

HYPOTHETICAL
CHILD SUPPORT ENFORCEMENT
PROPOSAL

(Including Child Support Assurance Demonstrations)

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The following is one hypothetical child support enforcement option. These are preliminary ideas for internal discussion purposes only.

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CHILD SUPPORT ENFORCEMENT

BACKGROUND AND SUMMARY

In spite of the concerted efforts of Federal, State and local governments to establish and enforce child support orders, the current system fails to ensure that children receive adequate support from both parents. Recent analyses by the Urban Institute suggest that the potential for child support collections exceeds \$47 billion per year. Yet only \$20 billion in awards are currently in place, and only \$13 billion is actually paid. Thus we have a potential collection gap of over \$34 billion.

The signals the system sends are unmistakable: all too often noncustodial parents are not held responsible for the children they bring into the world. Less than half of all custodial parents receive any child support, and only about one third of single mothers (mothers who are divorced, separated, or never married as opposed to remarried) receive any child support. Among never-married mothers, only 15 percent receive any support. The average amount paid is just over \$2,000 for those due support. Further, paternity is currently being established in only one third of cases where a child is born out-of-wedlock.

The problem is primarily threefold: First, for many children born out of wedlock, a child support order is never established. Roughly 37% of the potential collection gap of \$34 billion can be traced to cases where no award is in place. This is largely due to the failure to establish paternity for children born out of wedlock.

Second, when awards are established, they are often too low, are not adjusted for inflation, and are not sufficiently correlated to the earnings of the noncustodial parent. Fully 42% of the potential gap can be traced to awards that were either set very low initially or never adjusted as incomes changed.

Third, of awards that are established, government fails to collect the full amount of child support in half the cases. The remaining 21 percent in the potential collection gap is due to failure to collect on awards in place.

The typical child born in the U.S. today will spend time in a single parent home. The evidence is clear that children benefit from the financial support and interaction with two parents--single parents cannot be expected to do the entire job of two parents. If we cannot solve the problem of child support, we cannot possibly adequately provide for our children.

The Strategy: Build a child support system for the 21st century.

The Proposal has three major elements:

- Establish Awards In Every Case
- Set Awards at a Reasonable Level and Adjust Them Routinely
- Collect Awards That Are Owed

In addition, there are two other elements considered:

- Guarantee Some Level of Child Support.
- Supports and Nonfinancial Expectations for Noncustodial Parents

I. ESTABLISH AWARDS IN EVERY CASE

Current System

States currently establish paternity for only about one third of the out-of-wedlock births every year. States typically try to establish paternity only for women who apply for welfare, which sometimes occurs years after the birth of the child. Time is of the essence in paternity establishment so that the longer the delay after the birth the harder it is to ever establish paternity. Research indicates that between 65 percent and 80 percent of the fathers of children born out of wedlock are present at birth or visit the child shortly after birth. So beginning the paternity establishment process at birth or shortly thereafter is critical. Research demonstrates that even men who have low incomes initially often have quite significant earnings several years later, so the financial benefits to the children within a few years are significant.

States are also hampered by a lack of incentives and cumbersome procedures for establishing paternities. Scientific testing for paternity has now become extremely accurate, yet many state systems fail to take full advantage of this scientific advancement.

Proposal

○ Under the proposal, states will receive Federal funding to implement a paternity establishment program that expands the scope and improves the effectiveness of current State paternity establishment procedures. Under new Federal requirements, States must ensure that paternity is established for as many children born out of wedlock as possible, regardless

of the welfare or income status of the mother or father, and as soon as possible following the child's birth. Each State's performance will be measured based not only upon cases within the State's current IV-D (child support) system, but upon all cases where children are born to an unmarried mother.

- States will be encouraged to improve their paternity establishment records through a combination of performance standards and performance-based incentives. To facilitate the process, States will be required to streamline paternity establishment processes and implement procedures that build on the successes of other States.
- Outreach efforts at the State and Federal levels will promote the importance of paternity establishment both as a parental responsibility and a right of the child.
- The responsibility for paternity establishment will be made more clear for both the parents and the agencies. Mothers must cooperate fully with paternity establishment procedures under a new stricter definition of cooperation. "Cooperation" will be determined by the IV-D (child support) worker, not IV-A (welfare), through an expedited process and the relevant programs will be notified. State agencies will be required to either establish paternity if at all possible or impose a sanction in every case within strict timelines. Good cause exceptions will continue to be provided in appropriate circumstances.
- Agencies will be able to administratively establish child support orders following appropriate guidelines.

II. SET AWARDS AT A REASONABLE LEVEL AND ADJUST THEM ROUTINELY

Current System

Much of the gap between what is currently paid in child support in this country and what could potentially be collected can be traced to awards that were either set very low initially or are never adjusted as incomes change. All states are required to have guidelines, but the resulting award levels vary considerably. Updating of awards to reflect changed circumstances are not routinely done for every case. Distribution and payment rules often place families' needs second.

Proposal

- Under the proposal, a National Commission will be set up to study the issues of child support guidelines and the advisability of a national guideline to insure equitable awards.
- Universal, periodic, administrative updating of awards will be required to ensure that awards accurately reflect the current ability of the noncustodial parent to pay support.

- Revised distribution and payment rules will be designed to strengthen families. Arrearages will be paid to families first and arrearages owed to the state will be forgiven if the family unites or reunites in marriage.

III. COLLECT AWARDS THAT ARE OWED

Current System

Enforcement of support is handled by state and local IV-D agencies, with tremendous state variation in terms of structure and organization. Cases are too often handled on a complaint-driven basis with the IV-D agency only taking enforcement action when the custodial parent pressures the agency to take action. Many enforcement steps require court intervention, even when the case is a routine one. And even routine enforcement measures often require individual case processing rather than relying upon automation and mass case-processing. States are often not equipped with the necessary enforcement tools - tools that have proven successful in other states - to insure that people do not escape their legal and moral obligation to support their children.

When payments of support by noncustodial parents or their employers are now made they go to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial parent population, the need for one, central state location to collect and distribute payments in a timely manner has grown. Also, the ability to maintain accurate records that can be centrally accessed is critical. Computers, automation and information technology, such as those used by business, are rarely used to the extent necessary.

Welfare and non-welfare cases are often handled differently with often little help for poor and middle class women outside the welfare system. States require a written application, and often a fee, in order to provide enforcement services to a non-welfare parent. The incentives built into the system mean that non-welfare cases often receive second-hand services.

The Federal government currently has a role in enforcement through tax intercepts and full collection programs by the IRS and operation of the Federal Parent Locator Service (FPLS) by OCSE. Given the fact that 30 percent of the current caseload involves interstate cases and the fact that we live in an increasingly mobile society, the need for a stronger federal role in location and enforcement has grown, particularly in interstate cases.

Through direct Federal matching, the Federal government currently pays 66 percent of most State and local program costs with a complicated incentive formula which caps the incentive for non-AFDC cases. There is almost universal agreement that the current funding and incentive structure fails to achieve the right objectives. In addition, existing audit procedures involve too many technical requirements and serve to address a State's

deficiencies after the fact. Too little technical assistance is provided to states before problems occur.

Proposal

- Under the plan, the state based system will continue, but with bold changes which move the system towards a more uniform, centralized and service oriented program. All States will maintain a State staff in conjunction with a central registry and centralized collection and disbursement capability. The State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain enforcement remedies at the State level administratively. Thus, routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. For states that opt to use local offices, this will supplement, but not replace, local enforcement actions. States will be encouraged through a higher Federal match to operate a uniform State program entirely under the authority of the State's designated agency.
- States will be required to establish a Central State Registry for all child support orders established in that State. The registry will maintain current records of all support orders and serve as a clearinghouse for the collection and distribution of child support payments. This will be designed to vastly simplify withholding for employers as well as insure accurate accounting and monitoring of payments.
- Welfare and non-welfare distinctions will be largely eliminated and all cases included in the central registry will receive child support enforcement services automatically, without the need for an application. Certain parents, provided that they meet specified conditions, can choose to be excluded from payment through the registry.
- The Federal role will be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Child Support Enforcement Clearinghouse (NCSEC) will be established consisting of three registries: the National Locate Registry (an expanded FPLS), the National Child Support Registry, and the National Directory of New Hires.
- The IRS role in full collections, tax refund offset, and providing IRS income and asset information access will be expanded.
- Federal technical assistance will be expanded to prevent deficiencies before they occur. While penalties will still be available to ensure that states meet program requirements, the audit process will emphasize a performance based, "state friendly" approach.

- The entire financing and incentive scheme will be reconstructed offering States a higher Federal match and new performance-based incentive payments geared towards desired outcomes.
- New provisions will be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.
- IV-D agencies will be able to quickly and efficiently take enforcement action when support is not being paid. IV-D agencies will use expanded access and matching with other state data bases to find location, asset and income information and will be provided administrative power to take many enforcement actions. A variety of tough, proven enforcement tools will also be provided.

IV. GUARANTEEING SOME LEVEL OF CHILD SUPPORT – CHILD SUPPORT ASSURANCE

Current System

Child Support Assurance is a program that would seek to combine a dramatically improved child support enforcement system with the payment of a minimum child support payment so that the custodial parent could count on some minimum level of support even if the noncustodial parent is unable to pay. Currently, no state has such a program, although the Child Assistance Program (CAP) in New York State has some similar features. Many states have indicated a strong interest in implementing such a program if they could receive some federal assistance.

Proposal

- State demonstrations of a number of variations.

V. SUPPORTS AND NONFINANCIAL EXPECTATIONS FOR NONCUSTODIAL PARENTS

Current System

Under the present system, the needs and concerns of noncustodial parents are often ignored. Instead of encouraging noncustodial parents to remain involved in their children's lives, the system often drives them away.

Proposal

○ The system will focus more attention on this population and send the message that "fathers matter". The child support system, while getting tougher on those that can pay but refuse to do so, will also be more fair to those noncustodial parents who show responsibility towards their children. Some of the elements above will help. There will be better tracking of payments to avoid build-up of arrearages and a simple administrative process for modifications of awards. Downward modifications of awards will be made when income declines so that these parents are not faced with awards that they cannot pay. Paternity actions will stress the importance of getting fathers involved earlier in the child's life.

In addition:

○ Block grants will be made to states for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education and enforcement.

○ The National Commission studying access and visitation will be extended and adequately funded.

○ A portion of JOBS program funding will be reserved for education and training programs for noncustodial parents.

