUL GUE
LCS WL
P.02



OFFICE OF THE UNDER SECRETARY OF DEFENSE
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PERSONNEL AND
READINESS

DRAFT

Honorable Ike Skelton
Chairman, Subcommittee
on Military Forces and Personnel
Committee on Armed Services
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to provide additional information in response to questions raised at your September 29 hearing on H.R. 4570, the "Child Support Responsibility Act of 1994."

The committee expressed interest in our views on how judgments entered in foreign countries for child support would affect military members. Our current rules provide that monies due from or payable by the United States to active duty members, members of the Reserve components not on active duty, and retired members are subject to legal process issued by a State or Federal court of competent jurisdiction to enforce a legal obligation to pay child support. Additionally, the Department will honor legal process issued by foreign courts of competent jurisdiction if there is an international agreement between the United States and the foreign country wherein the court is located. The only country that we currently have such an agreement with is Germany, and the agreement only applies while the Service member is stationed in Germany.

Under the proposed legislation, Section 425 of H.R. 4570 would require State courts to treat international child support cases in the same manner as interstate child support cases. Apparently, there is no requirement for an international agreement. As in the one agreement with Germany, there would be no requirement that the individual Service member be stationed in the foreign jurisdiction. Without an agreement, presumably no reciprocity with the foreign state would be required - its orders would be recognized and enforced but it could refuse to recognize and enforce orders issued by United States Courts. We have asked the Department's Office of General Counsel to assess the international law implications of Section 425, particularly, its potential effects on status of forces agreements.

One of our primary concerns with Section 425 is the absence of protection of the Soldiers' and Sailors' Civil Relief Act (SSCRA) in a foreign jurisdiction. Foreign courts that do not extend rights that are substantively the same as those contained in SSCRA should not be entitled to recognition and enforcement.

Another concern with Section 425 is the potential cost to Service members who have to represent themselves in foreign courts. The Department of Defense is the largest



employer of American citizens overseas, and often directs its personnel to serve overseas without any choice. In some instances the Department may be able to assist Service members in defraying part of the cost (for example, flying stand-by on military flights, if available) and through liberal leave policies. However, in many cases, the cost may be prohibitive, particularly for junior personnel, and Service members may be forced to forego representing themselves when foreign courts assert jurisdiction.

While the Department recognizes the important goal of Section 425, the complexities of permitting world-wide enforcement must be fully considered to ensure fair treatment. Not all nations have court systems that provide the full protections afforded by courts of the United States. We believe that provisions permitting verification of paternity must be available prior to recognizing and enforcing a foreign judgment. Also, in light of the potential costs associated with international litigation, procedures need to be established to set fair amounts of support pursuant to an initial judgment, and establish equitable guidelines for modification requests.

Another area of concern expressed by the committee involved enforcement of child support obligations against federal retirees living overseas. Service of process on retirees living overseas is more complex and time consuming than service within the states. A key component to service of process overseas is having a proper residential address. While the Department generally maintains addresses for its retirees, our system can be improved by providing greater emphasis on the need for retirees to keep the Department accurately informed of their current residential address. Thus, assuming we have a proper foreign address, we could release it pursuant to a request from the Federal Parent Locator Service (FPLS). Presumably, the FPLS would be requesting the address to assist with locating the retiree so that action could be taken by the parent, guardian, or other custodian of the child, to serve process and obtain jurisdiction. If jurisdiction is obtained, then the court could enter a judgment for support enabling the Department to garnish the retiree's wages in accordance with existing procedures.

Finally, the committee requested information on the cost and time it will take to establish a centralized personnel locator service. It is important to note that the Department currently provides a weekly electronic interchange of duty addresses for members of the Armed Forces to the FPLS. The proposed legislation would change our operating procedures by requiring the Department to capture and release to FPLS residential as opposed to duty station addresses on, most likely, a daily basis. Residential addresses are currently available for about half the active duty population. The Department would have to capture the remaining information and update the locator service any time members change their addresses.

Accordingly, the proposed legislation will result in additional costs due to the requirement for additional on-line storage, transaction processing charges, processing and updating of addresses of Service members, expansion of existing software, and more frequent processing of requests from FPLS. A conservative estimate of non-labor costs is approximately \$100,000.00. Personnel offices will have a modest increase in workload due to obtaining and changing residential addresses. Regarding the time to implement, it would probably take between six and nine months to obtain and process an address for each member of the Armed Services.

OCT 27 1994 17:09
OCT-25-1994 15:24

FROM OSD-LRS
FROM

TO FORSGREN
TO

LRS OGC P.04

Thank you for the opportunity to provide this additional information. We look forward to continuing our work with the committee on this important matter.

Sincerely,

Jeanne B. Fites
Deputy Under Secretary of Defense
(Requirements and Resources)

SEC. 485. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 211(e) and 301(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by inserting after paragraph (26) the following:

"(27) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases."