

Tentative Outline of Child Support Enforcement Bill
February 23, 1995

WR-CSE (House)

Item

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**SUBTITLE A: Case Registry,
Eligibility, and Distribution of
Payments**

1. Case Registry, State Obligation
to provide child support
enforcement services

States are required to establish paternity for children born out of wedlock if they are recipients of AFDC or Medicaid. States are required to obtain child support payments from noncustodial parents of children receiving AFDC, Medicaid benefits, or foster care maintenance payments. [Sec. 454(4) of SSA]

States are required to provide child support collection or paternity determination services to persons not otherwise eligible after the person applies for services. [Sec. 454(6) of SSA]

Federal law requires States to cooperate with other States in establishing paternity (if necessary), locating an absent parent, and in collecting child support payments. [Sec. 454(9) of SSA]

1. States must record all child support orders established or modified after October 1, 1998, in a central case registry

2. States must collect and disburse child support payments using a centralized collections unit

3. Rewrites but does not substantively change the provisions making children eligible for child support services if they receive benefits from the Temporary Family Assistance Block Grant, the Child Protection Block Grant, or Medicaid, or if their parent applies for services

4. Requires that services under the State plan be available to nonresidents of the state on the same terms as residents.

2. Distribution of Child Support Payments

To receive AFDC benefits, a custodial parent must assign to the State her right to collect child support payments. This assignment covers current support and any arrears (also referred to as arrearages), and lasts as long as the family receives AFDC. Federal law requires that child support collections be distributed as follows: First, up to the first \$50 in current support is paid to the AFDC family (a "disregard" that does not affect the family's AFDC benefit or eligibility status). Second, the Federal and State governments are reimbursed for the AFDC benefit paid to the family in that month. Third, if there is money left, the family receives it up to the amount of the current month's child support obligation. Fourth, if there is still money left, the State keeps it to reimburse itself for any arrears owed to it under the AFDC assignment. If no arrears are owed the State, the money is used to pay arrears to the family; such moneys are considered income under the AFDC program and would reduced the family's AFDC benefit. [Sec. 457(b) of SSA]

1. Permits States to retain the \$50 pass-through in an escrow account for families receiving aid from the Temporary Family Assistance Block Grant or the Child Protection Block Grant; the money in the account must be given to the family not later than the end of the second month after the family ceases receiving aid.

2. States can retain amounts collected as arrearages that accrued while the family received public aid, but only up to the amount that equals the total public aid paid to the family during the time arrears accrued

3. States can no longer apply collections on arrears that accrued prior to receipt of assistance to unreimbursed assistance

4. States are given the option of paying the entire child support payment directly to families on public aid; if they do so, all the money must be treated as income when determining eligibility for assistance

5. For families no longer receiving public assistance, States must pay arrears owed to the family prior to paying arrears owed to the State

6. Repeal distribution rules in effect from July 1, 1975 to September 30, 1976

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3. Privacy Safeguards	Federal law limits the use or disclosure of information concerning recipients of Child Support Enforcement Services to purposes connected with administering specified Federal Welfare programs [sec 402 (a) (9) of SSA]	States must implement safeguards to protect privacy rights regarding sensitive and confidential information, including prohibitions on release of information where there is a protective order or where State has reason to believe a party is at risk of physical or emotional harm from the other party
SUBTITLE B: Program Administration and Funding		
1. Federal matching payments	The Federal Government currently reimburses each State 66 percent of the cost of administering its child support enforcement program. It also reimburses States 90 percent of the laboratory costs of establishing paternity, and through FY 1995, 90 percent of the costs of developing comprehensive statewide automated systems. (There is no maintenance of effort provision in current law.) [Sec. 455 of SSA]	<ol style="list-style-type: none"> 1. Increase the Federal financial participation rate for fiscal year 1997 to 69 percent; for fiscal year 1998 to 72 percent, and for fiscal year 1999 and succeeding fiscal years to 75 percent 2. Add a maintenance of effort requirement that the non-Federal share of IV-D funding for FY 1997 and succeeding years not be less than such funding for FY 1996
2. Performance based incentives and penalties	<p>The Federal Government pays States an incentive amount ranging from 6 percent to 10 percent of AFDC and non-AFDC collections. [Sec. 458 of SSA]</p> <p>States are required to meet Federal standards for the establishment of paternity. The standard relates to the</p>	<ol style="list-style-type: none"> 1. Replace the existing system of incentive payments to States with a new program of incentive adjustments to the Federal matching rate. Under this program, States could receive increases of up to 5 percentage points based on Statewide paternity establishment performance defined as the ratio of the number of children born out of

percentage obtained by dividing (a) the number of children in the State who are born out of wedlock, are receiving AFDC or child support enforcement services, and for whom paternity has been established by (b) the number of children who are born out of wedlock and are receiving AFDC or child support enforcement services. To meet Federal requirements, this percentage in a State must: (a) be at least 75 percent, on the basis of the most recent reliable data or (b) meet these standards of improvement from the preceding year: percentage between 50 and 75 percent, up 3 percentage points from the score of the preceding year; percentage between 45 and 50, up 4 percentage points; percentage between 40 and 45 percent, up 5 percentage points; and percentage below 40 percent, up at least 6 percentage points from preceding year. [Sec. 452(g) of SSA]

If an audit finds that the State's child support enforcement program has not substantially complied with the requirements of its State plan, the State is subject to the following penalties. A State's AFDC benefit payment is to be reduced not less than 1 percent or more than 2 percent for the first failure to comply; not less than 2

wedlock and under one year of age for whom paternity is established or acknowledged during the fiscal year to the total number of children born out of wedlock in the State during the fiscal year

States could also receive increases of up to 10 percentage points based on overall child support enforcement performance, taking into account the percentage of cases requiring a support order in which an order was established; the percentage of cases in which child support is being paid; the ratio of child support collected to child support due; and the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary, after consultation with the States, in regulations

2. States are required to recycle incentive payments back into the child support program

3. If a State fails to meet paternity establishment provisions or the appropriate level of overall performance (as defined below) as established by an audit and the State fails to take sufficient corrective action or the data required to be submitted under section 454(15)(B) is incomplete or unreliable, incentive amounts otherwise payable shall be reduced for the first finding by not less than 3 nor more than 5 percent; for the second finding by not less

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percent or more than 3 percent for the second consecutive failure to comply; not less than 3 percent or more than 5 percent for third or subsequent consecutive failure to comply. [Sec. 403(h) of SSA]

than 5 nor more than 8 percent; for the third and subsequent findings by not less than 10 nor more than 15 percent

3. Federal and State reviews and audits

States are required to maintain a full record of child support collections and disbursements and to maintain an adequate reporting system. [Sec. 454(10) of SSA] The DHHS Secretary must collect and maintain, on a fiscal year basis, up-to-date statistics, by State, on each of the services provided under the child support enforcement program. [Sec. 469 of SSA]

1. Shift the focus of child support audits from process to performance outcomes by adding a new State plan provision that requires States to annually report to the Secretary, using data from their automatic data processing system, the following:

a. information adequate to determine the State's compliance with Federal requirements for expedited procedures and timely case processing using standards and procedures established by the Secretary in consultation with States;

b. information adequate to determine the levels of accomplishment and rates of improvement of the performance indicators (see above)

The DHHS Secretary is required to evaluate the implementation of State child support enforcement programs and conduct audits of these programs as necessary, but not less often than once every 3 years (or annually if a State has been found in noncompliance of program rules). [Sec. 452(a)(4) of SSA]

2. The Secretary must review the information reported by States and determine the amount (if any) of penalties; the Secretary must also review State reports on compliance with Federal requirements and provide States with recommendations for corrective action

3. The Secretary must conduct audits at least once every 3 years, or more often in

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		<p>the case of States that fail to meet Federal requirements, to assess the completeness, reliability, accuracy, and security of data reported for use in calculating the performance indicators (see above) and to assess the adequacy of financial management of the State program</p>
<p>4. Required reporting procedures</p>	<p>The DHHS Secretary is required to assist States in establishing adequate reporting procedures and must maintain records of child support enforcement operations, and of amounts collected and disbursed, including costs incurred in collecting support payments. [Secs. 452(a)(5) and 452(a)(6) of SSA]</p>	<p>Require the Secretary to establish procedures and uniform definitions for State collection and reporting of required information necessary to measure State compliance with expedited processes and timely case processing; require States to use these procedures and definitions in collecting and reporting the required information</p>
<p>5. Automated data processing requirements</p>	<p>Federal law requires States, by Oct. 1, 1995, to have an operational automated data processing and information retrieval system designed to control, account for, and monitor all factors in the support enforcement and paternity determination process; the collection and distribution of support payments; and the costs of all services rendered. [Secs. 454(b)(24) and 454(b)(16) of SSA]</p> <p>The Federal Government, through FY 1995, reimburses States at a 90 percent matching rate for the costs of developing comprehensive statewide automated systems. [Sec. 455 of SSA]</p>	<p>1. Require States to have a single statewide automated data processing and information retrieval system which has the capability to perform the following functions:</p> <ul style="list-style-type: none"> a. to account for Federal, State, and local funds; b. to maintain data for Federal reporting; c. to calculate the State's performance for purposes of the incentive and penalty provisions; d. to safeguard the integrity, accuracy, and completeness of, and access to, data in the automated systems (including policies restricting access to data) <p>2. Revise the statutory provisions for State</p>

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6. Technical Assistance

Annual appropriations are made to cover the expenses of the Administration for

implementation of all Federal automatic data processing requirements (currently required by October 1, 1995) to provide that: all requirements enacted on or before the Family Support Act of 1988 are to be met by October 1, 1995; and all requirements (including those enacted by OBRA 1993 and this bill) are to be met by October 1, 1999, except that the deadline shall be extended by 1 day for each day by which the Secretary fails to meet the deadline for regulations

3. Provide, for each quarter of fiscal year 1996, special Federal matching rate for development of automated systems of 90 percent of State expenditures for requirements from OBRA, and provide, for fiscal years 1997 through 2001, for a match rate for startup costs which is the higher of (i) 80 percent or (ii) the matching rate generally applicable to the State IV-D program (including any incentive increases). The Secretary must create procedures to cap these payments at \$260,000,000 over 5 years to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable automatic data processing requirements.