○ Targeted Jobs Tax Credit (TJTC) will be made available to fathers with children receiving food stamps (under discussion).

○ There will be demonstrations and experimentation whereby noncustodial parents who participate in employment and training activities do not build up arrearages while they participate and significant experimentation with mandatory work programs for noncustodial parents who refuse to work and pay child support.

HYPOTHETICAL CHILD SUPPORT ENFORCEMENT PROPOSAL

I. ESTABLISH AWARDS IN EVERY CASE

States would receive Federal funding to implement a paternity establishment program that expands the scope and improves the effectiveness of current State paternity establishment procedures. Under new Federal requirements, States must ensure that paternity is established for as many children born out of wedlock as possible, regardless of the welfare or income status of the mother or father and as soon as possible following the child's birth. To facilitate the process, States would be required to streamline paternity establishment processes and implement procedures that build on the successes of other States.

Paternity Performance and Measurement Standards

Each State's performance would be measured based not only upon cases within the State's current IV-D (child support) system, but upon all cases where children are born to an unmarried mother. States would then be encouraged to improve their paternity establishment for all out-of-wedlock births through performance-based incentives. (Current performance standards for IV-D cases would also be maintained.)

Measure of Paternity Establishment

Each State would be required, as a condition of receipt of federal funding for the child support enforcement program, to calculate a State paternity establishment percentage based on yearly data that record: (1) all out-of-wedlock births in the State for a given year, regardless of the parents' welfare or income status; and (2) all paternities established for the out-of-wedlock births in the State during that year. Thus, each State would have a record of the status of paternity for all births which would be reflected in the State percentage for a given year. (The Secretary shall prescribe by regulation the acceptable methods for determining the denominator and the numerator with a preference for actual number counts rather than estimates.)

Cases where paternity is established would report the age of the child, enabling States to determine exactly how long it is taking to establish paternity. These data would provide more flexibility in accounting for State performance. Measurements could not only track the percent of paternities established within the first year of the child's life, but also the percent established in one to two years, two to three years, etc..

Funding and Incentives

The Federal government would reimburse States for a portion of the total costs of all paternity establishment services. In order to encourage States to increase the number of paternities established, the Federal government would provide performance-based incentive payments to States based on improvements in each State's paternity establishment percentage.

The Federal Financial Participation rate (FFP) for State Child Support Enforcement Services would be provided for all paternity establishment services provided by the IV-D Agency regardless of whether the mother or father signs a IV-D application.

Performance-based incentives would be made to each State in the form of an increased federal financial participation rate (FFP) of 1 to 5 percent. The incentive structure determined by the Secretary would build on the performance measures so that states that excel would be eligible for incentive payments. The incentive structure would award the early establishment of paternity so that States have an incentive to get paternities established as quickly as possible but States would still have an incentive to work older cases. (See Funding and Incentive Section.)

At State option, States could also experiment with programs that provide financial incentives for parents to establish paternity, and such programs, upon approval of the Secretary, would be eligible for FFP. The Secretary would additionally authorize up to three demonstration projects whereby financial incentives are provided for establishment of paternity.

Voluntary Acknowledgment of Paternity

OBRA of 93 requires each State to have in effect laws for the use of a simple, civil process for the voluntary acknowledgment of paternity, including the establishment of a hospital-based program for acknowledging paternity during the period immediately preceding or following the birth of a child born out of wedlock, and due process safeguards to protect the rights of the putative father. This proposal builds on that foundation, further encouraging nonadversarial procedures to establish paternity as soon as possible following the child's birth and requiring efforts to remove barriers to interstate paternity establishment.

As part of the State's voluntary consent procedures, each State must, either directly or under contract with health care providers:

- (1) require other health-related facilities (including pre-natal clinics, "well-baby" clinics, in-home public health service visitations, family planning clinics and WIC centers) to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children; this effort

should be coordinated with the U.S. Public Health Service and the U.S. Department of Education. WIC program information shall also be available to the IV-D agency in order to provide outreach and services to recipients of that program.

- (2) make available procedures within hospitals to provide for taking a blood or other sample at the time of the child's birth, if the parents request the test.

In addition, as part of a State's civil procedures for establishment of paternity, each State must:

- (1) have statutes allowing the commencement of paternity actions prior to the birth of the child and expedited procedures for ordering genetic tests as soon as the child is born, provided that the putative father has not yet acknowledged paternity;
- (2) provide administrative authority to the IV-D agency to order all parties to submit to genetic testing in all cases where either the mother or putative father requests a genetic test, or where the putative father denies the allegation or fails to appear at any scheduled conference to respond to the allegation, without the need for a court hearing prior to such an order;
- (3) advance the costs of genetic tests, subject to recoupment from the putative father if he is determined to be the biological father of the child (Federal funding would continue at 90% for laboratory tests for paternity); if the result of the genetic testing is disputed, upon reasonable request of a party, order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting the additional tests;
- (4) provide discretion to the administrative agency or court setting the amount of support to forgive delivery medical expenses or limit arrears owed to the State (but not the mother) in cases where the father cooperates or acknowledges paternity before or after a genetic test is completed;
- (5) provide administrative authority to the IV-D agency to enter default orders to establish paternity specifically where a party refuses to comply with an order for genetic testing;
- (6) preclude the use of court hearings to ratify paternity acknowledgments;
- (7) provide that acknowledgments of paternity create either a rebuttable or conclusive presumption of paternity. If a rebuttable presumption of paternity is created, states must provide that the presumption ripens into a conclusive

legal determination with the same effect as a judgment no later than 12 months from the date of signing the acknowledgment. States may, at their option, allow fathers to move to vacate or reopen such judgments at a later date in cases of fraud or if it is in the best interest of the child.

- (8) allow putative fathers (where not presumed to be the father under State law) standing to initiate their own paternity actions, even if the mother of the child is not cooperating with the State;
- (9) before paternity is established, and until either parent brings a custody action which is heard by a tribunal, presume that the mother (or at State option, the primary caretaker) of the child born out of wedlock has custody of the child; any custody action initiated by either parent will be treated as an initial custody determination where the presumption of custody granted to the mother has no bearing on the ultimate custody determination by the State;

Current regulations establishing timeframes for establishing paternity shall be revised since the administrative procedures required will allow cases to be processed more quickly.

Outreach

Outreach efforts at the State and Federal levels would promote the importance of paternity establishment both as a parental responsibility and a right of the child.

The Department of Health and Human Services, led by the Public Health Service and the Department of Education, would take the lead in developing a comprehensive media campaign designed to reinforce both the importance of paternity establishment and the message that child support is a "two parent" responsibility.

States would be required to implement outreach programs promoting voluntary acknowledgment of paternity through a variety of means including, but not limited to, the distribution of written materials at schools, hospitals, and other agencies. States are encouraged to establish pre-natal programs to educate expectant couples, either married or unmarried, of their joint rights and responsibilities in paternity. At State option, such programs could be required of all expectant welfare recipients. Programs, upon approval of the Secretary, would be eligible for an enhanced matching rate of 90 percent.

In addition, States would be required to make reasonable efforts to follow up with individuals who do not establish paternity in the hospital, providing them information on the benefits and procedures for establishing paternity. The materials and the process for which the information is disseminated is left to the discretion of the States, but States must have a plan for this outreach, which includes at least one post-hospital contact with each parent

whose whereabouts are known (unless the State has reason to believe that such contact puts the child or mother at risk).

All parents who establish paternity, but who are not required to assign their child support rights to the State due to receipt of AFDC, must, at a minimum, be provided subsequently with information on the benefits and procedures for establishing a child support order and an application for child support services.

Federal funding would be provided at an increased matching rate of 90 percent for paternity outreach programs.

Cooperation and Good Cause Exceptions

Currently, as a condition of eligibility for AFDC and Medicaid, recipients must cooperate in establishment of paternity. Existing cooperation standards are vague, however, with regulations referring to the requirement to "provide written or verbal information," appear at hearings, etc. With such vague standards, "true" cooperation is often difficult to determine. Under the proposal, mothers who wish to receive certain Federal benefits to support their families must cooperate fully with paternity establishment procedures under a new, much stricter definition of cooperation. "Cooperation" would be determined by the IV-D worker through an expedited process and the relevant programs would be notified. Mothers must meet the new strict definition of cooperation before they could begin to receive benefits. State agencies would be required to either establish paternity if at all possible or impose a sanction in every case within strict timelines. States would be penalized for failure to establish paternity where the mother has cooperated.

As a condition of eligibility for benefits under the AFDC, Medicaid, and Child Support Assurance demonstrations, a mother must meet strict cooperation requirements for establishing paternity for her child, provided that she does not meet the good cause exceptions for non-cooperation.

- (1) Good cause exceptions would be granted for non-cooperation on an individual case basis using strict application of the existing good cause exceptions for the AFDC program. ("Good cause" is found only if cooperation is reasonably-anticipated to result in serious physical harm to: (a) the child; or (b) the parent or caretaker relative living with the child so that the harm would reduce that person's ability to care for the child.)
- (2) State IV-D workers must inform each applicant of the good cause exceptions available under current law and help the mother determine if she meets the definition.

- (3) The initial cooperation requirement is met only when the mother has provided the State the following information:
- (a) the name of the father; and
 - (b) sufficient information to verify the identity of the person named (such as the present address of the person, the past or present place of employment of the person, the past or present school attended by the person, the name and address of the person's parents, friends or relatives that can provide location information for the person, the telephone number of the person, the date of birth of the person, or other information that, if reasonable efforts were made by the State, could lead to identify a particular person to be served with process);
 - (c) if there is more than one possible father the mother must provide the names of all possible fathers.
- (4) Additionally, the continued cooperation requirement is met when the mother provides the State the following information:
- (a) additional reasonable, relevant information which the mother can reasonably provide, requested by the State at any point;
 - (b) appearance at required interviews, conference hearings or legal proceedings, if notified in advance and an illness or emergency does not prevent attendance; or
 - (c) appearance (along with the child) to submit to genetic tests.

The new cooperation standards would apply to all applications for assistance for women with children born on or after 10 months following the date of enactment.

Cooperation Prior to Receipt of Benefits

Applicants must cooperate to establish paternity prior to receipt of benefits. State IV-D agencies would be required, within 10 days of application, to determine whether a mother applying for a program where cooperation is required, has met the new, stricter cooperation test, and once an initial determination of cooperation is made, would inform both the mother and the relevant programs. (Those individuals qualifying for emergency assistance, could begin receiving benefits before a determination is made. Also, if the IV-D worker fails to make a determination within the specified timeframe, the applicant could not be denied eligibility for the above benefits based on noncooperation pending the determination.)

