

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Larry Clark to POTUS re: Visit (partial) (1 page)	4/3/97	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Bruce Reed (Subject File)
 OA/Box Number: 21201

FOLDER TITLE:

Child Support [1]

RESTRICTION CODES

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

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

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

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

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

Child Support

THE WHITE HOUSE
WASHINGTON

April 17, 1997

Mr. and Mrs. Larry Clark
Parents Against Parents Not Paying
Child Support Association
Post Office Box 11378
Winston Salem, North Carolina 27116-1378

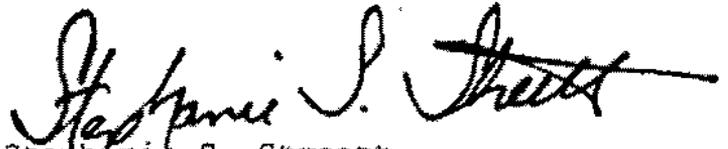
Dear Mr. and Mrs. Clark:

Thank you for inviting President Clinton to meet with you to discuss child support issues. The President has asked me to convey his appreciation for your offer.

At this time, the tremendous demands on the President will not give him the opportunity to honor your request. However, I will keep your correspondence on file and will be sure to contact you if any changes in his schedule allow him to accept.

On behalf of the President, thank you again.

Sincerely,



Stephanie S. Streett
Deputy Assistant to the President
Director of Scheduling

SSS/jxc

Bce:
Broce
Reed (PL)
FYI

April 3, 1997

Special. 109
X COPY TO DPC
plc

President Bill Clinton
Office of Scheduling Room 184
Whitehouse
1600 Pennsylvania Avenue
Washington, DC 20500

RE: To visit you and speak with you at the Whitehouse on a new child support proposed bill.

Dear MR. President,

We would like to ask you if you could take a few minutes of your time to discuss an ever growing problem in America. This problem is about child support and millions of children suffering.

1) Fact: 29 Million Children did not receive child support. February 12th, 1997 (Associated Press).

2) Fact: 35 Billion dollars was uncollected in child support. February 12th, 1997 (Associated Press).

3) When child support is not collected who pays?

We would like to visit with you and share the plight of the children and we know that you care and have endorsed many programs for the children.

Senator Helms, Senator Faircloth, and Congressman Burr has seen our proposed "MATTHEW'S BILL" document and are trying to introduce it to the 105th Congress.

We understand that the government has done very much for child enforcement, but the 50 states has to be unified in the child support laws so that the deadbeat parents do not think that it is okay not to pay, because right now to the deadbeat they know the current laws equal to a mere traffic citation.

Withdrawal/Redaction Marker

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For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

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rs38

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P.A.P.A.

PARENTS AGAINST PARENTS NOT PAYING CHILD SUPPORT ASSOCIATION

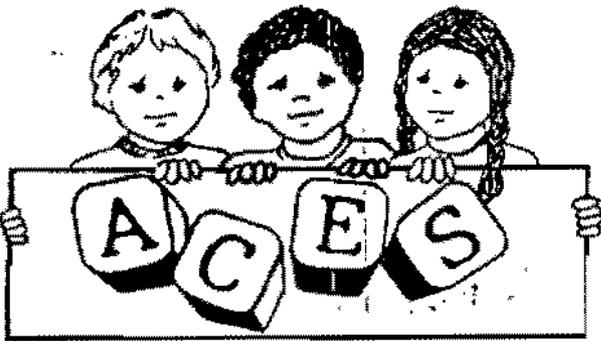
P.O. Box 11378 WINSTON-SALEM NORTH CAROLINA 27116-1378 TOLL FREE (888) 844-PAPA OR (910) 896-1718

My name is Lawrence (Larry) James Clark SSN [REDACTED] and my wife's name is Michelle Evet Clark SSN [REDACTED]

We would very much appreciate the opportunity to visit with you and discuss this matter. We sincerely appreciate the time and effort and we are merely giving a solution to help all children.

Sincerely


Larry Clark
President



The Association for Children for Enforcement of Support, Inc.

December 4, 1996

Bruce Reed
Chief of Domestic Policy
Old Executive Office
Washington DC 20500

Dear Bruce,

I am writing to you because of ACES concern about AFC regional office reorganization. Recently when I contacted the Region V office in Chicago, I was told that Marion Steffy was no longer the Regional Director and that she had been replaced by a HUD Director who will over see the operation at Region V and VII. This reorganization and expansion of duties of the Chicago office and loss of Ms. Steffy at the time of implementation of Welfare Reform seems very poorly planned. It will have a detrimental impact on children entitled to support.

Region V encompassed several larger states and had a good track record of working with advocacy organization such a ACES. Region VII states are mainly low population. In ACES experience, the Region VII office has been uncooperative and difficult to work with for ACES and families entitled to support.

ACES encourages you to re-evaluate organizational plans. Please re-instate Ms. Steffy as the Regional and/or HUB Director. She has worked cooperatively with ACES for over ten years. She has attended events such as our Candle Light Vigils and public forums. She, as is President Clinton,

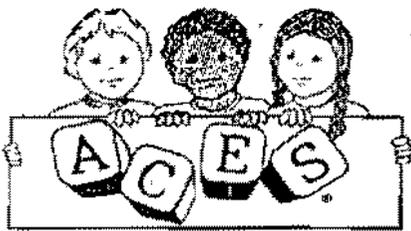
an ACES Golden Heart winner, due to assisting disadvantaged children entitled to child support. Ms. Steffy was able to get states like Michigan, Ohio and Wisconsin to work cooperatively to implement the 1988 Family Support Act. Her expertise is needed to implement the Personal Responsibility and Job Opportunities Act.

Thank you for your attention to this matter.

Sincerely,



Geraldine Jensen
President



The Association for Children for Enforcement of Support, Inc.

ACES of Texas
P.O. Box 550302
Dallas, TX 75355
(214) 553-5935

November 10, 1996

Mr. Bruce Reed
Chief of Domestic Policy
Old Executive Office Building
1616 Pennsylvania Ave.
Washington, D.C. 20500

Dear Bruce:

Thank you for the positive statements you helped place on the President's platform on child support enforcement. You made that commitment during the meeting Gerri Jensen, Michelle Hanneman, and I had with you this summer during our visit to Washington, D.C. We hope you can ensure that the actual increase in child support collections is publicly corrected to indicate that it is not as good as often quoted in the media. Yes, collections are up, but they are up because the number of cases needing collections are up. Please be sure that this is investigated thoroughly before more public statements are made. I will be happy to help in any way I can.

This letter is also to alert you to a potential problem. Rumors abound in Texas that if U.S. Attorney General Janet Reno does not remain in her current position, Texas Attorney General Dan Morales is in line to be considered for the position. This would be disastrous. During his administration, Dan Morales has done an absolutely terrible job on child support enforcement. He claims he is in the top in collections and that the agency has improved dramatically under his administration. In fact, the program has suffered under his administration.

ACES of Texas is receiving an increase in the number of calls from custodial parents needing help in getting action from the attorney general. The Office of the Attorney General is refusing to honor or consider the requests ACES makes that would help these custodial parents. Because the situation is so bad in Texas, ACES of Texas awarded Dan Morales our 1996 Heartless Award. A 19-year-old who has been without help from the IV-D agency since she was six delivered the award.

Please see to it that Dan Morales' name is removed for consideration (if it is, in fact, on the list). If necessary, I can provide mounds of testimony to back up what I am charging.

Please contact me if I can answer any questions or assist in any way.

Respectfully,


Lynda Milot Benson
President
ACES of Texas

Don't mistake activity for accomplishment.



U. S. Department of Justice

Washington, D.C. 20530

FACSIMILE COVER SHEET

TO: DENNIS BURKE

FROM: Nicholas M. Gess
Director
Public Liaison and Intergovernmental Affairs
TELEPHONE: (202) 514-3465
FACSIMILE: (202) 514-2504

DATE: May 16, 1996

SUBJECT: child support

PAGES: (Including this cover sheet)

REMARKS: Dennis - Heard you guys were looking for things we can do to highlight the President on child support. Attached are some ideas. NONE are cleared within DoJ yet. Nick

ADMINISTRATION PLAN ON CHILD SUPPORT

DRAFT-DRAFT-DRAFT

5/16/96 - 8:50 AM

I. Things the President Can Do By Executive Order

- Issue an Executive Order requiring all Cabinet Secretaries to revoke any license issued by their agency to an individual more than 45 days delinquent in a court-ordered child support debt. This would include pilots (FAA), doctors (DEA) and long-haul truckers (ICC).
- Make it a condition of new Federal employment that the prospective employee not be more than 45 days delinquent in a court-ordered child support debt.
- Require Cabinet Secretaries to make it a condition of continued employment, in accordance with existing laws and collective bargaining agreements, that employees not be more than 45 days delinquent in a court-ordered child support debt.
- Require Federal contractors to require that employees working on Federal contracts not be more than 45 days delinquent in a court-ordered child support debt.
- Authorize the Internal Revenue Service and the Social Security Administration to provide relevant financial data regarding those who are more than 45 days delinquent in a court-ordered child support debt to Federal, state and local enforcement agencies as well as the plaintiff in such actions.
- Permit plaintiffs in child support actions to lodge child support orders as offsets against Federal income tax refunds.
- Deny Federal benefits to those with delinquent child support orders except to the extent that at least 50% of those benefits are paid directly to the plaintiff in the child support action or a Federal, state or local agency acting on behalf of such a plaintiff.

- Direct Cabinet Secretaries to, within the bounds of the program, require states as a precondition of Federal grants to suspend the motor vehicle operators licenses of individuals more than 45 days delinquent in a court-ordered child support obligation.

II. Things the President Can Do by Bully Pulpit

- Call on the governors to join him in issuing similar executive orders of their own.
- Call on private employers to form a partnership with the Administration and make keeping current on child support obligations a condition of employment, continued employment and promotion.

III. Things the President Can Call on Congress to do

- Expressly authorize employment preconditions as a matter of Federal labor law.
- Make child support obligations non-dischargeable in bankruptcy
- Require states receiving Federal highway funds to suspend drivers licenses of deadbeat parents.
- Deny Federal benefits to deadbeat parents.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

August 5, 1995

NATIONAL CHILD SUPPORT AWARENESS MONTH, 1995

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Providing for our children is one of humanity's worthiest and most fundamental endeavors. Children are the best part of ourselves -- the sum of our past and the promise of our future, the guarantee that our lives and values and dreams will flourish long after we are gone. Sadly, however, many parents in our country today deny the instinct to care for their children, failing to provide even the most basic economic support. Millions of America's children have no legally identified father. Millions do not receive the financial support they need to lead secure and healthy lives.

Because of these harsh realities, I have made the reform of our Nation's child support system one of the top priorities of my Administration. The welfare reform plan that I proposed to the Congress last year contains the toughest child support enforcement measures in America's history -- measures that would improve the effectiveness of procedures for establishing paternity, make it easier to enter and update child support awards, and dramatically strengthen our ability to enforce payment of those awards. My proposals would also give us the ability to track deadbeat parents across State lines, suspend their driver's licenses if necessary, and make them work off what they owe.

As the Nation's largest single employer, the Federal Government must take a leadership role in the effort to ensure that all of America's children are properly supported. In February of this year, I signed an Executive order requiring Federal agencies to cooperate fully with measures to establish and enforce child support orders and to inform employees of how they can meet their support obligations. Additionally, we are encouraging State and local governments to develop innovative approaches to helping families cope with child support issues, and the Department of Health and Human Services (HHS) has begun to restructure and strengthen its partnerships with State child support agencies.

This month we celebrate the 20th anniversary of the Child Support Enforcement Program at HHS. This program -- at the

Federal, State, and local levels -- has been instrumental in giving hope and support to America's children while fostering strong families and responsible parenting. Through their efforts, over 5.1 million children now have a legally recognized father; more than 11.7 million children with a parent living outside of their homes have a legal right to the financial support of that parent; and over \$72.5 billion has been provided for children by their noncustodial parents.

more

(OVER)

But for all that we have accomplished, we still have much to do. By ensuring the enactment and implementation of my Administration's strong child support enforcement proposals, we will send a clear signal to our citizens that they should not have children until they are prepared to care for them. Those who do bring children into the world must bear the responsibility of supporting them. We must rededicate ourselves to the task of putting these youngest and most vulnerable of our citizens first.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 1995, as "National Child Support Awareness Month." I call upon the citizens of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of August, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

WILLIAM J. CLINTON

#

File: Child Support
 MELISSA
 This is pretty good!
 A few minor edits...

@TITLE = Introduction

Everyone is frustrated with the current welfare system. Caseworkers are overwhelmed by numbingly complex eligibility rules that distract them from the real task of helping young mothers find jobs. Taxpayers see a system that provides benefits and services indefinitely with no regard to the value of work and responsibility. And the families who receive cash assistance feel trapped in a system with little access to education, training and employment skills -- and in which they are worse off if they go to work than if they stay on welfare.

Welfare reform is designed to give people back the dignity and control that comes from independence. We believe that no one who can work should receive cash assistance -- or welfare -- indefinitely. And we believe that parents, not governments, are responsible for the support of their children.

To truly "end welfare as we know it," we must build on the values of work and responsibility. We must reshape the expectations of government and the people it serves. We must refocus the system of economic support from welfare to work. ~~After a time limited transitional support period, work -- not welfare -- must be the way in which families support their children.~~ shall

To reinforce and reward work, our approach is based on a simple compact. Support, job training, and child care will be provided to help people move from dependence to independence. But after two years, anyone who can work, must work--in the private sector if possible, in ~~a public service job~~ a competitive industrial job if necessary.

In particular, we need to make it clear that parents--both parents-- have responsibilities to support their children. The child support enforcement system must strongly convey this message. Government can assist parents, but cannot be a substitute for them. We believe that movement toward universal paternity establishment and improved child support enforcement would send an unambiguous signal that both parents share the responsibility for supporting their children.

In fact, if this county did a better job of collecting child support, we can move thousands of families off welfare by closing the child support enforcement gap. We almost won't JP.

Mary Jo Bane, David Ellwood, Bruce Reed<R>Co-Chairs<R>Working Group on Welfare Reform, Family Support and Independence

[A few more zingers on child support would be good here.]
 (esp. about how collecting CS ~~can~~ can move thousands of families off welfare)

need a welfare system anymore.

Background

To fulfill his pledge to "end welfare as we know it," President Clinton formed an interagency Working Group on Welfare Reform, Family Support and Independence. This group, representing eight Departments and several White House offices, was charged with developing a proposal for welfare reform that will not simply change the welfare system, but ultimately provide a genuine alternative to it.

Public involvement and input has been a priority the Working Group as it worked to develop a proposal for the President. The group conducted a series of regional hearings and site visits across the country, met with welfare recipients and representatives of organizations and coalitions, and provided conference speakers.

The Working Group is publishing a series of papers to provide background information on a number of the issues central to the public debate over the welfare reform effort. This publication is one of the series of working papers.

Mail and information requests for the Working Group should be directed to:

Welfare Reform Working Group
Administration for Children and Families
370 L'Enfant Promenade, S.W. - 6th floor
Washington, D.C. 20447

"We are working on reforming the welfare system so that more people can move from dependence to independence; can be successful parents and successful workers."

President Bill Clinton
Remarks to the citizens of Boston
March 14, 1994

Introduction

Everyone is frustrated with the current welfare system. Caseworkers are overwhelmed by numbingly complex eligibility rules and forced to focus on calculating benefits and writing checks. Taxpayers see a system that provides benefits and services indefinitely to single-parent families that may be unavailable to equally poor two-parent families and with no regard to the value of work and personal and family responsibility. And the families who receive cash assistance feel trapped in a system with little access to education, training and employment skills and in which they are worse off if they go to work than stay on welfare.

Welfare reform is designed to give people back the dignity and control that comes from work and independence. It is about reinforcing work and family and responsibility. We propose a new vision aimed at helping people regain the means of supporting themselves and at holding people responsible for themselves and their families.

We believe that work is central to the strength, independence, and pride of American families. We believe that no one who can work should receive cash assistance -- or welfare -- indefinitely. And we believe that parents, not governments, are responsible for the support of their children.

To truly "end welfare as we know it," we must build on the values of work and responsibility. We must reshape the expectations of government and the people it serves. Those on cash assistance cannot collect welfare indefinitely. We must refocus the system of economic support from welfare to work. After a time-limited transitional support period, work -- not welfare -- must be the way in which families support their children. Our goal is to move people from welfare to work, and to bolster their efforts to support their families and contribute to the economy.

We envision true welfare reform encompassing four fundamental elements:

1. Promote parental responsibility by strengthening child support enforcement and by focusing on preventing teenage pregnancy. Parents should take responsibility for supporting and nurturing their children.
2. Support people who go to work by making work pay, so that people who play by the rules have the tax credits, health insurance, and child care they need to adequately support their families through work.
3. Promote work and self-support by providing access to education and training, making cash assistance a transitional, time-limited program, and expecting adults to work once the time limit is reached. No one who can work should stay on welfare indefinitely.
4. Reinvent government assistance to streamline bureaucracy, combat fraud and abuse, and give greater State flexibility within a system that has a clear focus on work.

Promote Parental Responsibility

If we are going to end long-term welfare dependency, we must do everything we can to prevent people from going onto welfare in the first place. Families and communities need to work together to ensure that real opportunities are available for young people, and to teach young people that men and women who parent children have responsibilities and should not become parents until they are able to nurture and support their children. A prevention strategy should provide better support for two-parent families and send clear signals about the importance of delaying sexual activity and the need for responsible parenting.

We also need to make it clear that parents—*both parents*—have responsibilities to support their children. The child support enforcement system must strongly convey this message. Government can assist parents, but cannot be a substitute for them, in meeting their responsibilities. We must improve the collection of child support and overcome the shortcomings of our current system of child support enforcement in order to provide both security for children and support for custodial or noncustodial parents alike. We believe that movement toward universal paternity establishment and improved child support enforcement would send an unambiguous signal that both parents share the responsibility for supporting their children.

Make Work Pay

Work is at the heart of the entire reform effort. To make work "pay" for welfare recipients, we must provide some support for working families, and ensure that a welfare recipient is economically better off by taking a job. We see three critical components to making work pay — providing tax credits for the working poor, ensuring access to health insurance, and making child care available.

The recent expansion of the Earned Income Tax Credit (EITC) was effectively a pay raise for the working poor, making a \$4.25 per hour job pay the equivalent of \$6.00 per hour for a family with two children when fully implemented. We need to simplify and encourage greater utilization of the advance payment of the EITC so that people can receive it periodically during the year, rather than as a lump sum at tax time.

We also must guarantee health security to all Americans through health reform. Part of the desperate need for health reform is that non-working poor families on welfare often have better health coverage than working families. It makes no sense that people who want to work have to fear losing health coverage if they leave welfare.

The final critical element for making work pay is child care. Single mothers cannot participate in training or go to work unless they have care for their children. Working poor families also need access to quality child care.

Provide Access to Education and Training, Impose Time Limits, and Expect Work

We don't need a welfare program built around "income maintenance" -- we need a program built around work. Everyone has something to contribute. We need to transform the culture of the welfare bureaucracy to convey the message that everybody is expected to move toward work and independence. We envision a system whereby people would be asked to start on a track toward work and independence immediately. Exemptions and extensions would be limited. Each adult would sign a social contract that spells out their obligations, as well as what the government will do in return. We would expand access to education, training, and employment opportunities, and insist on high participation rates. At the end of two years, people still on welfare who can work but cannot find a job in the private sector would be offered work in community service. Communities would use funds to provide non-displacing jobs in the private, non-profit, and public sectors. They would form partnerships among business leaders, community groups, organized labor, and local government to oversee the work program.

Reinvent Government Assistance

A major problem with the current welfare system is its enormous complexity and inefficiency. It consists of multiple programs with different rules and requirements that are poorly coordinated and confuse and frustrate recipients and caseworkers alike. Waste, fraud and abuse can more easily arise in such an environment.

The real work of encouraging work and responsibility will happen at the State and local levels. The Working Group believes the Federal Government must be clearer about stating broad goals and give more flexibility over implementation to States and localities. We envision simplifying and streamlining rules and requirements across programs to the maximum extent possible. Basic performance measures regarding work and long-term movements off welfare might be combined with broad participation standards. States should be expected to design programs which work well for their situation.

We should take full advantage of technological advances that allow us to create a Federal clearinghouse to ensure that people are not collecting benefits in multiple programs or locations when they are not entitled to do so and allow better interaction between the child support enforcement and welfare systems.

Transforming the social welfare system to one focused on work and responsibility will not be easy. A welfare system which evolved over 50 years will not be recast overnight. The myriad social and economic forces that influence the poor and non-poor alike run deeper than the

welfare system. We do not have all the answers, and we must guard against unrealistic expectations. But we must think boldly and consider an array of policy options that will serve to reinforce the basic values of work and responsibility and enable us to preserve our children's futures.

Mary Jo Bane, David Ellwood, Bruce Reed

Co-Chairs

Working Group on Welfare Reform, Family Support and Independence

BRIEFING

CHILD SUPPORT ISSUE PAPER

OVERVIEW

Child support is a critical component for ensuring economic stability for millions of single-parent families. While many single parents can and do raise their children well on their own, the financial burden of serving as the family's sole provider too often puts children at risk of living in poverty. Research points clearly to the severe economic difficulties often encountered when raising children without the financial support of two parents. The present child support enforcement system too often functions poorly and fails to ensure that the financial support for these families comes from *both* parents.

THE ENFORCEMENT GAP

...[I]f child support orders were established for all children with a living noncustodial father and these orders were fully enforced, aggregate child support payments would have been \$47.6 billion dollars in 1990. . . .

The Urban Institute

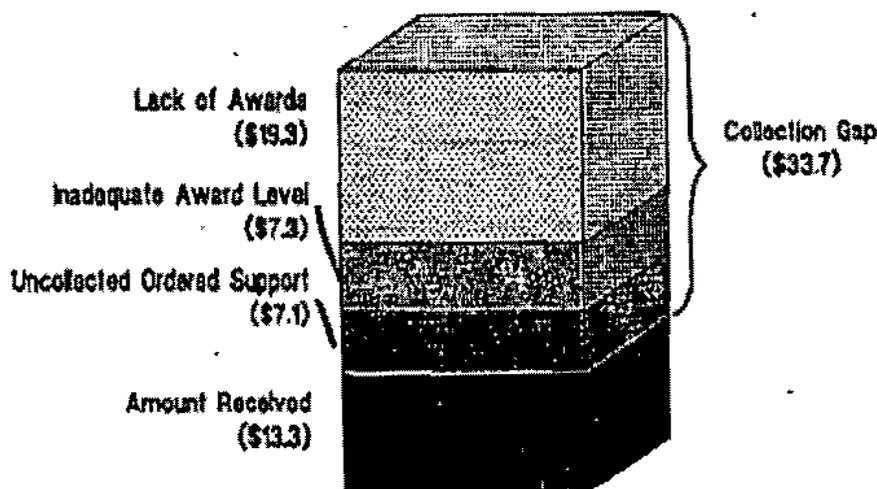
Recently, The Urban Institute completed a study on child support collection potential.¹ The findings confirm that the present system falls far short of collecting the support that could theoretically be collected. According to the findings, if child support orders, reflecting current ability to pay, were established for all children with a living noncustodial father and these orders were fully enforced, aggregate child support payments would have been as high as \$47.6 billion dollars in 1990. (See Appendix for methodology). This estimate represents nearly three times the amount noncustodial fathers paid in child support in 1990. This means that there is a gap between what is currently received and what could theoretically be collected of about \$33.7 billion dollars.

There are three reasons for this gap. (See Figure 1.) The first is that not all existing awards are paid — for lack of enforcement. Currently, an estimated 21 percent of the \$33.7 billion gap is due to failure to collect in full what is ordered. Collecting the total amount of existing awards would add an additional \$7.1 billion to child support payments.

The second reason for the gap is that awards are generally inadequate. The income of a noncustodial parent typically grows over the life of the child support award, however, most awards are not modified after they are established. Therefore, most awards do not reflect the noncustodial parent's current ability to pay and most do not adjust for inflation. If awards were modified to reflect current guidelines, an additional \$7.3 billion of child support

payments could be collected. Put differently, 22 percent of the gap is due to the inadequacy of awards.²

Figure 1. The Gap Between Actual and Potential Child Support Collections
(In billions)



SOURCE: Elinor Bergman, Non-Custodial Fathers: Can They Afford to Pay More Child Support (Preliminary Findings), The Urban Institute, 1994.

The third reason for the \$33.7 billion gap is that many potentially eligible custodial parents do not have a legal child support award or order. If they did, this could bring an estimated additional \$19.3 billion in child support payments. This amount represents 57 percent of the gap between what is now received and what could potentially be received. While some of those without an award have recently separated or are in the process of legally establishing an award, about half do not have one because they do not have paternity established, a prerequisite for obtaining an award.

Closing the gap will require that child support enforcement policy address all three major reasons for the collection gap — lack of paternity and award establishment, inadequacy of the awards, and insufficient enforcement.

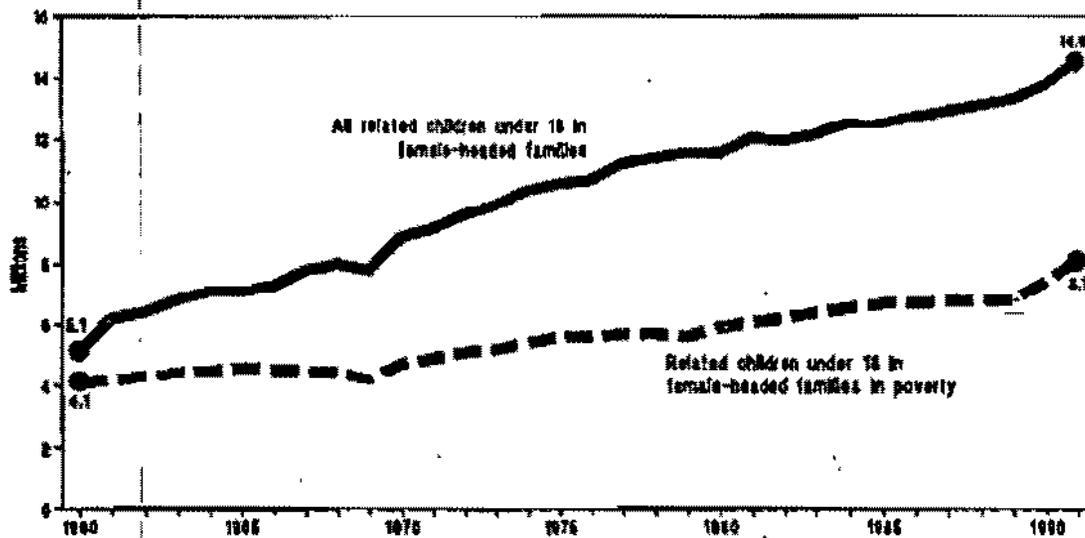
BACKGROUND ON FAMILY STRUCTURE

The American family has undergone dramatic structural change over the last several decades. Increases in the percentage of out-of-wedlock births coupled with high rates of divorces are denying children the traditional support of a two-parent family and, because single parents are much more likely to struggle economically, are subjecting millions of children to a childhood of poverty.

The Rise of the Single-Parent Family

Even though the total number of children under the age of 18 has stayed relatively stable — 64 million in 1960 and 65 million in 1991 — the number of children affected by divorce, separation and unwed parents has continued to rise. Increasing numbers of children now face life in a single-parent family — in 1991, 14.6 million children under the age of 18 lived in a female-headed family, almost triple the number in 1960.

Figure 2. Children in Female-Headed Families
Total Number and Number in Poverty



SOURCE: U.S. Bureau of the Census, *Current Population Reports*, series P-63, No. 881 and 882; series P-20, No. 481.

“ . . . about half of all children born between 1970 and 1984 are likely to spend some time in a mother-only family. . . . ”

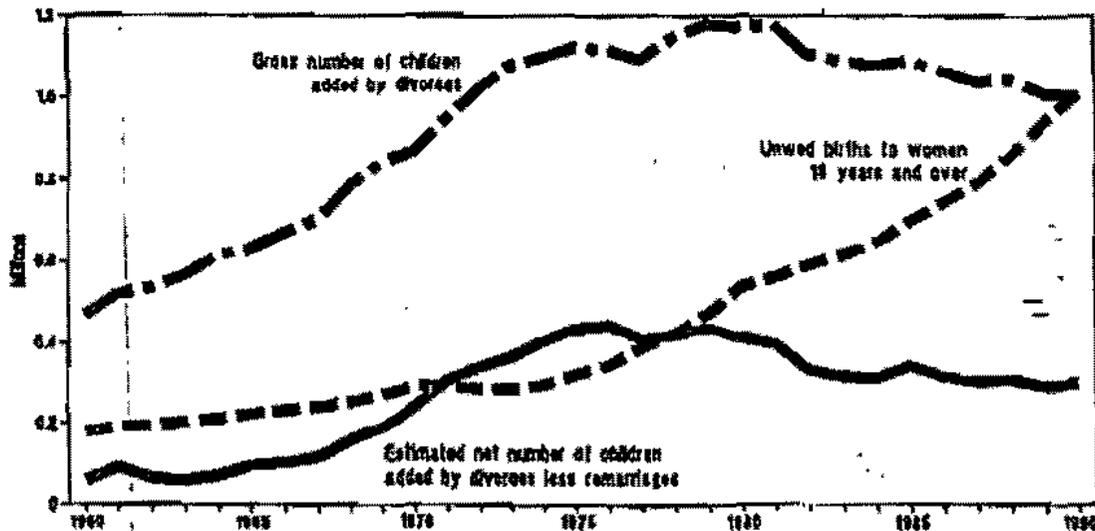
Bumpass and Sweet

Nearly one out of every four children is now living in a single-parent home. Taken over time, the changes look even more bleak. According to recent estimates, about half of all children born between 1970 and 1984 are likely to spend some time in a single-parent family, and for the majority of them, this situation is likely to persist throughout childhood.

Clearly, the days of Ozzie and Harriet are gone. In 1960, less than six percent of all births occurred outside of marriage and intact, two-parent families were the norm, not the exception. Since 1970 the number of children living with a divorced parent has more than doubled, while the number of children with never-married parents has grown nearly ninefold. Indeed, roughly 30 percent of all children born in 1991 were born to unmarried mothers. Currently, nearly one half of all marriages end in divorce and over one million children are born out-of-wedlock each year. Of these single-parent families, a large majority — 87 percent — are headed by women.

Although the rate of divorce is high, it has remained fairly steady since the mid-1980s; thus, virtually all of the recent rise in one-parent families can be traced to the dramatic growth in out-of-wedlock births during the 1980s. (See Figure 3.) In fact, the number of out-of-wedlock births increased by 75 percent between 1980 and 1990. And, contrary to what many people believe, most out-of-wedlock births are not to teenage mothers. Only about a third of all out-of-wedlock births in 1991 were born to unmarried teen mothers age 19 or younger.

Figure 3. Gross and Net Additions to Children in Mother-Only Families
Annual Additions from Unwed Childbearing and Divorce Net of Remarriage



SOURCE: Unpublished tabulations prepared by Department of Health and Human Services based on data from National Center of Health Statistics, *Vital Statistics of the United States, Annual and Monthly Vital Statistics Reports*, Vol. 21, No. 8, Supplement, February 28, 1992.

OUT OF DATE [Broken down by race and ethnicity, 67 percent of all births to African-American mothers, 17 percent of all births to white mothers and 37 percent of all births to Hispanic mothers were out-of-wedlock in 1990. Although the out-of-wedlock birth rate was higher for African-American women, births to unmarried women rose faster for white women during the 1980s — actually doubling for white women while rising 43 percent for African-American women.

Single-Parent Families Are Much More Likely to Be Poor

"Children in female-headed families are five times more likely to be poor than those in married-couple families. In 1991, 56 percent of all children in mother-only families lived in poverty compared to only 11 percent of children in two-parent families."

Current Population Reports, Series P-60, No. 181

Children
~~The most disturbing aspect of the increase in female-headed families is that children in these families~~ are five times more likely to be poor than those in married-couple families. In 1991, 56 percent of all children in mother-only families lived in poverty, compared to only 11 percent of children in two-parent families. In fact, the National Commission on Children reported that three of every four children who spend at least some time in a single-parent family will live in poverty at some point during their first ten years of life, compared to one in five children growing up in two-parent families. Also, these children are much more likely to remain poor longer. Recent research has shown that children raised in a single-parent family face a much higher risk of experiencing long-term poverty — according to one study, as many as 61 percent will live in poverty for at least seven of their first ten years, compared to only two percent of children growing up in a two-parent family.

Dear Work Group:

I am 28 years old and have three very beautiful boys. . . . My oldest son is very intelligent and at the top of his class in school. He wants to go to college to be a doctor. He is working very hard to get there. But I know I may not be able to afford this for him.

I have to worry every month if our food will run out, or if our utilities will be shut off. My children already want jobs to help mommy out. This is not fair for them to worry about. They should be children. . . .

My children keep saying "mommy, it'll be alright." . . . They don't understand how daddy lives so good. He has a new car, goes to Colts and Cubs games, has a nice house, and lives great. And mommy has to fight so hard to survive for so little. They are used to a different life and it's hard for them to see why it's changed. I only want to do my best for them. I can only pray for the country's children you will find a way to help them and us all.

Letter from Carla Huffer, Lafayette, IN

Household characteristics clearly have a major impact on a family's economic well-being. Studies show that children living with never-married mothers are much more likely to live in poverty than those living with divorced or remarried mothers. Teen mothers, who are the least likely to receive child support or to have paternity established, are particularly susceptible to a lifetime of poverty. According to a 1990 Congressional Budget Office study, three-fourths of unmarried teen mothers received welfare within five years after giving birth.

And many single mothers who manage to remain off welfare are either teetering on the edge of poverty or are faced with on-going economic insecurity even at much higher income levels.

The low income status of female-headed families is not surprising when one parent is expected to do the job of two. Because many noncustodial parents fail to provide financial support, single parents must serve the difficult dual role of both nurturer and provider. Full-time work must be balanced with daily caretaking responsibilities such as packing lunches and putting dinner on the table, along with managing frequent crises including sick children, doctor's visits, and school holidays. Life as a single parent is arduous and demanding because these responsibilities often fall on only one parent's shoulders. Additionally, these responsibilities, coupled with traditionally lower wages for women, seriously limit how much a single mother can earn. According to 1991 Census data, the average annual income for all working, single mothers is only \$13,012, barely sufficient to raise a family of three out of poverty.

While some noncustodial parents provide emotional and financial support, too many provide little assistance. As Table 1 shows, nearly two-thirds of single mothers are the sole financial contributors to the family. Sixty-five percent of absent fathers contribute no child support or alimony, and only 5.5 percent contribute as much as \$5000 per year. A typical single mother receives only a total of \$1,070 a year in both child support and alimony. In contrast, 91 percent of married fathers contribute earnings of at least \$5000 to total family income.

Table 1. Distribution of Financial Contributions by Fathers and Mothers in Families with Children by Type of Family

Contribution	Father's earnings in husband-wife families	Child support and alimony in female-headed families	Mother's earnings in husband-wife families	Mother's earnings in female-headed families
None	5.5%	65.4%	30.1%	21.4%
\$1 - \$2,499	1.0%	21.0%	11.2%	4.0%
\$2,500 - \$4,999	1.0%	8.0%	7.4%	5.5%
\$5,000 - \$9,999	8.4%	3.1%	14.2%	11.8%
\$10,000 - \$14,999	16.1%	1.0%	12.8%	11.1%
\$15,000 - \$19,999	11.1%	0.3%	8.7%	11.5%
\$20,000 - \$24,999	12.5%	0.2%	6.4%	7.1%
\$25,000 or over	61.8%	0.2%	8.0%	12.3%
Total	100.0%	100.0%	100.0%	100.0%
Overall average	\$27,483	\$1,070	\$1,499	\$10,482

NOTE: In some cases, the husband, wife, or female-head is not the biological parent of the children.

SOURCE: Mary Jo Bane and David T. Emswold, "One-Child of the Nation's Children: Why Are They Poor?" *Children*, Vol. 24, September 8, 1994.

BACKGROUND ON THE CHILD SUPPORT ENFORCEMENT SYSTEM

Despite significant improvements achieved through almost two decades of legislation, as well as bold initiatives taken by a number of States, the record of the child support enforcement system remains poor. Rising numbers of children potentially eligible for child support, due primarily to the surge in out-of-wedlock births across the nation, are pressuring already overburdened State systems to both secure and enforce adequate and consistent child support payments from noncustodial parents. The current child support structure, given its complicated layers of government and widespread inefficiencies, is ill-equipped to handle this growing need.

The Evolution and Structure of the Child Support System

Historically, family law has been based solely on State law, leaving all legal matters concerning the family to the discretion of the State. Until 1975 only a handful of States operated child support programs. In that year, Congress passed an amendment to the Social Security Act which required each State to develop its own child support enforcement, or "IV-D" program, — called IV-D because of its location in Title IV-D of the Social Security Act. This action was driven largely by the view that the collection of child support could help offset Federal and State costs for Aid to Families with Dependent Children (AFDC) — the primary "welfare" program.

The creation of the IV-D program was the first in a series of steps taken by Congress to significantly influence State laws in the areas of paternity establishment and child support enforcement. Additional reforms nearly a decade later, through the Child Support Amendments of 1984, gave more specific directives to States and mandated the adoption of a number of State laws and procedures. The Family Support Act of 1988 further strengthened the Child Support program by requiring major changes in State practices, including standards for paternity establishment, income withholding from noncustodial parents' wages, presumptive support guidelines for setting child support awards, and the periodic review and adjustment of IV-D orders. Also, to improve processing efficiency and to bring States up-to-date technologically, the Act required States to develop statewide automated systems by October 1, 1995 for the tracking and monitoring of child support cases.

"Eight years have passed with no solution to collect the over \$38,000 due in back support. This amount represents hundreds of boxes of cereal, hundreds of gallons of milk, years of utility bills and years of saying no you cannot have a new coat, no you cannot have new shoes, no there is not any more to eat. Our family does not qualify for welfare, I earn \$400 a year too much to get food stamps or utility, medical or housing assistance. The mortgage takes most of my paycheck, I am behind on the utility bills and winter is almost here again. I see

no relief."

Testimony of Erin Hunter-Pupos, Linden, NJ
Welfare Reform Working Group Hearing, Stanford, NJ
September 8, 1993

The present child support enforcement program is extremely fragmented. The program is overseen by the Federal government through the Department of Health and Human Services' Office of Child Support Enforcement (OCSE). OCSE provides technical assistance and funding to States to operate IV-D child support programs. The structure and organization of such agencies vary tremendously from State to State. Some IV-D agencies are run by courts, others by counties, and others by State agencies.

State IV-D programs must now provide child support services to both AFDC recipients (who must assign all rights to child support over to the State) and all other individuals who request assistance from the State to secure and enforce their support orders. Non-IV-D cases — all other cases not included in the IV-D system — are handled through private arrangements. It is now estimated that about one half of all potentially eligible child support cases receive services through the IV-D system.

Because the IV-D child support enforcement program was set up to offset AFDC costs, initially it focused on welfare recipients and devoted much less attention to poor and middle class women outside the welfare system. Even today the IV-D system often does not place the same level of emphasis on non-AFDC cases, leaving millions of custodial parents who are not on AFDC to struggle financially without adequate child support. Incentives designed to encourage States to serve AFDC cases have inadvertently biased the IV-D system against non-AFDC cases. Further, the poor reputation of many child support agencies often deters custodial parents from seeking IV-D services at all.

The present child support system involves every branch and level of government and 54 separate State systems, each with their own unique laws and procedures.³ At the State level, there is a further lack of centralization and uniformity, as many programs are county-based, creating tremendous variation in program operations even within individual States. In addition, functions that might more effectively utilize resources if they were centralized — such as payment collection and disbursement of child support obligations — rarely are. Several States, including New York and Colorado, have now begun to move toward centralized collections both to improve efficiency and reduce costs. In New York, centralized collection procedures are now being tested in 11 counties representing 25 percent of the State's total caseload, with the hope that they will be operating statewide in 1994. Many States, however, suffer under inefficient, fragmented systems, where payment collection and disbursement are handled through county offices.

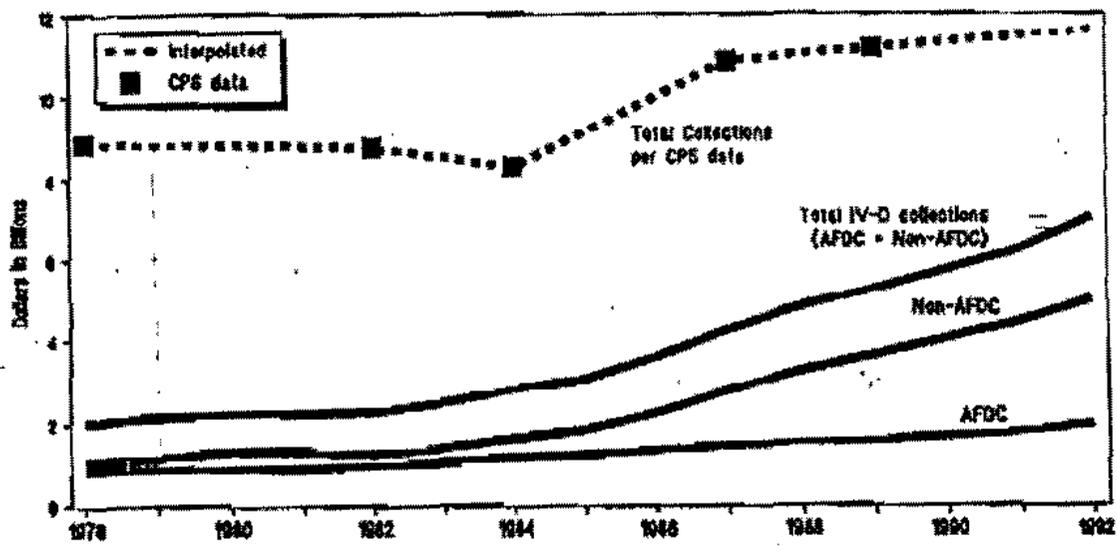
The State of Child Support Enforcement Today

Many observers credit the series of Federal legislative mandates on the States for contributing to the significant improvements in child support enforcement. Total IV-D collections are on the rise — increasing from \$3.9 billion in 1987 to \$7.9 billion in 1992. And the number of

paternities established through IV-D agencies has nearly doubled over a five-year period, rising from 269,000 in 1987 to 517,000 in 1992.