1. Make funds available to the Secretary to provide technical assistance to the States,

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Children and Families, which include the Federal Office of Child Support Enforcement (OCSE). Among OCSE's administrative expenses are the costs of providing technical assistance to the States.

to train State and Federal staff, to conduct research and demonstration programs, and to conduct special projects of regional or national significance. For these purposes, the Secretary shall use an amount equal to 1 percent of the Federal share of child support collections on behalf of Temporary Family Assistance recipients for the preceding fiscal year

2. The Secretary shall use 2 percent of the Federal share of collections on behalf of Temporary Family Assistance recipients for the preceding fiscal year for operation of the Federal Parent Locator Service to the extent that costs of the Parent Locator Service are not recovered by user fees

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7. Reports and Data Collection	The DHHS Secretary is required to submit to Congress, not later than 3 months after the end of the fiscal year, a complete report on all child support enforcement activities. [Sec. 452(a)(10)]	Amend Section 452 relating to data collection and reporting requirements to conform the requirements to changes made by this bill and to eliminate requirements for unnecessary or duplicative information, by requiring States to report for the fiscal year the following: <ul style="list-style-type: none"> a. the total amount of child support payments collected as a result of services furnished; b. the cost to the State and the Federal government for furnishing such services; c. the number of cases involving families who became ineligible for aid under part A with respect to whom a child support payment was received during a month; d. the total amount of current support collected and distributed; e. the total amount of past due support collected and distributed; and f. the total amount of support due and unpaid for all fiscal years.
SUBTITLE C: Locate and Case Tracking		
1. Central State and case registry	No provision	Require that the State Automatic Data Processing System: <ul style="list-style-type: none"> a. perform the functions of a single central registry containing records with respect to each case in which services are

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2. Centralized collection and disbursement of support payments

No provision. But, States may provide that, at the request of either parent, child support payments be made through the child support enforcement agency or the agency that administers the State's

being provided by the State agency, including each case in which an order has been entered or modified on or after October 1, 1998, using standard data elements; at their option, States may establish a single registry by linking local registries, provided other requirements of this section are met;

b. maintain payment records, including amounts of current and past due support owed, amounts collected and distributed, and the amount of any lien arising by operation of law;

c. regularly monitor and update case records on the basis of information on judicial and administrative actions, proceedings, and orders relating to paternity and support; information from data matches; information on support collections and distributions, and other relevant information; and

d. extract data for purposes of sharing and matching with Federal, in-state and interstate data bases and locator services, including the Federal Parent Locator Service, the data bases created by this bill, and other State child support agencies

Require State child support agencies, beginning October 1, 1998, to operate (either directly by the State child support agency or by a contractor responsible directly to the State) a centralized, automated unit for

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income withholding system regardless of whether there is an arrearage. The State must charge the parent who requests the service a fee equal to the cost incurred by the State for these services, up to a maximum of \$25 per year. [Sec. 466(c) of SSA]

collection and disbursement of child support under orders enforced by the child support agency. The functions performed by this system shall include:

a. carrying out the automated data processing specified in section 454A(g) and administrative enforcement responsibilities specified in section 466(c)(1);

b. using automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, including generation of orders and notices of withholding to employers and automatic use of enforcement mechanisms when payments are not made

3. State Directory for New Hires

No provision

1. Require States to establish, by October 1, 1997, a State Directory of New Hires in the State Employment Security Agency (SESA), (or other State agency at State option), to which employers in the State must furnish for each newly hired employee a report containing the name, date of birth, and Social Security number of the employee, and the employer identification number of the employer, not later than 10 days after the date of hire, or if the employer submits the report magnetically or electronically, 10 days after the date information pertaining to the employee is entered into the employer's files. For purposes of new hire reporting, "employer" includes the Federal government. An employer failing to make a timely report

concerning an employee would be subject to a civil money penalty of \$50 per unreported employee.

2. By October 1, 1997, each State Directory of New Hires shall conduct automated matches of the Social Security numbers of reported employees against the Social Security numbers of records in the State registry of child support orders, and shall report the information received from employers within two working days to the National Directory of New Hires for matching with the records of other State registries of child support orders. Within 2 working days of receiving new hire information, the State child support agency will transmit a notice to the appropriate employer instructing the employer to withhold child support

3. The State child support agency must use the new hire information for purposes of establishing paternity as well as establishing, modifying, and enforcing child support obligations

4. Require new hire information to be disclosed to the Temporary Family Assistance, Medicaid, unemployment compensation, food stamp, and territorial cash assistance programs for income eligibility verification; to the Social Security Administration for use

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4. Amendments concerning income withholding

Since Nov. 1, 1990, all new or modified child support orders that were being enforced by the State's child support enforcement agency were subject to immediate income withholding. Since Jan. 1, 1994, the law has required States to use immediate income withholding for all new support orders,

in determining the accuracy of supplemental security income payments under Title XVI and in connection with benefits under Title II of the Act; to the Secretary of the Treasury for administration of the earned income tax credit program and for verification of claims concerning employment on tax returns; to State agencies in administering unemployment and workers' compensation programs to assist determinations of the allowability of claims; and for research serving the purposes of Title IV of the Act, without personal identifiers

5. The centralized payment processing unit must distribute collections within 2 working days of receipt if sufficient identifying information is provided

6. States must have laws requiring unions and their hiring halls to provide the State Directory of New Hires with address, employer, Social Security number, wages earned, and medical insurer of union members.