AFDC recipients who do not meet the definition of cooperation would be sanctioned immediately. (Sanctions would be based on current law.)

If a determination is made that the custodial parent has met the initial cooperation requirement and the IV-D agency later has reason to believe that the information is incorrect or insufficient, the agency shall try to obtain additional information but the agency must schedule a fair hearing to determine if the parent is fully cooperating before imposing a sanction.

If a mother fails to cooperate and is determined ineligible for benefits, but subsequently chooses to cooperate and takes appropriate action, Federal and State benefits would be immediately reinstated.

If the determination results in a finding of non-cooperation and the applicant appeals, the applicant could not be denied benefits based on non-cooperation pending the outcome of the appeal. (States can set up appeal procedures through the existing IV-A appeals process or through a IV-D appeals process.) States are required to inform all sanctioned individuals of their right to appeal the determination.

States are encouraged to either co-locate IV-A and IV-D offices, provide a single interview for IV-A and IV-D purposes, or conduct a single screening process.

Responsibilities and Standards for States

State IV-D agencies must either establish paternity if at all possible or impose a sanction in every case within one year (for those cases subject to the new cooperation requirements); or

If the mother has met the cooperation requirements and the State has failed to establish paternity within the one year time limit the State would not be eligible for Federal FFP for those cases. (The Secretary would establish by regulation a method for keeping track of those cases. The FFP penalty would be based on an average monthly grant for the case where paternity is not established rather than by tracking individual cases.) Paternity standards under existing law would also be maintained to encourage States to continue to work all new and old IV-D cases.

Contested Paternity Cases

Under the OBRA of 1993 amendments, States are required to have expedited processes for paternity establishment in contested cases and each State must give full faith and credit to determinations of paternity made by other States.

States must:

- (1) establish and implement laws which mandate, upon motion by a party, a tribunal in contested cases to order temporary support according to the laws of the tribunal's State (a) if the results of the parentage testing create a rebuttable presumption of paternity, (b) if the person from whom support is sought has signed a verified statement of parentage, or (c) if there is other clear and convincing evidence that the person from whom support is sought is the particular child's parent;
- (2) as a condition for receipt of Federal funding for the child support program, enact laws which abolish the availability of trial by jury for paternity cases unless required by the State constitution; and
- (3) have and use laws that provide for the introduction and admission into evidence, without need for third-party foundation testimony, of pre-natal and post-natal birth-related and parentage-testing bills; and each bill shall be regarded as prima facie evidence of the amount incurred on behalf of the child for the procedures included in the bill.

Accreditation of Genetic Testing Laboratories

The Secretary would authorize an organization or U.S. agency to accredit laboratories conducting genetic testing and the procedures and methods to be used. States would be required to use accredited labs for all genetic testing and to accept all accredited test results.

Administrative Authority to Establish Orders Based on Guidelines

States must have and use simple administrative procedures in IV-D cases to establish support orders so that the IV-D agency can impose an order for support (based upon State guidelines) in cases where:

- (1) the custodial parent has assigned his or her right of support to the state;
- (2) the parent has not assigned his or her right of support to the State but has established paternity through an acknowledgment or State administrative procedure; or
- (3) in cases of separation where a parent has applied for IV-D services and there is not a court proceeding pending for a legal separation or divorce.

In all cases appropriate notice and due process as determined by the State must be followed.

II. SET AWARDS AT A REASONABLE LEVEL AND ADJUST THEM ROUTINELY

National Commission on Child Support Guidelines

Congress shall create a twelve-member National Commission on Child Support Guidelines no later than December 1994, for the purpose of studying the desirability of a uniform, national child support guideline or national parameters for State guidelines. The U.S. House of Representatives and the U.S. Senate shall appoint three members each, and the Secretary shall appoint six members each within six months of enactment. Appointments to the Commission must include members or representatives of both custodial and non-custodial parent groups. If the Commission determines that a uniform guideline should be adopted, the Commission shall recommend to Congress a guideline which it considers most equitable, taking into account studies of various guideline models, their deficiencies, and any needed improvements. The Commission shall also consider the need for simplicity and ease of application of guidelines as a critical objective.

In addition, the Commission should study the following:

- (1) the treatment of multiple families in State guidelines including:
 - (a) whether a remarried parent's spouse's income affects a support obligation;
 - (b) impact of step and half-siblings on support obligations; and
 - (c) the costs of multiple and subsequent family child raising obligations, other than those children for whom the action was brought;
- (2) the treatment of child care and health care expenses in guidelines including whether guidelines should take into account:
 - (a) current or projected work related or job training related child care expenses of either parent for the care of children of either parent; and
 - (b) health insurance, related uninsured health care expenses, and extraordinary school expenses incurred on behalf of the child of the parents for whom the order is sought;
- (3) the duration of support by one or both parents, including the sharing of post-secondary or vocational institution costs; the duration of support of a disabled child including children who are unable to support themselves due to a disability that arose during the child's minority;

- (4) the adoption of uniform terms in all child support orders to facilitate the enforcement of orders by other States;
- (5) the definition of income and whether and under what circumstances income should be imputed;
- (6) the effect of extended visitation, shared custody and joint custody decisions on guideline levels;
- (7) the tax aspects of child support payments; and

The Commission shall prepare a report not later than two years after the date of appointment to be submitted to Congress. The Commission terminates six months after submission of the report.

Modifications of Child Support Orders

The Family Support Act of 1988 required States to review and modify all AFDC cases once every three years, and every non-AFDC IV-D case every three years for which a parent requests a review. Under the proposal, this provision will continue, eventually applying to all orders included in the State registry. States are required to adopt simplified administrative procedures for modification.

States shall have and use laws that require the review and adjustment of all child support orders included in the State Central Registry once every three years. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances. (States may, at their option, establish a threshold amount not to exceed 5% since entry of the last order.)

States may set a minimum timeframe that runs from the date of the last adjustment that bars a subsequent review before a certain period of time elapses, absent other changed circumstances. Individuals may request modifications more often than once every three years if either parent's income changes by more than 20 percent.

States are not precluded from conducting the process at the local or county level. Telephonic hearings and video conferencing are encouraged.

To ensure that all reviews can be conducted within the specified timeframe, States must have and use laws which:

- (1) provide the child support agency administrative power to modify all child support orders and medical support orders, including those orders entered by a court;
- (2) require all reviews and modifications of existing orders included in the registry to be conducted through the State or local child support agency;
- (3) provide full faith and credit for all valid orders of support modified through an administrative process;
- (4) require the child support agency to automate the review and modification process to the extent possible;
- (5) ensure that interstate modification cases follow UIFSA and any amending Federal jurisdictional legislation for determining which state has jurisdiction to modify an order;
- (6) ensure that downward modifications as well as upward modifications must be made in all cases if a review indicates a modification is warranted;
- (7) simplify notice and due process procedures for modifications in order to expedite the processing of modifications (Federal statutory changes also);
- (8) provide administrative subpoena power for all relevant income information; and
- (9) provide default standards for non-responding parents.

The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a demonstration to determine if IRS income data can be used to facilitate the modification process.

Distribution of Child Support Payments

Currently about half of the States provide that where the custodial parent has received AFDC benefits, support paid above the current obligation amount is used to reimburse any child support owed to the State under the AFDC assignment provisions, then to payment of arrears owed to the family. This puts vulnerable families who are in transition from AFDC to self-sufficiency in a difficult position since they often will not receive the amount of arrearage collected. Under the proposal, families who have received AFDC would receive the current month's support and any payment on arrears accruing pre- or post-AFDC prior to the State reimbursing itself for AFDC payments.

Priority of Child Support Distribution

States shall distribute payments of all child support collected in cases in which the obligee is not receiving AFDC, with the exception of moneys collected through a tax refund offset, in the following priority:

- (1) to a current month's child support obligation;
- (2) to debts owed the family (non-AFDC obligations); if any rights to child support were assigned to the State, then all arrearages that accrued after or before the child received AFDC shall be distributed to the family;
- (3) subject to (5), to the State making the collection for any AFDC debts incurred under the assignment of rights provision of Title IV-A of the Social Security Act;
- (4) subject to (5), to other States for AFDC debts (in the order in which they accrued); the collecting State must continue to enforce the order until all such debts are satisfied and to transmit the collections and identifying information to the other State;
- (5) if the noncustodial and custodial parents unite or reunite in a legitimate marriage (not a sham marriage), the State must suspend or forgive collection of arrearages owed to the State if the reunited family's joint income is less than twice the Federal poverty guideline.

The Secretary shall promulgate regulations that provide for a uniform method of allocation/proration of child support when the obligor owes support to more than one family. All States must use the standard allocation formula.

Federal Income Tax Refund Offset

The Federal income tax code shall be revised to provide the following priority of tax-refund offsets to satisfy debts:

- (1) child support or alimony owed to a family (non-AFDC arrearages);
- (2) federal tax debts;
- (3) child support owed to a State or local government (AFDC arrearages); and

- (4) remaining debts delineated in their order under Section 634 of the Internal Revenue Code.

Interest

All states must calculate and collect interest on arrearages. There will be a national uniform interest rate to be determined annually by the Secretary, which reflects the Federal District Court's interest rate on judgments. Priority and distribution rules shall be determined by the Secretary. States must treat interest on child support obligations the same as child support for collection and accounting purposes.

Treatment of Child Support for AFDC Families - State Option

At State option, States may provide that all current child support payments made on behalf of any family receiving AFDC must be paid directly to the family (counting the child support payments as income).

The Secretary shall promulgate regulations to ensure that States choosing this option have available an AFDC budgeting system that minimizes irregular monthly payments to recipients.

III. COLLECT AWARDS THAT ARE OWED

A. STATE ROLE

Overview

Currently, enforcement of support cases is too often handled on a complaint-driven basis with the IV-D agency only taking enforcement action when the custodial parent pressures the agency to take action. Many enforcement steps require court intervention, even when the case is a routine one, and even routine enforcement measures often require individual case processing rather than relying upon automation and mass case-processing. Under the proposal, all States will maintain a State staff in conjunction with a central registry and centralized collection and disbursement capability. The State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain enforcement remedies at the State level administratively. Thus routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. States may, at their option, use local offices for cases that require local enforcement actions. State staff thus will supplement but not necessarily replace local staff. States will be encouraged through a higher Federal match to operate a uniform State program entirely managed under the authority of the State's designated agency.