Still, despite these improvements, in relative terms gains have been ~~only~~ modest. The rise in IV-D collections is primarily due to the growing number of parents whose child support cases are handled by the government rather than on a private basis. As Figure 4 shows, while the amount of combined IV-D and non-IV-D collections, after adjusting for inflation, has risen only modestly over the last decade, child support collections for non-AFDC IV-D cases have increased dramatically as more non-AFDC cases have moved into the system.⁴

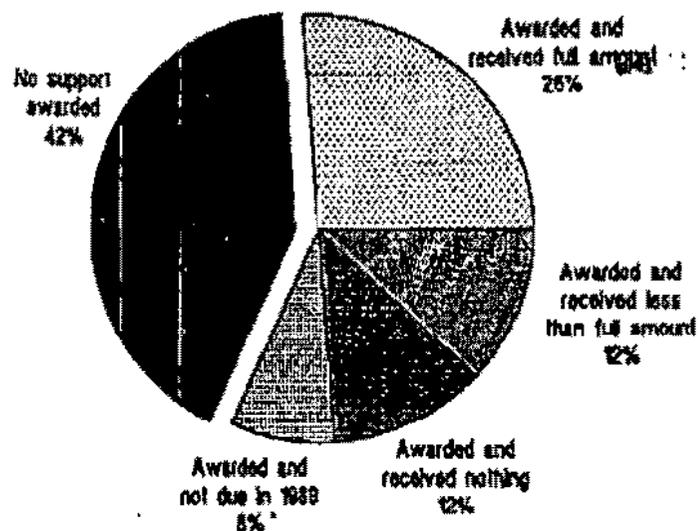
Figure 4. Total Distributed Collections
Total and IV-D Collections (1989 dollars)



SOURCE: U.S. Bureau of the Census, *Census Population Reports*, series P-63, No. 173, Child Support and Alimony, 1993.

While State child support collections are on the rise, the fact still remains that very few eligible women report receiving consistent child support payments. As shown in Figure 5, only 26 percent of all women potentially eligible for child support had an award in place and received the full amount they were due, while 12 percent had an award but received nothing. Of all women potentially eligible for child support over half (5.4 million families) received no payment at all.

Figure 5. Child Support Awarded and Received by Women, 1989

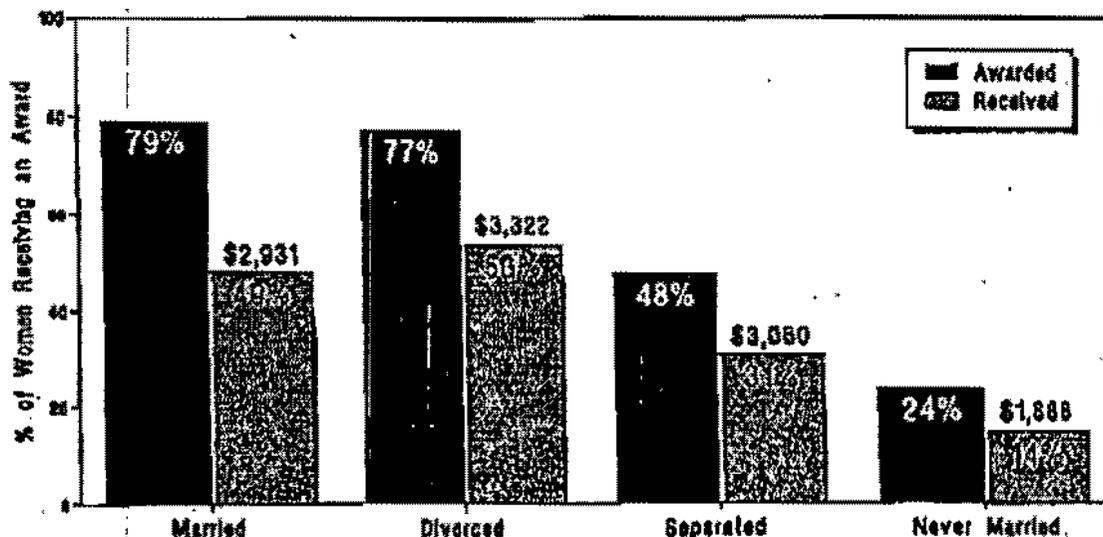


10 million women in 1989 lived with children and the father was not present

SOURCE: U.S. Bureau of the Census, *Current Population Reports*, series P-68, No. 173, Child Support and Alimony, 1989.

Whether child support is awarded and support is actually received, varies dramatically by income and marital status. As many as 57 percent of all *poor* women potentially eligible for support have no child support awards. And, even of those that do, 32 percent did not actually receive any payment. In addition, never-married mothers face a much higher risk of never receiving child support from the father than women in other marital arrangements. As Figure 6 shows, only 24 percent of never-married women were awarded child support compared to 77 percent of divorced women; only 14 percent of never-married women *actually received* support payments compared to 53 percent of divorced women in 1989.

Figure 6. Child Support Payments Awarded and Received by Marital Status of Women, 1989

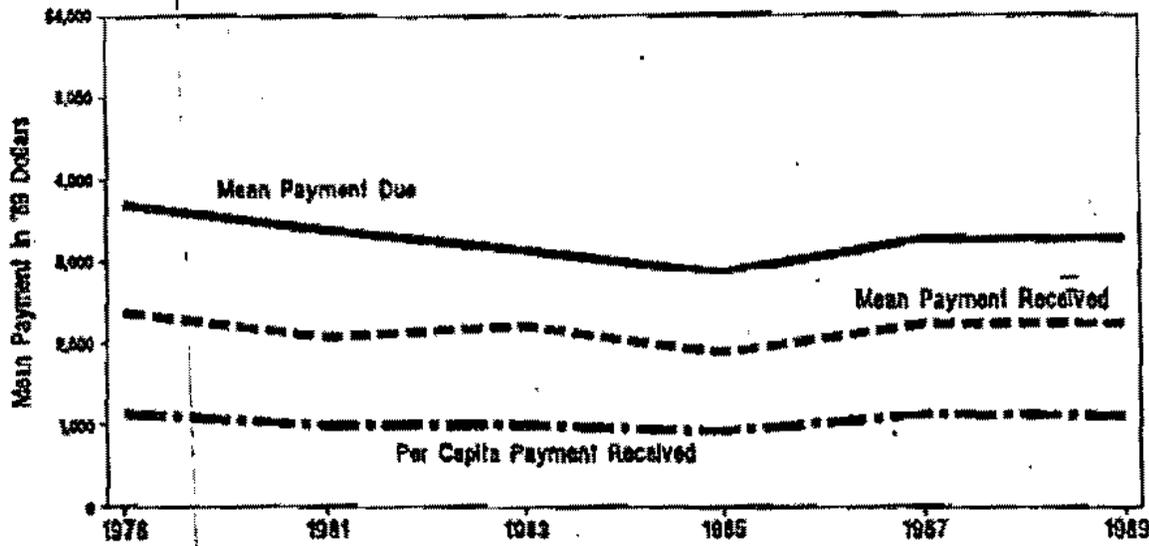


Women 15 years and older with own children under 21 years of age present from absent fathers as of spring 1989
 SOURCE: U.S. Bureau of the Census, *Current Population Reports*, series P-68, No. 173, Child Support and Alimony, 1989.

For all women, the status of awards has not improved in recent years. When adjusted for inflation, the average child support payment due, the average amount received, and the per capita payment received, as well as the percent of women with awards, has remained virtually unchanged over the past decade. For example, the mean payment due in 1989 of \$3,292 was just slightly below the average due in 1978 of \$3,680 (in 1989 dollars). Unless custodial parents receive equitable awards of support and those awards are updated frequently to reflect the noncustodial parent's current ability to pay, increasing numbers of single parents will be forced to rely on governmental assistance for support.

Figure 7. Mean Child Support Payments (1989 Dollars)

Women 15 years and older with own children under 21 years of age present from absent fathers as of Spring 1990



SOURCE: U.S. Bureau of the Census, *Shared Population Reports*, series P-61, No. 17, Child Support and Alimony: 1981.

FUNDAMENTAL REFORM IS NEEDED

As the number of parents needing and requesting child support enforcement services continues to rise, States must be equipped to handle ever-increasing caseloads. Unless dramatic and fundamental changes in the child support system are made, however, States will be ill-prepared to adjust to the rapidly changing needs of the child support population. Problems with the current system are imbedded in the very way we treat the support obligation and the different individuals involved. All too frequently the custodial parents are punished because of the noncustodial parents' lack of support — often leaving welfare as their only alternative — while the noncustodial parents simply walk away.

Child support must be treated as a central element of social policy, not because it will save welfare dollars, though it will, but because children have a fundamental right to support from both their parents. It is the right thing to do. It is central to a new concept of government, one where the role of government is to aid and reinforce the proper

efforts of parents to provide for their children, rather than the government substituting for them. Child support must be an essential part of a system of supports for single parents that will enable them to adequately provide for their family's needs and not rely upon welfare.

This section discusses in more detail why child support enforcement policy must address all three major reasons for the child support collections gap — lack of paternity establishment, inadequacy of awards, and lack of enforcement.

Lack of Paternity Establishment

A tremendous barrier to ensuring that both parents provide their children adequate support is the large number of eligible families who have never even been awarded support — of the 10 million women potentially eligible to receive support for their children, 42 percent do not have a child support award in place. In fact, the total has changed little over the last decade, only increasing by two percentage points over the period.