1. States shall have laws concerning income withholding providing that all child support orders issued or modified before October 1, 1996, which are not otherwise subject to income withholding, will become subject to income withholding immediately if arrearages occur, without the need for judicial or administrative hearing; that the child

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regardless of whether a parent has applied for child support enforcement services. [Sec. 466(b)(3) and 466(a)(8)(B) of SSA]

States must implement procedures under which income withholding for child support can occur without the need for any amendment to the support order or for any further action by the court or administrative entity that issued the order. [Sec. 466(b)(2) of SSA]

States are required to implement income withholding in full compliance with all procedural due process requirements of the State, and States must send advance notice to each absent parent to whom income withholding applies (exception for some States that had income withholding before enactment of this provision that met State due process requirements). [Sec. 466(b)(4) of SSA]

States are required to extend their income withholding systems to include out-of-State support orders. [Sec. 466(b)(9) of SSA]

No provision.

support agency can execute a withholding order through electronic means and without advance notice to the obligor; and that the employer remit income withheld within 2 working days after the date such amount would have been paid or credited to the employee

2. The Secretary shall promulgate regulations providing definitions for the term "income" and other terms relating to income withholding

All States and the Federal child support enforcement agencies shall have access to the

5. Locator information from interstate networks

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6. Expanded Federal Parent Locator Service	<p>The law requires that the Federal Parent Locator Service (FPLS), established as part of the CSE program, be used to obtain and transmit information about the whereabouts of any absent parent when that information is to be used for the purpose of <i>enforcing child support obligations</i>. [Sec. 453 and 463 of SSA]</p> <p>Upon request, the Secretary of DHHS must provide to an "authorized person" (i.e., an employee or attorney of a CSE agency, a court with jurisdiction over the parties involved, the custodial parent, legal guardian, or attorney of the child) the most recent address and place of employment of any absent parent if the information is contained in the records of DHHS, or can be obtained from any other department or agency of the United States or of any State. The FPLS also can be used in connection with the enforcement or determination of child custody and in cases of parental kidnapping. [Sec. 453 and 463 of SSA]</p> <p>Federal law requires the Secretary of Labor and the DHHS Secretary to enter into an agreement to give the FPLS prompt access to wage and unemployment</p>	<p>motor vehicle and law enforcement locator systems of all States</p> <ol style="list-style-type: none"> 1. Authorize the Secretary to set reasonable rates for the reimbursement to Federal, State, and consumer reporting agencies for the costs of providing information to the FPLS 2. Establish within the FPLS an automated registry known as the Data Bank of Child Support Orders, to contain abstracts of child support orders and other information specified by the Secretary (such as names, Social Security numbers or other uniform identification numbers, and State case identification numbers) to identify individuals who owe or are owed support (or for or against whom support is sought to be established), and the State which has the case 3. Establish within FPLS a National Directory of New Hires containing information to be supplied quarterly by the State Directory of New Hires concerning wages and unemployment compensation paid, starting October 1, 1996, in a format as required by the Secretary; require the State Directory of New Hires to furnish new hire information to the FPLS within 2 days of receipt from the employer

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compensation claims information useful in locating a noncustodial parent or his employer. [Sec. 453(e)(3) of SSA]

4. Require the Secretary to share data received from the State Directory of New Hires with the Social Security Administration for purposes of verifying the accuracy of identifying information on individuals and employers

5. Require the Secretary to match data in the National Directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders at least every 2 working days and to report information obtained from the match to the State child support agency responsible for the case at least 2 working days after the match for purposes of locating individuals to establish paternity, and establish, modify, and enforce child support

6. Require Secretary to perform data matches and reports of information to State agencies operating the Temporary Family Assistance program and any other programs the Secretary determines can make use of the information to recover costs

7. Provide for reimbursement by the Secretary to the Social Security Administration and to States for their costs of carrying out this section; and for reimbursement to the Secretary by State and Federal agencies receiving information from the FPLS

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8. Collection and use of social security numbers

Federal law requires that in the administration of any law involving the issuance of a birth certificate, each State must require each parent to furnish their social security number. The State is required to make such numbers available to the CSE agency in accordance with Federal or State law. [Sec. 205(c)(2)(C)(ii) of SSA]

8. Include provisions to ensure accuracy and to safeguard information in the FPLS from inappropriate disclosure or use

1. Social Security numbers must be collected on all marriage licenses, divorce decrees, birth records, and child support and paternity orders.

2. Include conforming amendments to section of Social Security Act relating to use of Social Security number.

SUBTITLE D: Streamlining Procedures

1. Adoption of uniform State laws

States have several options available for interstate CSE including: direct income withholding; interstate income withholding; long-arm statutes (which require the use of the court system in the State of the custodial parent); the Uniform Reciprocal Enforcement of Support Act (URESA); and the Revised Reciprocal Enforcement of Support Act (RURESA). [Sec. P.L. 102-521 imposes a Federal criminal penalty for the willful failure to pay a past due child support

1. By January 1, 1997, States shall adopt verbatim the Uniform Interstate Family Support Act (UIFSA) with the following modifications:

a. apply UIFSA to any case involving an order established or modified in one State that is sought to be modified in another State and any case requiring enforcement across State lines;

b. in lieu of section 611(a)(1) of UIFSA, States shall adopt a law that allows a

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obligation, with respect to a child who resides in another State. [18 US Code 228]

In 1992, the National Conference of Commissioners on State Uniform Laws approved a new model State law for handling interstate CSE cases. The new Uniform Interstate Family Support Act (UIFSA) is designed to deal with desertion and nonsupport by instituting uniform laws in all 50 States that limit control of a child support case to a single State. This ensures that only one child support order from one court of CSE agency will be in effect at any given time. It also helps to eliminate jurisdictional disputes between States that are impediments to locating parents and enforcing child support orders across State lines. (As of July 1994, 20 States already had enacted UIFSA.)