Central State Registry and Clearinghouse

Under current law, payments of support by noncustodial parents or their employers are made to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial population, the need for one, central location to collect and distribute payments in a timely manner has grown. Also, the ability to maintain accurate records that can be centrally accessed is critical. Under the proposal, states would be required to establish a Central State Registry for all child support orders established in that State. The registry would maintain current records of all the support orders and serve as a clearinghouse for the collection and distribution of child support payments. This will vastly simplify withholding for employers.

Central State Registry

As a condition of receipt of federal funding for the child support enforcement program, each State must establish an automated central state registry of child support orders. The registry must maintain a current record of the following:

- (1) all present IV-D orders established, modified or enforced in the State;
- (2) all new and modified orders of child support (IV-D and non-IV-D) established by or under the jurisdiction of the State, after the effective date of this provision; and
- (3) existing child support cases not included in the IV-D system at the date of enactment at either parent's request.

The State, in operating the child support registry, must:

- (1) maintain and update the registry at all times;
- (2) meet specified timeframes for submission of local court or administrative orders to the registry, as determined by the Secretary;
- (3) receive out-of-state orders to be registered for enforcement and/or modification;
- (4) record the amount of support ordered and the record of payment for each case that is collected and disbursed through the central clearinghouse;
- (5) conform to a standardized support abstract format, as determined by the Secretary, for the extraction of case information to the National Registry and for matches against other data bases on a regular basis;
- (6) program the statewide automated system to extract weekly updates automatically of all case records included in the registry;
- (7) provide a central point of access to the Federal new-hire reporting directory and other Federal data bases, statewide data bases, and interstate case activity;
- (8) routinely match against other State data bases to which the child support agency has access;
- (9) use a national identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;

- (10) preclude the child support agency from charging a fee to any custodial or noncustodial parent for inclusion in the registry, and agencies are precluded from imposing any new fees on custodial parents for routine establishment, enforcement or modification of cases handled through the registry;
- (11) maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);
- (12) use technology and automated procedures in operating the registry wherever feasible and cost-effective; and
- (13) ensure that the interest charged can be automatically calculated.
- (14) ensure that the registry has access to vital statistics or other information necessary to determine the new paternity performance measure. (If automated elsewhere, automated access.)

Monitoring of Cases by State Staff

As a condition of State plan approval, the State must have sufficient State staff, State authority and automated procedures to monitor cases and impose those enforcement measures that can be handled on a mass or group basis using computer automation technology. (Where States have local staff, this supplements, but does not necessarily replace, local staff. Therefore, local staff are still provided where necessary.) Specifically the State shall:

- (1) monitor all cases within the registry on a regular basis, determining on at least a monthly basis whether the child support payment has been made;
- (2) maintain automation capability whereby a disruption in payments triggers automatic enforcement mechanisms;
- (3) administratively impose the following enforcement measures without need for a separate court order:
 - (a) order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;

- (b) attach financial institution accounts (post-judgment seizures) without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);
- (c) intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;
- (d) attach public and private retirement funds in appropriate cases, as determined by the Secretary;
- (e) attach unemployment compensation, workman's compensation and other State benefits;
- (f) increase payments to cover arrearages;
- (g) intercept State tax refunds; and
- (h) submit cases for Federal tax offset.

"State staff" are staff that are employed by and directly accountable to the State IV-D agency (private contractors are allowed).

State laws and procedures must recognize that child support arrears are judgments by operation of law and reducing amounts to money judgments is not a prerequisite to any enforcement.

Option for Integrated State Registry

States may, at their option, maintain a unified, integrated registry by connecting local registries through computer linkage. (Local registries must be able to be integrated at a cost which does not exceed the cost of a new single central registry.) Under this option,-- however, the State and State staff must still perform all of the activities described herein for central registries and must maintain a central State clearinghouse for collection and disbursement of payments.

Central State Clearinghouse

States must also use the order registry as a clearinghouse for the centralized collection and disbursement of child support payments, enabling the functions to be carried out at one location within the State and simplifying the withholding process for employers. (States would not be precluded from authorizing a separate State collection agency or private entity to carry out the collection and distribution functions.) Through a fully automated process, the State clearinghouse must:

- (1) serve as the central payment center for all employers remitting child support withheld from wages; and
- (2) serve as the central payment center for all non-wage withholding payments through the use of payment coupons or stubs or electronic means, unless the parties meet specified opt-out requirements. States, at their option, may allow cash payments at local offices or financial institutions only if the payments are remitted to the State clearinghouse for payment processing by electronic funds transfer within 24 hours of receipt.

In fulfilling these obligations, the clearinghouse must:

- (1) accept all payments through any means of transfer determined acceptable by the State including the use of credit card payments and Electronic Funds Transfer (EFT) systems;
- (2) generate bills which provide for accurate payment identification, such as return stubs or coupons, for cases not covered under wage withholding;
- (3) identify all payments made to the clearinghouse and match the payment to the correct child support case record;
- (4) distribute all collections in accordance with priorities as set forth under the proposal;
- (5) disburse the child support payments to the custodial parents through a transmission process acceptable to the State, including direct deposit if the custodial parent requests;
- (6) provide that each child support payment made by the noncustodial parent is processed and sent to the custodial parent within 24 hours from when it was initially received (exceptions by regulation for unidentified payments);
- (7) maintain records of transactions and the status of all accounts including arrears, and monitor all payments of support;

- (8) develop automatic monitoring procedures for all cases where a disruption in payments triggers automatic enforcement mechanisms;
- (9) accept and transmit interstate collections to other States using electronic funds transfer (EFT) technology; and
- (10) provide that in child support cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, with notice to both parties.

In order to facilitate the quick processing and disbursement of payments to custodial parents, States are encouraged to use Electronic Funds Transfer (EFT) systems wherever possible.

States must also be able to provide parents up-to-date information on current payment records, arrearages, and general information on child support services available. Use of automated Voice Response Units (VRU) to respond to client needs and questions, the use of high-speed check-processing equipment, the use of high-performance, fully-automated mail and postal procedures and fully automated billing and statement processing is encouraged; the Federal Office of Child Support Enforcement (OCSE) will facilitate private businesses in providing such technical assistance to the States.

States may form regional cooperative agreements to provide the collection and disbursement function for two or more States through one "drop box" location with computer linkage to the individual State registries.

Eligibility for Services

Under the present child support system, States must receive a written application in order to provide enforcement services to a custodial parent. Under the proposal, all cases included in the central registry would receive child support enforcement service automatically, without the need for an application. Certain parents, provided that they meet specified conditions, can choose to be excluded from payment through the registry.

All cases included in the State's central registry shall receive child support services without regard to whether the parent signs an application for services. Current child support cases not covered through the IV-D system at the time of enactment could also request services through the State child support agency.

Opportunity to Opt-Out

Parents with child support orders included in the central registry can choose to opt-out of payment through the centralized collection and disbursement system only if they are not otherwise subject to a wage withholding order (current provisions for exceptions to wage withholding are preserved).

Parents who opt out must file a separate written form with the agency signed by both parties, and indicating that both individuals agree with the arrangement.

If the parents choose to opt-out of wage withholding, the noncustodial parent fails to pay support, and the custodial parent notifies the agency, the case would be entered automatically in the central registry and clearinghouse and thereafter monitored by the State.

In addition, in no circumstances may a State:

- (1) deny any person access to State child support services based solely on the person's nonresidency in that State; or
- (2) require the payment of any fees by the custodial parent for inclusion in the central registry/clearinghouse;

Funding

Through direct Federal matching, the Federal government currently pays 66 percent of most State and local program costs, while enhanced program matches are available for specific program expenditures. The Federal government also provides States annual incentive payments based on the State's total child support collections and allows the State to retain a share of collections made in AFDC cases. As a result, States can potentially recover more than 100 percent of their total program expenditures, and the majority do. Under the proposal, the entire financing and incentive scheme will be reconstructed offering States a higher Federal match and new incentive payments geared towards desired outcomes.

Federal Financial Participation

The Federal government will pay 75 percent of State program costs for all administrative costs and mandated services. All cases included in the State's Central Registry would be eligible for federal funding.

Financial Incentives

A new performance-based incentive payment system would be created centered on desired program outcomes. States would be eligible for incentive payments in the following areas:

- (1) paternity establishment -- earning a 1 to 5 percent increase in FFP for high paternity establishment rates, as determined by the Secretary; and
- (2) overall performance -- earning a 1 to 10 percent increase in FFP for strong overall performance which factors in:
 - (a) the percentage of cases with support orders established (number of orders compared to the number of paternities established and other cases which need a child support order);
 - (b) the percentage of overall cases with orders in paying status;
 - (c) the percentage of overall collections compared to amount due;
 - (d) cost-effectiveness.

All based on a formula to be determined by the Secretary.

All incentive payments made to the States must be reinvested back into the State child support program.

States would continue to receive their share of AFDC reimbursements.

Unified State System FFP Enhancement

If a State has a unified state program, the Federal government will pay an additional five percent for a total FFP of 80%.

A unified state program is one which includes:

- (1) all authority, accountability and responsibility for operation of a statewide program centered at the State level in a unified State agency;
- (2) single-agency administration and central policy-making over the child support enforcement program;
- (3) statewide uniformity of case-processing procedures and forms;

- (4) uniform hearing and appeal process;
- (5) all financing decisions at the State (not local) level;
- (6) Non-Federal funding appropriated at the State (not local) level; and
- (7) personnel and contracting decision-making at the State level (personnel would be State employees except that the Secretary shall establish by regulations any exceptions not to exceed 10% of the State's IV-D personnel).

Registry and Clearinghouse Start-up Enhanced FFP

States also will receive enhanced FFP at a 90%/10% Federal/State match rate for the planning, design, procurement, conversion, testing and start-up of their full-service, technology-enabled central order registries and centralized collection and distribution systems. This would include necessary enhancements to the automated child support system to accommodate the proposal. States shall be held harmless from sanctions involving current Federal requirements for systems certification during conversion to central registries/central clearinghouse (for a limited period of time to be determined by the Secretary) provided they continue to make good faith efforts as defined by the Secretary to implement those present requirements that are consistent with the new Federal requirements.