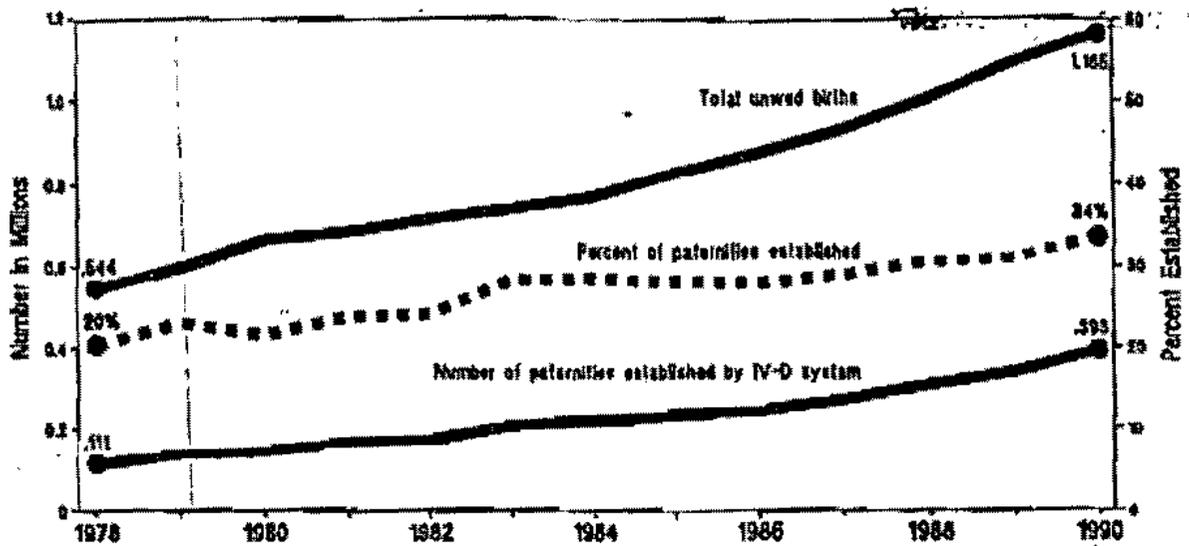
"Currently paternity is established for only about a third of the nearly 1.2 million births per year to unmarried women; currently there are nearly 3.1 million children requiring paternity establishment."

**Office of Child Support Enforcement
17th Annual Report to Congress**

A large part of this problem begins with the lack of paternity establishment. Before a support order can be established in nonmarital cases, the parents must first establish paternity for the child. Unfortunately, however, a majority of these cases does not even get this far, because paternity is not established for most children born out-of-wedlock. Of over a million out-of-wedlock births, only about one-third actually have paternity established.

While the percentage of paternities established has risen slowly over the last decade, tremendous barriers still exist which impede further improvement.

Figure 8. Unwed Births & Paternities Established



SOURCE: National Center for Health Statistics, *Vital Statistics of the United States, annual and Monthly Vital Statistics Report, Vol. 41*, No. 8, Supplement, February 28, 1988; Committee on Ways and Means, U.S. House of Representatives, *Overview of Enrollment Programs, WEP Green Book*.

Paternalty establishment is the first, crucial step toward securing an emotional and financial connection between the father and the child. Without this connection, the child may be denied a lifetime of emotional, psychological and economic benefits. Not only does a legal parental link open the doors to possible governmental benefits and medical support, it also provides less quantifiable benefits to the child such as the value of knowing his or her father, an opportunity for extended family ties, and access to medical history and genetic information.

Despite these benefits, several possible explanations account for the low paternity establishment rate. As mentioned above, States are working against the trend of increasing numbers of out-of-wedlock births. ~~Even more telling, however, is that~~ paternity establishment has not been a high social or governmental priority in the past. Unless the mother applies for government assistance, paternity establishment has been viewed as a private matter for which the State has no responsibility. This can be seen in current State practice. In most States, the paternity establishment process does not typically begin until the mother applies for welfare or seeks support from the child support agency. Mothers with no ties to welfare at the time of the child's birth are left on their own to pursue a legal process which can be costly and intimidating.

■ Time Is of the Essence

Experience in establishing paternity indicates that timing is critical. A number of studies suggest that the mother almost always knows the identity of the father as well as his location at the time of the child's birth, and that she is usually willing to make that information available. The majority of births to unmarried parents are not the result of casual encounters. In fact, one research study of young unmarried parents showed that

almost half were living together before the baby's birth. When ties are close, many fathers show a clear desire to acknowledge their connection to the child. But as time passes, interest often fades, and the chances for successful paternity establishment decline rapidly.

The Omnibus Budget Reconciliation Act of 1993 requires all States to provide in-hospital paternity programs. This new law will make significant progress toward the goal of establishing paternity for all out-of-wedlock births. Still, additional measures are necessary to focus more attention and incentives on paternity establishment and to further streamline the process.

Those who do choose to establish paternity face many more hurdles. Numerous layers of bureaucracy and several court hearings are often necessary to process even the ~~most~~ ^{simplest} simple cases. Despite changes in public laws and perceptions, current rules and procedures still often reflect archaic laws which remain from the time that paternity proceedings were criminal matters. As a result, the process, which is typically under the domain of family courts, can be intimidating and adversarial both for the mother and the putative father, and can engender a lack of cooperation and trust. In addition, the complexity of the process leads to prolonged and frequent delays. Scientific testing to determine paternity has now become extremely accurate. While all States use some type of tests, slow and cumbersome procedures prevent States from using this scientific advancement to its full advantage.

■ Inadequate Incentives

Those individuals faced with the decision to pursue paternity, as well as the State involved, often lack the incentives to complete the process. For example, if the father's earnings are low, both mothers and States see little payoff in the short run if he is ordered to pay any support.

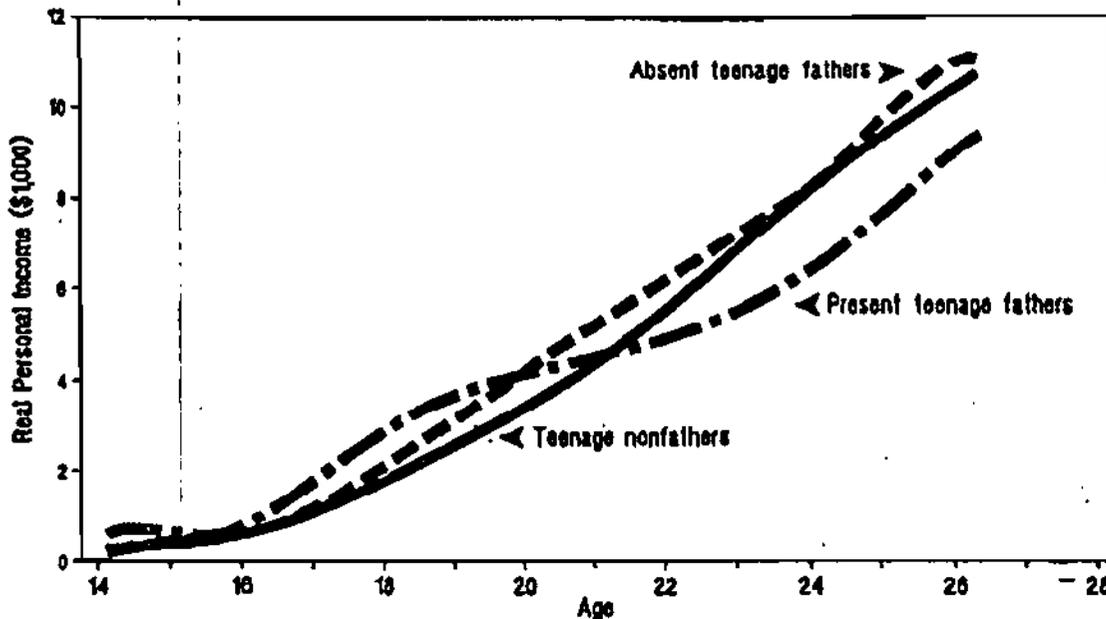
One problem is that too much emphasis is placed on short-term rather than long-term gain. Financial incentives built into the child support system favor those cases with immediate high payoffs, which discourage work on paternity cases, especially those cases where the father has low income. This bias against paternity cases occurs primarily because Federal incentives paid to States are based on the ratio of collections to administrative costs. The higher the collections per dollar spent, the greater the incentive payment.

Cases outside the AFDC system face even greater negative bias since incentive payments for collections on non-AFDC cases are capped. While this provision was designed to encourage States to collect support on AFDC cases, the resulting bias affects a large number of families, especially since States do not realize AFDC savings for these cases⁵.

This short-term focus is particularly damaging to the ^{extremely} success of the child support program. In the long term, paternity establishment is ~~is~~ cost effective. In fact, recent research strongly suggests that the earnings of unwed teen fathers, although initially low, have the potential to rise significantly over time. Within a few years after birth, these

unwed fathers' earnings nearly match those of other fathers. However, if paternity is not established early, the opportunity to secure support may be lost entirely.

Figure 9. Age-Earnings Profile for Teen Fathers



SOURCE: Maxeen A. Pflug-Good, "Teen Fathers and the Child Support Enforcement System" (1992)

Inadequate Child Support Awards

Even when paternity and support have been established or a custodial parent has a child support award through a separation or divorce proceeding, child support awards are often inadequate. Approximately 22 percent of the gap between what is currently due and what could theoretically be collected, \$7.1 billion, is attributable to low or out-of-date awards.

Until very recently, award amounts were left to the discretion of individual judges. Now, awards must be set based on State guidelines which have at least assured somewhat higher awards and more uniformity *within* States. Still, many observers and researchers claim that the amounts awarded under current guidelines are too low and do not properly reflect an equitable contribution by noncustodial parents. Also, with 54 different guidelines, there is still little equity *between* States. Awards for children in similar circumstances vary dramatically depending on the State where the award was set.

■ Updating is Essential

The major problem with inadequate child support awards, however, is not the guidelines for support but the failure of child support awards to be updated to reflect the noncustodial parent's current ability to pay. When child support awards are determined initially, the award is set using current guidelines which take into account the income of the noncustodial parent (and usually the custodial parent as well). But parents' situations change over time, as do their incomes. Typically, the noncustodial parent's income increases and the value of the award declines with inflation, yet often awards remain at their original level.

Failure to update awards can hurt either parent. If a custodial parent wishes to have the award updated, the burden is often placed on him or her to seek the change. If, on the other hand, the noncustodial parent's income declines, such as through a sudden job loss over which he or she has no control, that individual may have difficulty seeking a downward modification of the award and instead faces growing arrears which cannot be paid. Periodic updating of awards is necessary to improve the fairness of the system. The Family Support Act addressed this issue, in part, by requiring that, beginning in October 1993, all IV-D orders be updated every three years for AFDC cases and at the request of either parent in non-AFDC cases.

However, several major problems remain. First, States, particularly those with court-based systems, may have difficulty complying with the standard unless their procedures for updating undergo dramatic change toward a more streamlined, administrative system. In the four States conducting demonstrations on review and adjustment of orders, the average length of time to complete the process was 196 days (or 6.4 months). Second, non-AFDC parents still must initiate the review leaving the burden on the custodial parent to raise what is often a controversial and adversarial issue for both parents. Extending the requirement for periodic updating to include all parents and implementing automated, more administrative, systems are possible solutions to these problems.

"Because of the inadequacies of the state court based child support system, throughout the years my family has had to rely on partial welfare. We have needed food stamps so that we could eat. We have received Medicaid. I was put on a four-month waiting list so that I could go through a government-assisted job training program to find adequate employment and keep my family from being totally on welfare. While I waited to begin on the program I delivered newspapers and magazines to keep a roof over our heads and food on the table. I could not afford day care so I had to get my children up at 2:30 in the morning, load them into the car where they stayed while I delivered the newspapers."