2. Full faith and credit for child support orders

Federal law requires States to treat past due support obligations as final judgments that are entitled to full faith and credit in every State. This means that a person who has a support order in one State does not have to obtain a second order in another State.

resident of the State or an individual subject to the State's long arm jurisdiction to petition for a modification of an order registered in that State;

c. Require States to recognize as valid any method of service of process used in the other State that is valid in the other State;

d. establish that employers must provide information about the income, employment and benefits of absent parents in their employ upon request of any State

Change the recently enacted federal law governing full faith and credit for child support orders by

1. inserting a definition of "child's home State" as follows: "'child's home State' means the State in which a child lived with a parent or a person acting as parent for at

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to obtain money due should the debtor parent move from the issuing court's jurisdiction. P.L. 103-383 restricts a State court's ability to modify a child support issued by another State unless the child and the custodial parent have moved to the State where the modification is sought or have agreed to the modification. [28 USC 1738 B]

least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period."

2. making a series of revisions to ensure that the law can be applied consistently with UIFSA, if necessary;

3. clarifying that if one or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(a) If only one court has issued a child support order, the order of that court must be recognized;

(b) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized;

(c) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child

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3. Administrative enforcement in interstate cases

No provision.

must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized;

(d) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

4. requiring that if neither of the parties nor the child live in the State where the order was issued, the party moving for modification or enforcement must register the order in a State that has jurisdiction over the nonmoving party.

Permit States to send, without registering the underlying order unless the enforcement action is contested by the obligor on the grounds of mistake of fact or invalid order (electronically or otherwise), requests to other States to enforce orders across State lines. The transmission, which contains all information necessary to match the case against data bases in the responding State, serves as certification to the responding State of the arrears amount and of the fact that the initiating State met all procedural due process requirements. The transmission does not transfer the case to the responding state so the responding State merely matches

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the case against its data bases, takes appropriate action if a match occurs and if collections result sends the funds to the initiating State without putting the transmitted case into its caseload. States must keep records of the number of requests they receive, the number of cases that resulted in a collection, and the amount collected. States must respond to requests within 5 working days.

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4. Uniform forms in interstate enforcement	No provision	Require the Secretary of HHS to issue forms that States must use for income withholding and imposing liens in interstate cases and issuing administrative subpoenas in interstate cases. The Secretary must issue the forms by June 30, 1996 and the States must be using the forms by October 1, 1996.
5. State laws providing expedited procedures	States must have procedures under which expedited processes are in effect under the State judicial system or under State administrative processes for obtaining and enforcing support orders and for establishing paternity. [Sec. 466(a)(2) of SSA]	<p>1. States shall adopt the following procedures to expedite both the establishment of paternity and the establishment, enforcement and modification of support:</p> <ul style="list-style-type: none"> a. ordering genetic testing in appropriate cases; b. entering a default order upon a showing of service of process and any other showing required by State law to establish paternity if the putative father refuses to submit to genetic testing and to establish or modify a support order when a parent fails to appear for a hearing; c. issuing subpoenas to obtain information necessary to establish, modify or enforce an order, with appropriate sanctions for failure to respond to a subpoena; d. obtaining access to records including: records of other state and local government agencies, vital statistics, state and local tax records, records concerning real and personal property; records of occupational and professional licenses, records concerning

control of business entities, employment security records, public assistance;

e. ordering income withholding;

f. directing the parties to pay support to the appropriate government entity;

g. securing assets to satisfy arrearages by intercepting or seizing periodic or lump sum payment from: a State or local agency including unemployment compensation, workers' compensation and other benefits; from judgements, settlements and lottery winnings; from assets of the obligor held by financial institutions and from public and private retirement funds.

h. requiring financial institutions to inform child support officials whether an obligor owing arrearages has an account with that institution and, upon receipt of a seizure notice from the child support agency transfer the specified level of assets to the child support agency.

i. increasing automatically the monthly support due to include amounts to offset arrears;

j. suspending drivers' licenses of obligors who fail to pay child support for 60 days

2. States must follow the procedural rules listed below that apply to all of the expedited procedures in the preceding section:

a. requiring parties in paternity actions to file and update information about location

and identity with the tribunal and States central case registry before the order is issued so the tribunal can deem due process requirements for notice and service of process to be met in any subsequent action involving the same parties if notice was sent to that address;

b. granting the child support agency and any administrative or judicial tribunal with authority to hear child support and paternity cases, to exert statewide jurisdiction over the parties, and to grant orders issued in these cases that have statewide effect;

c. permitting transfer of cases between local jurisdictions without additional filing or service of process