State/Federal Maintenance of Effort

Using a maintenance of effort plan, the Federal government will require States to maintain at least their current level of contribution to the program, representing the State FFP match and any other State funds or receipts allocated to the child support program. The Federal government's current FFP and incentive payment to the State shall be the floor amount a State may receive under the revised FFP and incentive proposal.

Revolving Loan Fund

The Federal government through OCSE shall provide a source of funds appropriated up to \$100 million to be made available to States and their subdivisions to be used solely for short-term, high-payoff operational improvements to the State child support program. Projects demonstrating a potential for increases in child support collections would be submitted to the Secretary on a competitive basis. Criteria for determining which projects to fund shall be specified by the Secretary based on whether adequate alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States shall have maximum flexibility in deciding which projects to fund.

Funding would be limited to no more than \$5 million per State or \$1 million per project, except for limited circumstances under which a large State undertakes a statewide project, in which case the maximum for that State shall be \$5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.

Funding would be available for a maximum of three years based on a plan established with the Secretary. OCSE must expeditiously review and, as appropriate, fund the approved plan. At the end of the project period, recipients must pay funds back to the Revolving Fund out of increased performance incentives. Beginning with the next Federal fiscal year after the project ends, the Federal government shall offset half of the increase in the State's performance incentives every year until the funds are fully repaid. If the State fails to raise collections that result in a performance incentive increase at the projected attributable level, the funds would be recouped by offsetting the FFP due to a State by a sum equal to one-twelfth of the project's Federal funding, plus interest, over the first twelve quarters beginning with the next fiscal year following the project's completion.

Staffing Study

The Secretary of Health and Human Services or a disinterested contractor shall conduct staffing studies of each State's child support enforcement program. Such studies shall include a review of the automated case processing system and central registry/central clearinghouse requirements and include adjustments to future staffing if these changes reduce staffing needs. The Secretary shall report the results of such staffing studies to the Congress and the States.

Training

Two (2) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund technical assistance, training, operational research, demonstrations, and staffing studies.

OCSE shall provide both a Federally developed core curriculum to all States to be used in the development of State-specific training guides. OCSE shall also develop a national training program for all State IV-D directors.

States must also have minimum standards in their State plans for training, based on the newly developed state-specific training guide, that include initial and ongoing training for all persons involved in the child support program under Title IV-D. The program shall include annual training for all line workers and special training for all staff when laws, policies or procedures change.

In addition, funds under Title IV-D of the Social Security Act shall be made available to States for the development and conduct of training of IV-A and IV-E caseworkers, private attorneys, judges and clerks who need a knowledge of child support to perform their duties but for whom a cooperative agreement does not exist for ongoing child support activities. Funding appropriated for training shall not be used for other purposes.

Outreach

To better inform parents about the availability of child support services, States shall develop outreach plans that increase parental access to information and encourage the use of State services. Assistance would be provided to States through OCSE.

In order to broaden access to child support services, each State plan must:

- (1) respond to the need for office hours or other flexibility that provide parents opportunity to attend appointments without taking time off of work; and
- (2) develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.

To aid State outreach efforts, the OCSE must:

- (1) develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;
- (2) develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services; and
- (3) develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs.
- (4) focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.

B. FEDERAL ROLE

Currently the major Federal roles in child support enforcement involve oversight by OCSE, tax intercepts and full collection programs by the IRS and operation of the Federal Parent Locator Service (FPLS) by OCSE. Under the proposal the Federal role would be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Child Support Enforcement Clearinghouse (NCSEC) shall be established consisting of three registries, The National Locate Registry (an expanded FPLS), the National Child Support Registry, and the National Directory of New Hires. The NCSEC shall operate under the direction of the Secretary of Health and Human Services.

The Clearinghouse will serve as the hub for transmitting information between States, employers, and Federal and State data bases. The Secretary shall determine the networking system, after considering the feasibility and cost, which may be: (1) building upon the existing CSENet interstate network system; (2) replacing the existing CSENet; (3) integrating with the current SSA system; or (4) integrating with the Health Security Administration's network and data base, as proposed by the President.

National Child Support Registry

A National Child Support Registry would be operated by the Federal government to maintain an up-to-date record of all child support cases and to match those cases against other data bases for purposes of locate and enforcement of obligations.

The Federal government would establish a National Child Support Registry that maintains a current record of all child support orders and cases for locate based on information from each State's Central Registry.

The National Registry must:

- (1) contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent and the case identification number;
- (2) establish interfaces between State Central Registries and the National Registry for the automatic transmission of case updates;
- (3) match the data against other Federal data bases;
- (4) point all matches back to the relevant State in a timely manner; and
- (5) interface and match with National Directory of New Hires.

National Directory of New Hires

A National Directory of New Hires, operated by the Federal government, would be created to maintain an up-to-date data base of all new employees and other employment information. Information would come from the W-4 form, which is already routinely completed. Information from the data base would be matched regularly against the National Registry to identify obligors for automatic income withholding.

The Secretary of Health and Human Services shall operate a new National Directory of New Hires which maintains a current data base of all new employees in the United States as they are hired.

All employers are required to report information based on every new employee's W-4 form (which is already routinely completed) within 10 days of hire to the National Directory:

- (a) employers may mail or fax a copy of the W-4 or use a variety of other filing methods to accommodate their needs and limitations, including the use of POS devices, touch tone telephones, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions;
- (b) information submitted must include: the employee's name, Social Security Number, date of birth, and the employer's identification number (EIN);

The National Directory of New Hires shall:

- (1) match the data base against several national data bases on at least a weekly basis including:
 - (a) the Social Security Administration's Employer Verification System (EVS) to verify that the social security number given by the employee is correct and to correct any transpositions;
 - (b) the National Child Support Registry; and
 - (c) the Federal Parent Locate Service (FPLS);

(all new cases submitted to the National Child Support Registry and other locate requests submitted by the States shall be periodically cross-matched against the National Directory of New Hires);

- (2) notify the State Registry of any new matches including the individual's place of employment so that States can initiate wage withholding for cases where wages are not being withheld currently or take appropriate enforcement action; and
- (3) retain data for a designated time period, to be determined by the Secretary.

States shall match the hits against their central registry records and must send notice to employers (if a withholding order/notice is not already in place) within 48 hours of receipt from the National Directory.

Employers face fines if they intentionally fail to: comply with the reporting requirements; withhold child support as required; or disburse it to the payee of record within five calendar days of the date of the payroll.

A feasibility study shall be undertaken to determine if the New Hire Directory should ultimately be part of the Simplified Tax and Wage Reporting System, or the Social Security Administration's or the Health Security Act-created data bases.

Locate and Case Tracking

In order to improve efforts to locate noncustodial parents, the OCSE shall expand the Federal Parent locate System and make improvements in parent locator services offered at the Federal and State levels. The FPLS shall operate under the Clearinghouse as the "National Locate Registry."

The OCSE shall expand the scope of State and Federal locate efforts by:

- (1) allowing States (through access to the National Locate Registry) to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:
 - (a) the records of other State CSE agencies and locate sources;
 - (b) federal sources of locate information in the same fashion; and
 - (c) other appropriate data bases.
- (2) requiring the child support agency to provide both ad-hoc and batch processing of locate requests, with ad-hoc access restricted to cases in which the information is needed immediately (such as with court appearances) and batch

processing used to troll data bases to locate persons or update information periodically;

- (3) for information retained in a State CSE system, providing for a maximum 48 hours turnaround from the time the request is received by the State to the time information/response is returned; for information not maintained by the State CSE system, the system must generate a request to other State locate data bases within 24 hours of receipt, and respond to the requesting State within 24 hours after receipt of that information from the State locate sources;
- (4) allowing the National Locate Registry access to information from quarterly estimated taxes filed by individuals;
- (5) developing with the States an automated interface between their Statewide automated child support enforcement systems and the Child Support Enforcement Network (CSENet), permitting locate and status requests from one State to be integrated with intrastate requests, thereby automatically accessing all locate sources of data available to the State IV-D agency; and
- (6) defining parent location to include the residential address, employer name and address, and parents' income and assets.

In addition, States shall have and use laws that require unions and their hiring halls to cooperate with IV-D agencies by providing information on the residential address, employer, employer's address, wages, and medical insurance benefits of members;

The Secretary shall authorize two studies: (1) a study to address the issue of whether access to the National Locate Registry should be extended to noncustodial parents and whether, if it were, custodial parents fearful of domestic violence could be adequately protected and shall make recommendations to Congress; and (2) a study to address the feasibility and costs of contracting with the largest credit reporting agencies to have an electronic data interchange with FPLS, accessible by States, for credit information useful for the enforcement of orders, and if the Fair Credit Reporting Act is amended, for establishment and adjustment of orders.

The Secretary shall authorize demonstration grants to States to improve the interface with State data bases that show potential as automated locate sources for child support enforcement.

IRS Data

The Secretary of the Treasury shall institute procedures whereby States can readily obtain access to IRS data (including 1099 data) for the purposes of identifying obligors' income and assets. All IRS data transmitted to States must be made available to child support enforcement agencies. Safeguards must be in place to protect the confidentiality of the information.

IRS Tax Refund Offset

The disparities between AFDC and nonAFDC cases regarding the availability of the Federal income tax refund offset shall be eliminated, the arrearage requirement shall be reduced to an amount determined by the Secretary, and offsets shall be provided regardless of the age of the child for whom an offset is sought. Timeframes, notice and hearing requirements shall be reviewed for simplification. IRS fees for Federal income tax offset shall be recovered from the noncustodial parent through the offset process.

IRS Full Collections

To improve enforcement mechanisms through the IRS Full Collection process, the Secretary of the Treasury shall:

- (1) simplify the IRS full collection process and reduce the amount of arrearages needed before one may apply for full collection;
- (2) set uniform standards for full collection to ensure that the process is expeditious and implemented effectively;
- (3) require the IRS to use its automated tax collection techniques in child support full collection cases. Case submitting and subsequent activity logging would be processed using automation and retrieved by either IRS or HHS (without permitting HHS access to other cases). States would also be able to access OCSE for information about their cases (without accessing other State's cases), with appropriate safeguards; and
- (4) IRS's fees for use of full collection shall be added to the amount owing and be collected from the noncustodial parent at the end of the collection process. The IRS will not charge an extra submission fee if a State updates the arrears on an open case.