**Bobbie J. Coles, Silver Spring, MD
Welfare Reform Working Group Hearing, Washington, DC
August 10, 1993**

Lack of Enforcement

Currently, only about 69 percent of the child support now due is actually paid. Many noncustodial parents who owe support have successfully eluded State officials, leading to a perception among many that the system can be beat. This perception must change. Payment of child support should be as inescapable as death and taxes, and, for those who are able to pay, collection must be swift and certain. A broad variety of enforcement tools has been tried successfully in a number of States — matching delinquent payors with other State data bases to find asset and income information, attaching financial accounts and seizing property, and placing administrative holds on driver's or occupational licenses (enacted in 14 States). In

addition, as many as 12 States have enacted, and at least 13 other States have proposed, new measures to address problems associated with implementing wage withholding for parents who work intermittently or change jobs often. For example, Washington State requires employers in targeted industries to report all new hires to the State, a technique that has proven highly successful in identifying obligors who had not made any payment in the previous year. These types of enforcement tools need to be implemented nationally.

Child support cases are too often handled on a complaint-driven basis in which the IV-D agency only takes action when the custodial parent pressures the agency to do so. This puts a heavy burden on the custodial parent (usually the mother). Because she is sometimes threatened with intimidation or abuse if she asserts her right to support, she may be reluctant to take such action. Also, little attention is paid to difficult cases unless the mother acts as the enforcer, seeking new information and leads about the noncustodial parent (sometimes even tracking him down in other States) and constantly pressures her caseworker to do more. When custodial parents do not see results or when the system is too slow to respond to requests or new information, they are left frustrated and disillusioned. Ideally, if the custodial parent has an award in place, then any disruption in regular payments should trigger automatic enforcement mechanisms. In order to monitor payments, centralized systems which are capable of utilizing computers and automation for mass case processing should be developed.

■ Interstate Enforcement

Interstate cases represent slightly less than one-third of all child support awards, and when the collection of support crosses State lines, enforcement is even more difficult. As the U.S. Commission on Interstate Child Support reported, some of the most difficult cases involve families which reside in different States, largely because States do not have similar laws governing essential functions, such as the enforcement of support, service of process and jurisdiction.

According to a recent GAO report, even though interstate cases are just as likely to have awards in place, they are less likely to receive support payments. Thirty-four percent of mothers in interstate cases reported they never received a support payment in 1989, compared to 19 percent of those in intra-state cases. Among interstate cases in which payments were made, they were not made as regularly as in intra-state cases. These discrepancies raise a significant problem. According to the Office of Child Support Enforcement's Seventeenth Annual Report to Congress, interstate cases represent almost 32 percent of IV-D child support cases with collections, yet yield only eight percent of all collected support. Despite efforts to improve collections on interstate cases through the Uniform Reciprocal Enforcement of Support Act (URESA), cumbersome paperwork, procedures and registration requirements, as well as insufficient staff and automation, provide States little incentive to expend scarce time and resources on interstate cases.

The U.S. Commission on Interstate Child Support issued a report in August 1992 that made numerous recommendations to improve interstate enforcement including the adoption of the Uniform Interstate Family Support Act (UIFSA) to replace URESA. Many of these recommendations need to be implemented if interstate collection is to improve.

A greater Federal presence may also be required to assist in tracking parents across State lines.

■ Automation

Although States are required to be fully automated statewide by October 1995, many are still plagued by delays in case tracking and processing. In fact, despite the clear benefits of automation — streamlining the process, eliminating burdensome and time-consuming paperwork, and improving States' ability to track and collect child support payments — progress in implementing the automated systems among States has been slow.

Massachusetts provides a clear example of how creative use of automation can improve the collection process, especially when coupled with administrative enforcement remedies. The Massachusetts Department of Revenue Child Support Enforcement Division has developed an automated child support collection program to intercept unemployment benefits. The process utilizes fewer staff and increased the amount of child support collected from unemployment benefits from \$4.6 million in fiscal year 1991 to \$14.0 million in fiscal year 1992. Dramatic collection increases were also made as a result of identifying cases without wage assignments and conducting bank worker's compensation and lottery matches.

■ Limiting the Fragmentation

The fragmentation of the system often is cited as one of the reasons child support enforcement has failed to improve significantly, despite the efforts of the Family Support Act and previous legislation. Before States can be expected to improve their records of enforcement and collection, the child support enforcement system needs to be simplified and made more uniform. Problems of duplication, coordination, and lack of automation, complicated by States' continued over-reliance on overburdened court systems, have produced lengthy delays and widespread inefficiencies. Incremental reform efforts ultimately get bogged down in the myriad of systems and bureaucratic barriers involved in the process.

Some people are calling for a stronger Federal role, possibly including the use of the Internal Revenue Service to a greater degree. Most people believe that the States can do the job right if they start building for the 21st Century now — moving toward more centralized operations that use techniques developed by business to handle mass case processing, maintaining central registries of support orders, and utilizing more administrative enforcement measures rather than relying upon an overburdened court system for even single enforcement measures.

Clearly, some fundamental changes will be required if the government is going to significantly narrow the huge gap between what could be potentially collected on behalf of children and what is now paid. But the challenge of change must be met. Reducing that gap is essential to providing the necessary financial support for children in single-parent families.

APPENDIX: DATA AND METHODOLOGY⁶

Child Support Collection Potential

The estimates on child support collection potential rely on data from the 1990 Survey of Income and Program Participation (SIPP) Wave 2 topical module on fertility history and Wave 3 topical module on support to nonhousehold members. The SIPP is the only nationally representative survey that meets minimal requirements for estimating national collections potential. The Wave 3 topical module asks adults whether they made any financial payments during the past 12 months for the support of their children under 21 years of age who lived elsewhere. Respondents who made such payments are then asked whether these payments were the result of a child support order. These questions were used to identify noncustodial fathers who paid child support.

Noncustodial fathers who did not make child support payments are identified using their fertility history and the household composition information in the Wave 2 topical module. The fertility history asks men how many children they have ever had. The survey then establishes detailed relationships among household members in the household composition matrix. For example, it identifies whether each child in the household is an adult's biological, step, adopted, foster, or unknown child. In The Urban Institute study (from now on, the study) the basic definition of a noncustodial father who did not pay child support is a man who reported he has had more children than the number of biological children currently living with him but who did not report any financial payments to children living elsewhere.

Thus, using the 1990 SIPP, the original definition of a noncustodial father is:

- (1) A man who reports that he is making financial payments for his own children under 21 years old who live elsewhere; or
- (2) A man who reports having had more children than the number of biological children currently living with him.

This definition has two drawbacks for the purpose of identifying noncustodial fathers. First, some fathers may respond that they are making financial payments on behalf of their children who live elsewhere without a child support order, because these children may be away at school, living with a relative, or even living on their own. Such fathers do not qualify as "noncustodial fathers" because their children's separation is not the result of a dissolved marriage or sexual partnership. In other words, the survey questions cannot isolate noncustodial fathers who pay child support without an order from other fathers who are simply making financial payments to their children who are not currently living at home.

Because of this data limitation, the study divided fathers who pay support for a child who lives elsewhere into two categories: fathers who state they are making payments under a child support order, and fathers who state they are making payments without a child support order. The first group is clearly composed of noncustodial fathers. The latter group may contain some individuals who are not noncustodial fathers.

The second problem with these data for identifying noncustodial fathers is that the fertility questions do not ask the age of the man's youngest or oldest child. Thus, men who have adult children living elsewhere are identified as noncustodial fathers.

Tests to Reduce the Number of Falsely Identified Noncustodial Fathers

Both of these drawbacks in the definition of a noncustodial father may result in falsely identifying a man as a noncustodial father. Because too many men may be identified as noncustodial fathers using the original definition, The Urban Institute study developed a number of tests to eliminate men who are falsely identified as noncustodial fathers. These tests, described in greater detail below, are applied to the following men: (1) those identified as noncustodial fathers who did not pay child support; and (2) those identified as noncustodial fathers who paid child support without an order.

To reduce the number of men who should not be included, the study limited the age of men depending on their fertility. These tests were based on information from the Vital Statistics of the United States: 1971 on the age of mothers who had their first births in 1971. Children born that year would have been 19 years old in 1990 and thus would not be eligible for child support in most States at the time of the SIPP survey. Eighty-five percent of women having their first child in 1971 were 25 years old or younger. Assuming that the fathers were, on average, two years older than the mothers, this suggests that most men would have had their first child by age 27. By 1990, these fathers would have been at most 46 years old. Thus, it is safe to assume that a man who reports having had one child and is at least 46 years old (in 1990) is not an absent father (i.e., a father with children eligible for child support). Similar kinds of tests were made for those who reported they had two or more children. The other age restrictions applied to noncustodial fathers are as follows: men who are at least 49 years old (in 1990) and report having had two children are assumed not to be absent fathers; men who are at least 52 years old (in 1990) and report having had three children are assumed not to be absent fathers; men who are at least 55 years old and report having had four or more children are assumed not to be absent fathers.

Noncustodial fathers in this analysis are limited to those between the ages of 18 and 54. Fertility questions are not asked of men under the age of 18 in the SIPP, thus noncustodial fathers under the age of 18 who do not pay child support cannot be identified. In addition, because of the data limitations discussed above, the study limits noncustodial fathers according to the age screens (also described above) if they do not pay child support or they pay without an order. The study limits the age of noncustodial fathers who pay with an order to 18 and 54 because other noncustodial fathers are limited to this age range.

The second set of tests to reduce the number of men who are falsely identified as noncustodial fathers is based on the man's marital history. These tests eliminate men from the ranks of noncustodial fathers who have been married, divorced, separated, or widowed at least 16 years. The tests also consider any man whose most recent marriage started before 1965 as not an absent father. The first marriage test assumes that men who have been married at least 16 years did not have children out-of-wedlock during that time and that any children they may have had prior to their current marriage are too old for child support. In addition, the tests assume that men who have been divorced, widowed, or separated for at least 16 years had their children while they were married, which means their children are

probably too old for child support. The next marriage test assumes that divorced, separated, or widowed men whose most recent marriage began prior to 1965 probably had their children during the first 8 years of their marriage and that any children from that marriage are too old for child support.

The final tests to reduce the number of men who are falsely identified as noncustodial fathers are applied to noncustodial fathers who are recent immigrants to the United States and report that they are sending money to their children who live elsewhere without a child support order. Screens were developed for these men because it is likely that they are sending money abroad, in which case they would not be considered absent fathers. The study assumes that recent immigrants are making payments to children who live abroad under the following scenarios: (1) they are currently married and were married before coming to the United States; (2) they are divorced or separated and they left their most recent marriage before coming to the United States; (3) they are currently married for the second time and ended their first marriage before coming to the United States; or (4) they are currently married but are living apart from their spouse.