3. Prohibit the Secretary of Health and Human Services from granting exemptions from federal requirements in the following areas:

a. paternity establishment;

b. modification of orders;

c. recording orders in central state case registry;

d. recording Social Security numbers;

e. interstate enforcement;

f. expedited procedures

4. The automated systems being developed by States are to be used to implement the expedited procedures

SUBTITLE E: Paternity Establishment

1. State laws concerning paternity establishment

Federal law requires States to have a law and procedures for a simple civil process for voluntarily acknowledging paternity that include a hospital-based program. Under these procedures, voluntary acknowledgment of paternity creates a rebuttable, or at the option of the State, conclusive presumption of paternity and must be admissible as evidence of paternity. These procedures must require default orders in paternity cases upon a showing of service of process on the defendant and require whatever additional showing mandated by State law. [Sec. 466(a)(5)(C) of SSA]

Under the civil procedures, States are required to give full faith and credit to determinations of paternity made by other States. [Sec. 466(a)(11) of SSA]

1. States shall have laws requiring the child and all other parties, where paternity may be contested under State law, to undergo genetic testing upon the request of a party, where the request is supported by a sworn statement establishing a reasonable possibility of parentage or nonparentage. The laws must require, when the child support agency orders the tests, that States pay for the costs (subject to recoupment at State option from the putative father if paternity is established), and that States obtain additional testing when test results are disputed

2. States shall have procedures for:

a. simple civil process for establishing paternity under which benefits, rights and responsibilities of acknowledgement are explained to unwed parents;

b. a paternity acknowledgement program through hospitals and birth record agencies, which are required to use a uniform affidavit developed by the Secretary that is entitled to full faith and credit in any other State;

c. a signed acknowledgement of paternity that is considered a legal finding of paternity unless rescinded within 60 days, and thereafter may be challenged in court only on the basis of fraud, duress, or

material mistake of fact;

d. allowing minors who sign a voluntary acknowledgement to rescind it up until age 18 or the date of the first proceeding to establish a support order, visitation or custody rights;

e. providing that no judicial or administrative proceedings are required or permitted to ratify an acknowledgement which is not challenged by the parents

3. States shall have procedures:

a. admitting into evidence accredited genetic tests, unless any objection is made within a specified number of days, and if no objection is made, clarifying that test results are admissible without the need for foundation or other testimony;

b. requiring issuance of an order for temporary support, upon motion of a party, pending an administrative or judicial determination of parentage, where paternity is indicated by genetic testing or other clear and convincing evidence;

c. providing that bills for pregnancy, childbirth, and genetic testing are admissible without foundation testimony;

d. ensuring that putative fathers have a reasonable opportunity to initiate paternity action;

e. providing for voluntary acknowledgements and adjudications of

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2. Outreach for Voluntary Paternity Establishment

States are required to regularly and frequently publicize, through public service announcement, the availability of child support enforcement services. [Sec. 454(23) of SSA] The States decide how they will publicize the availability and encourage use of procedures for voluntary establishment of paternity and child support.

paternity to be filed with the State registry of birth records for data matches with the central registry established by the State

States shall publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support

3. Cooperation By Applicants & Recipients

AFDC applicants and recipients are required to cooperate with the State in establishing the paternity of a child and in obtaining child support payments for a child, unless the applicant or recipient is found to have good cause for refusing to cooperate. [Sec. 402(a)(26) of SSA]

Under the "good cause" regulations, the CSE agency may determine that it is against the best interests of the child to seek to establish paternity in cases involving incest, rape, or pending procedures for adoption. Moreover, the CSE agency may determine that it is

Individuals who apply for or receive public assistance under the Temporary Family Assistance Program must cooperate with child support enforcement efforts by providing specific identifying information about the other parent, unless the applicant or recipient is found to have good cause for refusing to cooperate; responsibility for determining failure to cooperate is shifted from the agency that administers the Temporary Family Assistance Program to the agency that administers the child support program. (Title I of the bill passed by the Subcommittee requires States to reduce cash welfare grants by a maximum of \$50 per month or 15% of the monthly benefit for a minimum

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against the best interest of the child to require the mother to cooperate in establishing paternity or seeking child support or medical support if it is anticipated that such cooperation will result in the physical or emotional harm of the child and/or parent or caretaker relative. [45 CFR Sec. 232.40-43]

of 3 and a maximum of 6 months if paternity is not established.)

**SUBTITLE F: Establishment and
Modification of Support Orders**

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1. Simplified process for adjustment of support orders	<p>A child support order legally obligates a noncustodial parent to provide financial support for his or her child and stipulates the amount of the obligation and how it is to be paid. P.L. 98-378 required States to establish guidelines for establishing child support orders. P.L. 100-485 made the guidelines binding on judges and other officials who had authority to establish support orders. P.L. 100-485 also required States to review and adjust individual child support orders once every 3 years (under certain circumstances). States are required to notify parents (custodial and noncustodial) of their right to a review. [Secs. 467 and 466(a)(10)(B) of SSA]</p>	<p>1. States shall review and, if appropriate, adjust child support orders enforced by the State child support agency every three years. States can use automated means to accomplish review and adjustment, by either:</p> <ul style="list-style-type: none"> a. reviewing the order and, if appropriate, adjusting it in accordance with the child support guidelines; or b. applying a cost of living increase to the order and giving the parties an opportunity to contest the adjustment; c. Without a showing of change in circumstances of the parties, <p>2. States may also review and, upon a showing of a change in circumstances, adjust orders pursuant to the child support guidelines upon request of a party.</p> <p>3. States are required to give parties one notice of their right to request review and adjustment, which may be included in the order establishing the support amount</p>
SUBTITLE G: Enforcement of Support Orders		
1. Federal income tax refund offset	<p>Since 1981 in AFDC cases, and 1984 in non-AFDC cases, Federal law has required States to implement procedures under which CSE agencies can collect child support arrearages through the</p>	<p>1. Amend the Internal Revenue Code to provide that offsets of child support arrears (whether owed to the family or assigned to the State) against income tax overpayments would take priority over debts owed Federal</p>