Ensuring Program Accountability -- Technical Assistance, Audit, and Customer Accountability

Existing audit procedures involve numerous technical requirements and address a State's deficiencies after the fact. Under the proposal, new technical assistance and audit requirements will be designed to prevent deficiencies before they occur and to focus the audit process to a greater degree on prevention of problems rather than after-the-fact review of processing timeframe and action compliance.

Technical Assistance

The OCSE shall provide technical assistance to States by:

- (1) developing model laws and identifying model legislation and "best" State practices that States may follow when changing State laws to meet new Federal requirements;
- (2) reviewing State laws, policies, procedures, and organizational structure, including cooperative agreements, as part of the State plan approval process;
- (3) providing a State with a written assessment of its program and, when appropriate, identifying areas in which the State is deficient;
- (4) providing enhanced technical assistance to States to meet the program's goals; and
- (5) allowing staff and expenses funding to match program funding.

Audit and Reporting

Audit procedures by the Secretary shall include:

- (1) simplifying the Federal audit requirements to focus primarily on performance outcomes;
- (2) requiring States to develop their own control systems to ensure that performance outcomes are achieved, while making the results subject to verification and audit;

States shall:

- (1) develop internal automated management control reporting systems that provide information to enable States to assess their own performance and employees' workload analysis, on a routine, ongoing basis so that exceptions can be called to the program management's attention;
- (2) develop computer systems controls that provide reasonable assurances that computer-based data are complete, valid, and reliable;
- (3) in accordance with Federal regulations, annually conduct a self-review to assess whether or not the State meets the program's specified goals and performance objectives, as well as ensure that all required services are being provided.

Federal auditors will:

- (1) at a minimum, based upon the GAO Government Auditing Standards, every 3 years, assess the reliability of the computer-processed data (or results provided as a result of the self-review). These audits will: (a) examine the computer system's general and application controls; (b) test whether those controls are being complied with; and (c) test data produced by the system on computer magnetic tape or other appropriate auditing medium to ensure that it is valid and reliable; and
- (2) if a State has failed a previous audit, continue to evaluate on an annual basis, whether the State has corrected the deficiencies identified under (1) above.

OCSE will:

- (1) if the State self-reviews determine that the Federal requirements are not being met, ascertain the causes for the deficiency/weakness so that States will be able to take better corrective actions; and
- (2) if the State's report on the status of grievances/complaints indicates substantial and material noncompliance with the program requirements, then evaluate the State's program.

Each State will also be subject to periodic financial audits to ensure that their funds are being allocated and expended appropriately and adequate internal controls are in place which will help ensure that all monies are being safeguarded, and the Secretary may conduct such other audits as deemed necessary to ensure compliance.

The Secretary shall promulgate regulations to revise the penalty process for failures to meet the program's performance goals and objectives and/or failure to generate reliable and valid data. Penalties shall be imposed immediately after a corrective action period, but one-

half of the penalties shall be put in escrow for a period of up to two years to be returned to the State if the State passes the audit in the two-year period. Penalties placed in escrow can be used by the State to contract for technical assistance at the discretion of the Secretary.

All penalties shall be assessed against Title IV-D FFP and not against Title IV-A funds.

Customer Accountability

- (1) State agencies shall notify custodial parents in a timely manner of all hearings or conferences in which child support obligations might be established or modified;
- (2) State agencies shall provide custodial parents with a copy of any order that establishes or modifies a child support obligation within 14 days of the issuance of such order;
- (3) An individual receiving IV-D services shall have timely access to a State fair hearing or a formal, internal complaint-review process similar to a State fair hearing, according to regulations established by the Secretary, provided that there is no stay of enforcement as a result of the pending fair hearing request (reports of complaints and dispositions shall also be reported to the Secretary);
- (4) Individual citizens shall have a private right of action to sue the State for a failure to provide mandated child support services provided that the individual can (1) show entitlement to services; (2) that the individual is the intended beneficiary of those services; and (3) that the individual has exhausted all administrative remedies. For determinations of whether an individual is an intended beneficiary, it is the intent of Congress that the express purpose of Title IV-D is to assist children and their families in collecting child support owed to them.

Funding for OCSE

Congress should appropriate sufficient money so that the OCSE can carry out the functions and directives within this proposal.

C. OTHER ENFORCEMENT

Interstate Enforcement

Currently, many child support efforts are hampered by States' inability to locate noncustodial parents and secure orders of support across State lines. New provisions would be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.

To facilitate interstate enforcement efforts, each State must have and use laws, rules and procedures that:

- (1) provide for long-arm jurisdiction over a nonresident individual in a child support or parentage case under certain conditions;
- (2) require Social Security Numbers of all persons applying for a marriage license or divorce to be listed on the supporting license or decree;
- (3) require Social Security Numbers of both parents to be listed on all child support orders and birth certificates;
- (4) adopt verbatim the Uniform Reciprocal Enforcement of Support Act (URESA) drafting committee's final version of the Uniform Interstate Family Support Act (UIFSA), to become effective in all States no later than October 1, 1995, or within 12 months of passage, but in no event later than January 1, 1996;
- (5) give full faith and credit to all terms of any child support order (whether for past-due, currently owed, or prospectively owed support) issued by a court or through an administrative process;
- (6) a child support lien administratively or judicially imposed in one State may be imposed in another State through summary recordation in another State's central clearinghouse or other designated registry and is to be given full faith and credit, and the lien shall encumber the nonexempt real and personal property of the noncustodial parent for the same amount as it encumbers in the original State, including any unpaid arrearages accruing after the lien's initial imposition.
- (7) provide that out-of-State service of process in parentage and child support actions must be accepted in the same manner as are in-State service of process methods and proof of service so if service of process is valid in either State it is valid in the hearing State;

- (8) require the filing of the noncustodial parent's and the custodial parent's residential address, mailing address, home telephone number, driver's license number, Social Security Number, name of employer, address of place of employment and work telephone number with the appropriate court or administrative agency on or before the date the final order is issued; in addition:
- (a) presume for the purpose of providing sufficient notice in any support related action, other than the initial notice in an action to adjudicate parentage or establish or modify a support order that the last residential address of the party given to the appropriate agency or court is the current address of the party, in the absence of the obligor or obligee providing a new address;
 - (b) prohibit the release of information concerning the whereabouts of a parent or child to the other parent if there is a court order for the physical protection of one parent or child entered against the other parent;
- (9) provide for transfers of cases to the city, county, or district where the child resides for purposes of enforcement and modification, without the need for re-filing by the plaintiff or re-serving the defendant; require the State child support agency or State courts that hear child support claims to exert statewide jurisdiction over the parties and allow the child support orders and liens to have statewide effect for enforcement purposes; and
- (10) make clear that visitation denial is not a defense to child support enforcement and the defense of nonsupport is not available as a defense when visitation is at issue.
- (11) require States to use and honor a national subpoena *duces tecum* with nationwide reach for use in child support cases at the local and State level to reach individual income information pertaining to all private, Federal, State and local government employees, and to all other persons who are entitled to receive income; and provide that:
- (a) the scope of the subpoena is limited to the prior 12 months of income;
 - (b) payors may honor the subpoena by timely mailing the information to a supplied address on the subpoena; and
 - (c) information provided pursuant to the subpoena is admitted once offered to prove the truth of the matter asserted.

In addition, the Federal government shall:

- (1) make a Congressional finding that child-state jurisdiction is consistent with the Due Process clause of the Fifth and Fourteenth Amendments, Section 5 of the Fourteenth Amendment, the Commerce Clause, the General Welfare Clause, and the Full Faith and Credit Clause of the United States Constitution, so that due process is satisfied when the State where a child is domiciled asserts jurisdiction over a nonresident party, provided that party is the parent or presumed parent of the child in a parentage or child support action;
 - (a) test the constitutionality of this assertion of child-state jurisdiction by providing for an expedited appeal to the U.S. Supreme Court directly from a Federal court;
- (2) provide that a State that has asserted jurisdiction properly retains continuing, exclusive jurisdiction over the parties as long as the child or either party resides in that State;
 - (a) when actions are pending in different States, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing and exclusive jurisdiction, if the action in the home State was filed before the time expired in the other State for filing a responsive pleading and a responsive pleading contesting jurisdiction is filed in that other State;
- (3) provide that a State loses its continuing, exclusive jurisdiction to modify its order regarding child support if all the parties no longer reside in that State or if all the parties consent to another State asserting jurisdiction;
 - (a) if a State loses its continuing, exclusive jurisdiction to modify, that State retains jurisdiction to enforce the terms of its original order and to enforce the new order upon request under the direction of the State that has subsequently acquired continuing, exclusive jurisdiction;
 - (b) if a State no longer has continuing jurisdiction, then any other State that can claim jurisdiction may assert it;
 - (c) when actions to modify are pending in different States, and the State that last had continuing, exclusive jurisdiction no longer has jurisdiction, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing, exclusive jurisdiction, if:

- (1) a responsive pleading contesting jurisdictional control is filed in a timely basis in the nonhome State, and
 - (2) an action in the home State is filed before the time has expired in the nonhome State for filing a responsive pleading;
- (4) provide that the law of the forum State applies in child support cases, unless the forum State must interpret an order rendered in another State, so that the rendering State's law governs interpretation of the order;
- (a) in cases in which a statute of limitations may preclude collection of any outstanding child support arrearages, the longer of the forum or rendering State's statute of limitations shall apply;
- (5) provide that all employers can be served directly with a withholding order by any child support agency, regardless of the State issuing the order; The Secretary shall develop a universal withholding form that must be used by all States.

Enforcement

Currently, even routine enforcement actions are often difficult and time consuming to impose. Under the proposal, IV-D agencies will be able to quickly and efficiently take enforcement action when support is not being paid. Additional proven enforcement tools will also be provided.

State child support agencies must monitor the payments of all child support obligations and must initiate enforcement actions immediately and automatically when a noncustodial parent fails to fulfill the support obligation.

In order to enforce orders of support more effectively, States must have and use laws that provide IV-D agency administrative power to carry out the following enforcement functions without the necessity of court approval (in addition to those enumerated under section for monitoring by State staff):

- (1) impose automatically administrative liens on all nonexempt real and titled personal property if arrearages equal two months' worth of support (less than two months' worth at State option); the liens shall cover all current and future support arrearages and shall have priority over all other creditors' liens imposed after the child support lien's imposition; in appropriate cases the agency shall have the power to freeze, seize, sell and distribute encumbered or attached property.

In addition, the State must have and use laws that:

- (1) require the State agency to initiate immediate wage withholding action for all cases for which a noncustodial parent has been located and wage withholding is not currently in effect, without the need for advance notice to the obligor prior to the implementation of the withholding order;
- (2) empower child support agencies to issue administrative subpoenas requiring defendants in paternity and child support actions to produce and deliver documents to or to appear at a court or administrative agency on a certain date; sanction individuals who fail to obey a subpoena's command;
- (3) provide, at a minimum, that the following records of state agencies are available to the State child support agency through automated or nonautomated means:
 - (a) recreational licenses of residents, or of nonresidents who apply for such licenses, if the State maintains records in a readily accessible form;
 - (b) real and personal property including transfers of property;
 - (c) State and local tax departments including information on the residence address, employer, income and assets of residents;
 - (d) publicly regulated utility companies and cable television operators; and
 - (e) marriages, births, and divorces of residents;
- (4) provide, at a minimum, the following records of State agencies are available to the State child support agency: the tax/revenue department, motor vehicle department, employment security department, crime information system, bureau of corrections, occupational/professional licensing department, secretary of state's office, bureau of vital statistics, and agencies administering public assistance. If any of these State data bases are automated, the child support agency must be granted either on-line or batch access to the data.
- (5) provide for access to financial institution records based on a specific case's location or enforcement need through tape match or other automated or nonautomated means, with appropriate safeguards to ensure that the information is used for its intended purpose only and is kept confidential; a bank or other financial institution will not be liable for any consequences arising from providing the access, unless the harm arising from institution's conduct was intentional.

- (6) provide indicia or badges of fraud that create a prima facie case that an obligor transferred income or property to avoid a child support creditor; once a prima facie case is made, the State must take steps to avoid the fraudulent transfer unless settlement is reached;
- (7) require reports to credit bureaus of all child support obligations when the arrearages reach an amount equal to one month's payment of child support;
- (8) require the withholding or suspension of professional or occupational licenses from noncustodial parents who owe past-due child support or are the subject of outstanding failure to appear warrants, capiases, and bench warrants related to a parentage or child support proceeding;
 - (a) The State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.
 - (b) The State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.
- (9) require that States must suspend driver's licenses of noncustodial parents who owe past-due child support; and
 - (a) the suspension shall be determined by the IV-D agency, which shall administratively suspend licenses. The State shall determine the due process rights to be accorded the obligor, including, but not limited to, the right to a hearing, stay of the order under appropriate circumstances, and the circumstances under which the suspension may be lifted;
 - (b) The State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.
- (10) extend the statute of limitations for collection of child support arrearages until the child for whom the support is ordered is at least 30 years of age.

In addition, Congress shall:

- (1) amend the Fair Credit Reporting Act to allow State agency access to and use of credit reports for the location of noncustodial parents and their assets and for establishing and modifying orders to the same extent that the State agency may currently use credit reports for enforcing orders;

- (2) amend the Bankruptcy Code to allow parentage and child support establishment, modification and enforcement proceedings to continue without interruption after the filing of a bankruptcy petition; preclude the bankruptcy stay from barring or affecting any part of any action pertaining to support as defined in section 523 of Title 11;
 - (a) amend the Bankruptcy Code to state that the debt owed to a child support creditor is treated as a debt outside the Chapter 11, 12, or 13 Plan unless the child support creditor acts affirmatively to opt in as a creditor whose debt is part of the Plan; estate assets may be reached while in the trustee's control to satisfy the child support debt;
 - (b) allow child support creditors to make a limited appearance and intervene without charge or having to meet special local court rule requirements for attorney appearances in a bankruptcy case or district court anywhere in the United States by filing a form that includes information detailing the child support creditor's representation, and the child support debt, its status, and other characteristics; and
 - (c) amend the Bankruptcy Code to clarify that State public debts and assigned child support based on the provision of Title IV-A and IV-E expenditures are to be treated as child support for the purpose of dischargeability under 11 U.S.C. section 523; and
 - (d) amend the Bankruptcy Code to preclude businesses from discharging child support debts withheld from wages but not yet forwarded to the IV-D agency.
- (3) amend and streamline Sections 459, 461, 462 and 465 of the Social Security Act and companion laws to allow the garnishment of veteran's benefits, and to mirror the terms and procedures of the IV-D withholding statute (466(b) of the Social Security Act);
- (4) amend Section 466 of the Social Security Act so that income withholding terms and procedures and definitions of income for withholding purposes are uniform to ensure interstate withholding efficiency and fairness, based on regulations promulgated by the Secretary;
- (5) amend laws and procedures to ensure that the Department of Veterans Affairs shall provide a simple administrative process for apportionment of benefits without the need for a veteran's approval, and shall publicize its availability to the nonveteran parent whenever a veteran applies for a benefit and indicates, under penalty, that he or she is not residing with his or her dependents.

- (6) amend laws and procedures to ensure that passports, and visas for persons attempting to leave the country, are not issued if they owe more than \$5,000 in child support arrearages. The State Department may match its list of applicants against an FPLS abstract from the Locate Registry of noncustodial parents with orders who owe more than \$5,000.
- (7) extend for an additional year and sufficiently fund the Commission created within the Child Support Recovery Act of 1992 to address, among other topics, visitation and custody issues.
- (8) provide for State IV-D or Department of Motor Vehicle access to electronic verification of Social Security Numbers.

Tax Deduction Coordination

No noncustodial parent who has a support arrearage for a taxable year shall be allowed to claim the children, for whom support is in arrears, as a dependent for Federal income tax purposes for that year.

Privacy Protection

Under current regulations and rules, state automated information obtained from FPLS is protected from unwarranted disclosure. The proposal ensures that safeguarding continues to cover all sensitive and personal information, and requires states to ensure that the safeguards are in place.

States shall extend their data safeguarding state plan requirements to all newly accessible information under the proposal. States shall also institute routine training for state and local employees (and contractors shall be required to do the same for their staff) who handle sensitive and confidential data.

All child support enforcement staff shall be kept informed of Federal and state laws and regulations pertaining to disclosure of confidential tax and child support information.

Procedures for protection of tax records should include such protections as:

- (a) data matching performed by staff having access only to related data fields necessary to perform child support functions;
- (b) controlling access to individual child support computer records by the use of individual passwords; and

- (c) monitoring access on a regular basis by use of computerized audit trail reports and feedback procedures.

Every state shall regularly self-audit for unauthorized access or data misuse, and investigate individual complaints as necessary.

Access to state vital statistics shall be restricted to authorized IV-D personnel.

Every state shall have penalties for persons who obtain unauthorized access to safeguarded information or who misuse information that they are authorized to obtain. Supervisors who knew or should have known of unauthorized access or misuse shall also be subject to penalties.

The Federal government shall ensure that New Hire information is limited to IV-D agency use by authorized persons (as defined under current law).

The Secretary shall issue regulations setting minimum privacy safeguards that States must follow to ensure that only authorized users of personal information have access to it solely for official purposes.

Effective Date

Unless otherwise stated in the Appendix, the amendments made by this Act shall take effect on October 1, 1994.

IV. GUARANTEEING SOME LEVEL OF SUPPORT – CHILD SUPPORT ASSURANCE DEMONSTRATIONS

Rationale

Improving child support enforcement is absolutely essential if we are going to make it possible for people to move from welfare to work. Single parents cannot be expected to bear the entire financial burden of supporting their children alone. We have to do everything possible to ensure that the non-custodial parent also contributes to the support of his or her child. Still, there will be cases where the support from the non-custodial parent will not be available; for instance, in cases where the non-custodial parent has been laid off from a job or presently has very low income.

Child Support Assurance is a program that would provide a minimum insured child support payment to the custodial parent even when the noncustodial parent was unable to pay. With such a program, a combination of work and child support could support a family out of welfare and provide some real financial security. Unlike traditional welfare, Child Support Assurance would encourage work because it allows single parents to combine earnings with the child support payment without penalty. Also, according to some experts, Child Support Assurance would change the incentives for a mother to get an award in place and it would focus attention on the noncustodial parent as a source of support.

No state currently has a Child Support Assurance program, although the Child Assistance Program (CAP) in New York State has some similar features. Many states have expressed an interest in trying a Child Support Assurance program, provided that some federal assistance and direction could be provided. Major questions surround such programs - costs, implementation strategies, anti-poverty effectiveness, the effect on AFDC participation, etc. And unless the state really does a good job in enforcement, there is a question about whether such a program lets the noncustodial parent off the hook for payment.

Vision

State demonstrations would be used to try out Child Support Assurance with states being allowed some state flexibility to try different approaches. Evaluations of the demonstrations would be conducted and used to make recommendations for future policy directions.

Drafting Specs

Congress would authorize and appropriate funds for six CSA State demonstration programs.

- (1) Each demonstration would last seven to ten years. An interim report would be due four years after approval of the demonstration grant.
- (2) The Secretary shall determine from the interim reports whether the programs should be extended beyond seven to ten years and whether additional State demonstrations should be recommended, based on various factors that include the economic impact of CSA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSA has been received by the custodial parent, the impact of CSA on work-force participation and AFDC participation, the anti-poverty effectiveness of CSA, the effect on paternity establishment rates, and any other factors the Secretary may cite.
- (3) As part of the demonstrations, some States would have the option of creating work programs so that noncustodial parents could work off the support if they had no income.
- (4) The demonstration projects are based on a 90%/10% federal/state match rate. (The higher federal match applies only to administrative costs attributable to the program and that portion of the benefits that does not represent the reduction in AFDC due to receipt of the CSA benefit.)
- (5) The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.
- (6) The Secretary may approve both state-wide demonstrations and demonstrations that are less than state-wide, but there shall be a preference for state-wide demonstrations. The Secretary shall develop standards for evaluation including appropriate random assignment requirements.