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interception of Federal income tax refunds. Federal rules set different criteria for AFDC and non-AFDC cases. For example, in AFDC cases arrearages may be collected through the income tax offset program regardless of the child's age. In non-AFDC cases, this is true only if the postminor child is disabled (pursuant to the meaning of disability under title II or XVI of the SSA). Moreover, the arrearage in AFDC cases must be at least \$150, whereas the arrearage in non-AFDC cases must be at least \$500. [Sec. 464 of SSA]

agencies (other than debts owed to HHS or the Department of Education for student loans);

2. Amend the Internal Revenue Code so that distribution of tax offsets shall follow the distribution rules for child support payments specified in subtitle A of this bill (if the family is on assistance, the Temporary Family Assistance arrears are paid first, and if the family is not on assistance, arrears to the family are paid first)

4. Eliminate disparate treatment of families not receiving public assistance by repealing provisions (applicable only to support arrears not assigned to the State) that:

a. make the tax offset available only for minor or disabled children who are still owed current support;

b. set a higher threshold amount of arrears before the tax offset is available;

c. permit higher fees to be charged for the offset services

2. Internal Revenue Service collection of arrears

Federal law gives the Internal Revenue Service (IRS) the authority to collect certain child support arrearages (on behalf of both AFDC and non-AFDC recipients) as if they were delinquent Federal taxes. The IRS may negotiate a payment plan with the noncustodial parent, seize the noncustodial parent's property, freeze the person's bank

Amend the Internal Revenue Code so that, upon certification of arrears by the Secretary of HHS, the IRS cannot impose additional fees for adjustment to the amount of arrears previously certified with respect to the same obligor

account, or suspend collection because the account is not collectable. Federal law requires the DHHS Secretary, upon the request of a State, to certify to the Secretary of Treasury for collection by the IRS any amounts identified by the State as representing delinquent child support payments. The DHHS Secretary may certify only the amounts delinquent under a court or administrative order, and only upon a showing by the State that it has made diligent and reasonable efforts to collect amounts due using its own collection methods. Further, States must reimburse the Federal Government for any costs involved in making the collections. [Sec. 452(b) of SSA]

3. Authority to collect child support from Federal Employees

Federal law allows the wages of Federal employees to be garnished to enforce legal obligations to pay child support or alimony. [Sec. 459 of SSA]

Federal law provides that moneys (the entitlement to which is based upon remuneration for employment) payable by the United States to any individual are subject to legal proceeding brought for the enforcement against such individual of his legal obligation to provide child

Clarify the rules on collection of support from individuals employed by or receiving income from the Federal government and simplify the law by combining into one provision sections currently appearing in three sections of Title IV, Part D. Specifically, the resulting provision will:

- a. establish clearly that federal employees are subject to wage withholding and other legal processes to collect child support;
- b. set out rules Federal agencies must

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support or make alimony payments. (Sec. 462 of SSA)

follow in responding to notices of wage withholding or other legal processes to collect support (provided that the notices contain information to enable the agency to identify the person and money involved);

c. delete existing law governing designation of agents to receive and respond to process and replace with streamlined provision requiring designation by all agencies and publications of the title, address and telephone numbers of each agent in the Federal Register annually;

d. require agents, upon receipt of process, to send notice and copy to the individual involved in writing as soon as possible, but no later than 15 days, to comply with any notice of wage withholding or respond to other process within 30 days;

e. amend existing law governing allocation of moneys owed by an individual to give priority to child support, to require allocation of available funds, up to the amount owed, among child support claimants and to allocate remaining funds to other claimants on a first-come, first-served basis;

f. move authority to promulgate regulations from section 461(a) to section 459(g);

g. create new definition of remuneration for employment (and move the definition to section 459(h) from section 462, that includes funds payable for the personal

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services of the individual, such as insurance benefits, retirement and pension pay, survivor's benefits, compensation for death and black lung disease, veteran's benefits and workers' compensation; excluding funds paid to defray expenses incurred in carrying out job duties;

h. repeal section 461 (after amending and relocating all sections to section 459);

i. make changes to other Titles of the U.S. Code to bring them into conformance with the amendments

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4. Enforcement of Child Support obligations of members of the Armed Forces	Federal law requires allotments from the pay and allowances of any member of the uniformed service (on active duty) when he fails to pay child (or child and spousal) support payments. [Sec. 465 of SSA]	<p>1. The Secretary of Defense shall establish a central personnel locator service that:</p> <ul style="list-style-type: none"> a. contains residential or, in specified instances, duty addresses of every member of the Armed Forces; b. is updated within 30 days of the individual member establishing a new address; c. is made available to the Federal Parent Locator Service <p>2. The Secretary of Defense shall issue regulations to facilitate granting of leave for members to attend hearings to establish paternity or to establish child support orders</p> <p>3. The Secretary of each branch of the Armed Forces is permitted to make child support payments directly to any State to which a custodial parent has assigned rights to support as a condition of receiving public assistance</p> <p>4. The Secretary of Defense shall ensure that payments to satisfy current support or child support arrears shall be made from disposable retirement pay</p>
5. Voiding fraudulent transfers	No provision.	States shall have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, or

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6. State law authorizing suspension of licenses

Current CSE collection methods include wage/income withholding, intercept of Federal and State income tax refunds, intercept of unemployment compensation, IRS full collection procedures (e.g., seizure of property, freezing assets, etc.), liens against real and personal property, security bonds, and reporting child support obligations to credit reporting agencies. [Sec. 466 and 464 of SSA]

Federal law does not require States to deny professional licenses to noncustodial parents with child support delinquencies. However, as of August 1994, 28 States were denying or revoking professional, business, or trade licenses of persons who have child support arrearages.

an equivalent law providing for voiding transfers of income or property made to avoid payment of child support

States shall have the authority in appropriate cases (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of drivers' licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings

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7. Extended statute of limitations for collection of arrearages	<p>No provision. At the option of the state, overdue support may include amounts to someone who is no longer a minor child. [Sec. 466 (e) of SSA] States vary as to how long they will enforce child support arrearages. Statutes of limitation confine collection on a money judgment to a specific time period. The most common ranges is from 6 to 10 years after the debt has been reduced to judgment. Federal law requires that child support be reduced to judgment by operation of law once it is past due.</p>	<p>State law shall provide a statute of limitations on child support arrears extending at least until the child reaches age 30. This provision does not require a State to revive any payment obligation which had lapsed on the effective date of the State law</p>
8. Penalties for arrearages	<p>No provision. However, States may impose a late payment fee on all overdue support, equal to a uniform percentage determined by the State (not less than 3 percent or more than 6 percent). [Sec. 454(21) of SSA]</p>	<p>States shall have procedures that provide, with respect to arrearages accruing on or after October 1, 1988, for the calculation and collection of interest or penalties for arrearages of child support and for the distribution of this interest or penalties for the benefit of the child, except where the right to support has been assigned to the State</p>
9. Denial of Passports for nonpayment of child support	<p>No provision.</p>	<p>Upon receipt of a certification from a State child support agency that an individual owes child support arrears of over \$5,000 or 24 months worth of support, the Secretary of HHS</p>

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must transmit such certification to the Secretary of State for action to refuse to issue a passport to the individual and may revoke or restrict a passport already issued. State child support agencies shall have a procedure (which may be combined with the certification procedure for tax refund offset) for certifying to the Secretary that individuals owe arrearages of child support in excess of \$5,000 or 24 months worth of support, after having provided notice and opportunity to contest the determination. Neither the Secretary of HHS nor the Secretary of State shall be liable to an individual for any action with respect to a certification by a State agency

SUBTITLE H: Medical Support

1. Expand ERISA definition of medical child support order

P.L. 103-66 requires States to adopt laws to require health insurers and employers to enforce orders for medical and child support and forbids health insurers from denying coverage to children who are not living with the covered individual or who were born outside of marriage

Expand the definition of medical child support order in ERISA to clarify that any judgement, decree, or order that is issued by a court of competent jurisdiction or by an administration adjudication has the force and effect of law under applicable State law

2. Medical Support Orders

Federal law requires States to petition for and pursue medical support. [Secs.]

State child support agencies shall have rules for establishing and enforcing orders

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452(f) and 1908 of SSA]

requiring absent parents to provide health care coverage for their children. These procedures must include:

- a. provision for health care coverage of children in every child support order;
- b. execution of order for health care coverage by child support agency whenever the support order does not include the provision;
- c. implementation of orders for health care coverage by the child support agency by sending notice of the order to the absent parent's employer or to the provider of the absent parent's health care coverage;
- d. transfer of the order by the child support agency to the obligor's subsequent employers or providers of health care coverage;
- e. imposition of liability against an employer or provider failing to comply with an order;
- f. notice to the absent parent when the child support agency implements an order for health care coverage, providing the absent parent with rights to administrative and judicial review

**SUBTITLE I: Enhancing
Responsibility and Opportunity
for Non-Residential Parents**

1. Grants will be made to States for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement

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including monitoring, supervision and neutral drop off and pick up and development of guidelines for visitation and alternative custody arrangements

a. the Administration for Children and Families, Department of HHS will administer the program;

b. States will be required to monitor and evaluate their programs; evaluation and reporting requirements will be determined by the Secretary;

c. States may sub-grant or contract with courts, local public agencies or to private non-profit agencies to carry out the approved grant work;

d. programs operating under the grant will not have to be state-wide;

e. funding will be authorized as a capped entitlement under section IV-D of the Social Security Act; State grantees will receive funding at the regular FFP program rate; projects will be required to supplement rather than supplant State funds

SUBTITLE J: Criminal Penalties
Open for Discussion

SUBTITLE K: Bank deposits
Open for Discussion

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SUBTITLE L: Effective Dates

Not applicable

A State will not be out of compliance with any requirement in the bill if they are unable to comply without amending the State constitution until the year after the effective date of the constitutional amendment or 5 years after this bill has been enacted