The child support assurance criteria for the State demonstration programs would require that:

- (1) the CSA program be administered by the state IV-D agency, or at state option, its department of revenue; in order to be eligible to participate in the CSA program, states must ensure that their automated systems that include child support cases are fully able to meet the CSA program's processing demands, timely distribute the CSA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSA cases.
- (2) states be provided flexibility in designing the benefit scales within the following parameters: at least two states shall provide benefit levels between \$1,500 per year for one child and \$3,000 per year for four or more children and two states shall provide benefit levels between \$3,000 per year for one child and \$4,500 per year for four or more children.
- (3) the CSA basic benefit amounts be indexed to the adjusted Consumer Price Index.
- (4) the CSA benefit be counted as private child support for the purpose of eligibility for other government programs;
- (5) the CSA benefit be deducted dollar for dollar from an AFDC grant, except that in low benefit states, the Secretary shall have discretion to approve applications for programs with less than a dollar for dollar deduction. (Also, where CSA removes someone from the AFDC grant, states may, at their option, continue eligibility for other related benefits that would have been provided under the AFDC grant.) If a State chooses it may supplement the CSA basic benefit amount by paying the FMAP contribution of any supplement up to \$25, and all of any supplement over \$25.
- (6) CSA eligibility be limited to children who have paternity and support established. (Waivers from this requirement may be granted only in cases of rape, incest, and danger of physical abuse.)
- (7) the CSA be treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the state would send each CSA recipient a statement of the amount of CSA provided and private child support paid during the calendar year. If the CSA benefits exceed the support collected, the difference is taxable as ordinary income.
- (8) money collected from the noncustodial parent be distributed first to pay current support, then CSA arrearages, then family support arrearages (see distribution section of enforcement), then AFDC debts.

- (9) in cases of joint and/or split custody, a person is eligible for CSA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award would be below the minimum CSA benefit if the guidelines for sole custody were applied to either parent.

Additional Demonstrations

At least two additional States would be approved for demonstration of an advanced minimum child support payment program.

Under these demonstrations, States must:

- (1) establish a minimum child support obligation of at least \$50 per child. (The \$50 minimum obligation would be set at the time the order is established or when an existing order is modified);
- (2) provide that the recipients who leave AFDC and other custodial parents who are not on AFDC could apply for advanced payment of the \$50 minimum payment. States must guarantee the \$50 per month minimum payment to the custodial parent even if it fails to collect from the noncustodial parent.
- (3) at State option, States may require the noncustodial parent to work off the support due.

V. SUPPORTS AND NONFINANCIAL EXPECTATIONS FOR NONCUSTODIAL PARENTS

The issues concerning child support enforcement and the issues concerning non-custodial parents cross-cut to a great degree. This section outlines the areas of special concern to noncustodial parents that are included in the child support enforcement and insurance recommendations and also includes additional proposals.

Noncustodial Parents Issues and Concerns Addressed in Sections I, II, and III

Getting Fathers Involved Early in the Child's Life

- Emphasis on universal paternity establishment and education of both parents on rights and responsibilities
- Putative Father allowed to initiate their own paternity action
- Advanced costs for genetic testing
- Discretion to forgive medical expenses and arrearages owed to state where father cooperates in paternity establishment

Reexamination of Guidelines Issues by National Guidelines Commission

- Guidelines Commission to study payment of support in multiple family cases, tax treatment in support cases, and credit for extended visitation
- Separate study on access to Federal Parent Locator Service by noncustodial parents

Modifications of Orders

- Simple administrative process for modifications so that noncustodial parents can more easily obtain review and adjustment of orders when income declines and thereby avoid the buildup of arrearages
- Downward modifications of awards must be made by agency where warranted

Distribution Changes that Benefit Children and Provide Incentives for Fathers

- Payments on Arrearages go to benefit family first
- Forgiveness of arrearages in cases where family reunites

Better Tracking of Payments to Avoid Build-up of Arrearages

- Central registries to maintain more accurate records of orders
- Payments through clearinghouse to maintain more accurate records of payments and to prevent disputes about whether payments have actually been made
- Uniform allocation of arrearages in multiple order cases
- Mandatory procedures to ensure that arrearages don't build up after the child is no longer eligible for support
- Emphasis on electronic payment and payment by credit cards so that it is easier to make payments
- Use of return stubs and coupons to insure accurate posting of payments. Payments are also easier to make by the use of centralized payment centers so that noncustodial parents don't have to depend on making payments during courthouse hours

NonCustodial Parents – Additional Proposals

- Block grants will be made to states for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education and enforcement.
- A portion of JOBS program funding will be reserved for education and training programs for noncustodial parents.
- Targeted Jobs Tax Credit (TJTC) will be made available to fathers with children receiving food stamps (under discussion).
- There will be demonstrations and experimentation whereby men who participate in employment and training activities do not build up arrearages while they participate and significant experimentation with mandatory work programs for noncustodial parents who refuse to work and pay child support.

APPENDIX

EFFECTIVE DATES FOR IMPLEMENTING HYPOTHETICAL REFORMS

In general

The following schedule assumes passage of Federal legislation before October 1, 1994. Legislation amending existing Federal statutes outside of Title IV-D of the Social Security Act is effective upon enactment unless stated otherwise. Legislation amending Federal responsibilities under Title IV-D is effective October 1, 1994.

Some rules of thumb are used: Commission members are to be appointed within three to six months of passage. Grants and demonstrations assume expedited bidding and approval. Project reports and studies are to be filed one month before the termination of a grant. OCSE should be granted either emergency regulatory power under this Act to expedite enforceable regulations of sections of the Act that are effective within one year of enactment or be guaranteed limited, expedited review by OMB of its NPRM or final rule.

Any state requirement that requires legislation to be effective within two years of the date of enactment of the Federal legislation should have an additional caveat: "...or, if the state legislature meets biennially, within three months after the close of its first regular session that begins after enactment of this bill."

Effective Dates

hypo p.#	Requirement	Effective Date
1	Paternity	
1	new paternity measurement	Oct. 1, 1995
2	FFP - paternity (see FFP phase in below)	Oct. 1, 1997
2	performance-based incentives	Oct. 1, 1996
2	fed. approved state incentives/demos	Oct. 1, 1996
3	state/health care provider info.	Oct. 1, 1995
3	state paternity procedures - IV-D	Oct. 1, 1995
3	state paternity procedures - non-IV-D	Oct. 1, 1996
4	state outreach requirements	Oct. 1, 1995
4	enhanced FFP (90%) for pat. out	Oct. 1, 1994
5	coop. & good cause requirements	Oct. 1, 1995
7	contested paternity	Oct. 1, 1996
8	accreditation	
	fed regs	Oct. 1, 1995
	eff. for 1st new state contract	Oct. 1, 1995
8	administrative authority for estab.	Oct. 1, 1997
9	Nat. Comm. on CS Guidelines	
	funded	Oct. 1, 1994
	named by	Dec. 1, 1994
	report due	Dec. 1, 1996
10	Review and adjustment for all cases	Oct. 1, 1999
11	Distribution changes	
12	new priority/multiple orders	Oct. 1, 1997
12	tax offset-returns filed	after Jan. 1, 1995
13	interest - Fed reg	Oct. 1, 1996
	- state requirement	Oct. 1, 1997
13	treatment of CS in AFDC cases	Oct. 1, 1994
15	Central state registry	
	automated requirements tied to	
	current FSA/OCSE reqs.	Oct. 1, 1995
	other requirements	Oct. 1, 1997
18	Central state clearinghouse	
	centralized coll/dist start up	Oct. 1, 1997
	statewide coll/dist	Oct. 1, 1998

19	Administrative action to change payee	Oct. 1, 1995
20	FFP	
20	66 to 69%	Oct. 1, 1995
20	69 to 72%	Oct. 1, 1996
20	72 to 75%	Oct. 1, 1997
21	enhanced (80%) unified system	Oct. 1, 1997
22	enhanced (90%) start up	Oct. 1, 1994
		(sunssets Oct. 1, 1999)
21	Incentives	
	federal reg promulgation	Oct. 1, 1995
	paternity standard	Oct. 1, 1997
	overall performance	Oct. 1, 1997
22	Revolving Loan Fund	Oct. 1, 1995
23	Staffing studies funded	Oct. 1, 1994
	studies completed	Oct. 1, 1996
23	Training	
	OCSE begins its efforts	Oct. 1, 1994
	state requirements	Oct. 1, 1995
24	Outreach	
	state begins to meet goals	Oct. 1, 1994
	OCSE requirements/funding	Oct. 1, 1994
25	National Child Support Registry	
	funding	Oct. 1, 1994
	on-line/fully operational	Oct. 1, 1997
26	National Directory of New Hires	
	funding	Oct. 1, 1995
	on-line for all states	Jan. 1, 1997
	universal ER reporting reqs.	Jan. 1, 1997
27	Feasibility study (STAWRS, SSA, AHSA)	
	funded	Oct. 1, 1994
	let	Dec. 1, 1994
	due	June 1, 1995
	HHS/IRS decision	Aug. 1, 1995

27	National Locate Registry funding on-line/fully operational		Oct. 1, 1994 Oct. 1, 1997
28	Union hall cooperation - state laws		Oct. 1, 1995
28	Studies: domestic violence and CRAs funded let due		Oct. 1, 1994 Dec. 1, 1994 Dec. 1, 1995
29	IRS data (IRS and state changes)		Oct. 1, 1995
29	IRS tax offset-eff. for returns	after	Jan. 1, 1995
29	IRS full collection nonautomated changes automated funding automated IRS implementation		Oct. 1, 1995 Oct. 1, 1994 Oct. 1, 1995
30	Audit and technical assistance technical assistance funding Fed audit regs		Oct. 1, 1994 Oct. 1, 1995
31	state-based audit requirements		Oct. 1, 1996
32	Customer Accountability		
32	Private right of action (for prospective or ongoing injury only)		upon enactment
32	Fair hearings fed reg state implementation		Oct. 1, 1995 Oct. 1, 1996
32	OCSE Funding in General		Oct. 1, 1994
33	Enforcement - interstate UIFSA (legis. flexible until 1/1/96) other state laws		Oct. 1, 1995 Oct. 1, 1995
34	National subpoena duces tecum OCSE distributes nat. subpoena nationwide force effective		Oct. 1, 1995 Oct. 1, 1995

36	Enforcement	
36	state enforcement law changes	Oct. 1, 1995
37	exception: imm. withholding in all IV-D cases	Oct. 1, 1996
37	exception: imm. withholding in all nonIV-D cases	Oct. 1, 1997
40	Tax deduction coordination	Jan. 1, 1996
40	Privacy protections	
	Fed regs	Oct. 1, 1995
	state implementation	Oct. 1, 1996
42	Child Support Assurance Demonstrations	
	Fed/state money for 6 demos	Oct. 1, 1995
	funding for advanced CS demos	Oct. 1, 1995
	state interim reports	Jan. 1, 1999
	state final reports	Oct. 1, 2002-5
	Fed reports to Congress	Apr. 1, 2005
	Fed administrative funding	Oct. 1, 1994
	Fed regs	Oct. 1, 1995