Before applying any restrictions to the definition of a noncustodial father, there were 33.24 million men who were at least 18 years old and said that they made financial payments to their children living elsewhere or that they had more children than were currently living with them. After applying the age, marriage, and migration screens described above there were 8.79 million noncustodial fathers.

When compared to the weighted number of custodial mothers (10.63 million) the weighted number of noncustodial fathers (8.79 million) was too small and disproportionately white. Therefore, the noncustodial fathers sample was reweighted in the study to account for the number, age and race of custodial mothers. Such reweighting assumes that the characteristics of the noncustodial fathers missing from the SIPP sample are the same as those fathers included in the sample for age and race. This reweighting produced an estimated child support collection potential of \$53.5 billion using the Wisconsin guidelines.

Because the reweighting procedure could introduce either upward or downward bias into the calculations, estimates of the collection potential using the published population weights from the SIPP survey were provided as well. The estimated potential of child support collections using these SIPP sample weights was \$47.6 billion (see Appendix Table 10 in study). The lower estimate is presented in this paper and was also used in calculating the breakdown of the potential collection gap (i.e., lack of establishment, inadequate awards, insufficient enforcement).

Estimate of Breakdown of Collection Potential

To estimate potential payments, the study assumed that child support guidelines from the State of Wisconsin prevail nationally. The Wisconsin guidelines were used because they are familiar and simple to calculate.

Only two variables are needed to use the Wisconsin guidelines — the noncustodial parent's income and the number of his children eligible for support. Because the SIPP data provided both of these variables, spurious variation was minimized in the guideline calculation. Under

the Wisconsin guidelines, a noncustodial parent with one child pays 17 percent of his gross income. With two, three, and four or more children, the parent pays 25 percent, 29 percent, and 34 percent of his income, respectively.

The Wisconsin guidelines, however, may not accurately portray the national collection potential. Each State and the District of Columbia has its own child support guidelines and some of these differ significantly from the Wisconsin guidelines. The most accurate estimate of collection potential would have used State guidelines and have had a sample that was large enough to be statistically valid for each State. Other factors would have to be known as well, including: the income of the custodial parent associated with each noncustodial parent; adjustments to income; and special rules for handling low and high income cases. Such calculations were beyond the scope of the study.

BREAKDOWN OF THE POTENTIAL COLLECTION GAP

All calculations on the breakdown of the estimated collection gap into potential increases attributable to uncollected ordered support, potential increases due to inadequate award levels and potential increases due to lack of awards are based on data reported in the 1990 SIPP.

The collection gap of \$33.7 billion is the difference between the \$47.6 billion in potential child support collections and the amount of child support that noncustodial parents report having paid, \$13.9 billion. The estimate for the amount of the gap attributable to uncollected ordered support was calculated by applying the ratio of the total amount of child support due to the total amount of child support received (as reported by custodial mothers with child support orders in the 1990 SIPP) (19.3 billion due/\$12.1 billion paid) and applying it to the amount reported paid by noncustodial fathers with orders (\$11.8 billion). The amount of the gap attributable to uncollected ordered support was \$7.1 billion or 21 percent of the total collection gap.

The amount collectable, if existing orders were updated using the Wisconsin guidelines, was calculated in two parts. For men with orders who pay support the amount was the difference between the \$21 billion that would be collected under Wisconsin guidelines and the amount currently due for those who pay support (estimated at \$15.1 billion, or 80 percent of the total amount currently due based on custodial mothers reports). For fathers that pay support, using Wisconsin guidelines would increase awards by \$5.9 billion. For fathers that don't pay support that has been ordered, the gap attributable to inadequate awards was estimated by increasing the amount ordered by the percentage increase attributable to inadequate awards for fathers that do pay—about 40 percent. To isolate the impact of updating existing awards on the nonpaying fathers with child support orders, the amount due from those fathers under current guidelines (\$3.8 billion) was subtracted from the amount due under Wisconsin guidelines (\$5.2 billion). Therefore, the total gap due to inadequate awards would be \$7.3 billion or 22 percent of the total gap.

The remaining amount of the gap (\$33.7 billion-\$14.5 billion) would be due to the lack of awards for the children of many noncustodial parents. This represents \$19.3 billion or 57 percent of the collection gap.

ENDNOTES

1. Elaine Sorensen, "Noncustodial Fathers: Can They Afford to Pay More Child Support? (Preliminary Findings)," The Urban Institute (1994).
2. Ibid. The cited study uses the Wisconsin guidelines for determining adequacy. Other guidelines would generally produce similar results.
3. The IV-D program operates in all 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
4. Total child support collected according to the Current Population Survey (CPS) for any given year is not strictly comparable to the total amount of child support collected through the IV-D system. The CPS includes only child support paid to the family (both IV-D and non-IV-D) which was owed and due for that year. The IV-D child support administrative data collected by the Office of Child Support Enforcement includes child support collections that are due for any year and also includes amounts collected by the States but not paid to the family. Such amounts are used to offset current or prior months of AFDC benefits.
5. States receive a share of the collections in AFDC cases according to the State share of AFDC paid by the State.
6. This Appendix draws extensively from Elaine Sorensen "Noncustodial Fathers: Can They Afford to Pay More? (Preliminary Findings)", Washington, DC, The Urban Institute, 1994.

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Bruce,

Attached is a page from

Child Support Report, OCSB a
division of HHS. If this
type of P.R. is used &
guaranteed that President
Clinton will be "zapped"
by the media.

The message is Very
DISTORTED - The collection rates
for ~~the~~ 1992 - 18.2%
1993 18.7%
1994 18.6%

if this is a 40% increase
you all look very Bad

Coni Jensen

RECEIVED FEB - 1 1996

Child Support Report

Office of Child Support Enforcement

Vol. XVII, No. 12, December 1995

Communicating Your Message



On October 31, 1995 CSR spoke with Ms. Ann Garcelon, Director of Communications for the West Virginia Department of Health and Human Resources. Ms. Garcelon has been an innovator in the development and use of technology in human service communications and in the use of public service announcements to promote child support enforcement.

CSR *Let's talk first about the job of a director of communications for a state human services agency. What do you do?*

AG I think the most important thing we do is to put human faces on programs and demystify the workings of bureaucracies for our constituents. We're a source of "plain-speak" about the agency's services. We heighten the public's awareness of what the agency is working to achieve by presenting a clear and consistent version of our agency's core message. We're also visionaries, looking ahead 2, 5, even 10 years, for new and innovative ways to serve our customers. How will we be communicating in the year 2000 and what should we be doing to be ready? We're giving that question a lot of thought right now—and have been for some time. Less positive, perhaps, though no less important, is the role we have to play in what's popularly known as "damage control"—doing our best to explain when things go wrong or are misunderstood.

CSR *You mention presenting an agency's "core message" to the public. Why can't the work we do in child support enforcement on behalf of children speak for itself? Why do we need a "message" at all?*

AG One thing I learned right away in communicating with the public is that messages are constantly being sent out, whether intended or not. And these "unsent" messages are not always the ones we would choose to be heard. Child support enforcement messages, as picked up in the "marketplace," focus a lot on money: how much money we've collected; how much money that's out there that hasn't been collected but needs to be. It's a message that suggests to many listeners a further "unsent" message: the collection of money is an end in itself. I don't know many child support professionals who believe that, but I can tell you that it's a "message" that's been received in communities.

CSR *Are you saying that we need to become news managers and spin doctors...*

AG These are terms that have, not altogether fairly, become stigmatized as "dishonest." You "manage" the news or put a "spin" on news, in this view, because there is something to hide. Child support enforcement certainly has nothing to
(Continued on page 7)



U.S. Department of Health and Human Services
Administration for Children and Families
Office of Child Support Enforcement

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My View

David Gray Ross

This year, as I finish my second year as OCSE's Deputy Director, I am reminded once again of the special quality of our work. We are stewards of two of our nation's most precious and important resources: children and families. Being mindful of this high responsibility gives added meaning to this season of celebration and joy.

We work to improve the lives of children. The charts we draw, the figures we add, the reports and letters we write, the hearings we attend, the teleconferences we participate in—all this we do to better the lives of our children.

We also work to support families. Child Support Enforcement is part of the Administration for Children and Families. This organizational tie symbolizes the need children have to be surrounded by a supportive community—a place where they are known, cared for, and loved.

As part of the Child Support Enforcement Program's 20th anniversary observance this past summer, which many of you helped us celebrate, we adopted the slogan, "OCSE—Giving Hope and Support to America's Children Since 1975." Hope, a word too often in short supply among those we serve, means many things. But as I think of our jobs—all 50,000 of us in child support—to me it means that all of us do so much more than show up for work each day. Our faithfulness on behalf of children and families means hope for those who, in many instances, have no other hope.

We can give no greater gift. ■

Collections Up 40 Percent Since 1992

Record amounts of child support were collected in each of the past two years, according to Donna Shalala, Secretary of the Department of Health and Human Services (DHHS).

*Nearly
\$10 billion
was collected
from
noncustodial
parents
in fiscal year
1994.*

Nearly \$10 billion was collected from noncustodial parents in fiscal year 1994, an increase of 11 percent, according to the *19th Annual Report to Congress on Child Support Enforcement*, issued by DHHS on December 5. The report describes collections and other child support enforcement activities nationwide during fiscal year 1994 (October 1993 - September 1994).

From 1992 to 1995, collections have grown by nearly 40 percent and paternity establishments have risen by more than 40 percent. "However, the improvements still fall far short of potential collections," Shalala said. "Promising as these collections are to millions of children, still millions more are

deprived of the help they need," she added.

Secretary Shalala also released preliminary data for fiscal year 1995 showing that \$11 billion in child support was collected and 735,000 paternitys were established. The paternity establishment numbers include, for the first time, paternitys voluntarily established in the hospital at the time of birth. ■



Bruce: Kerry has a copy

MICHAEL H. BIZIK, SR.
5922 Mayflower Court
Alexandria, VA 22312

August 11, 1993

Re: Prosecutive Guidelines and Procedures for
the Child Support Recovery Act of 1992

Dear Ms. Way:

The United States Department of Justice ("DOJ") Guidelines for the Child Support Recovery Act of 1992 ("CSRA") undermine the intent of Congress. (A copy of the Guidelines is attached at Tab 1.)

The intent of Congress in making CSRA a public law was to eliminate enforcement barriers which existed between states when a noncustodial parent chose to reside outside of the state where both the custodial parent and child resided, thereby escaping child support enforcement. Many state representatives explained at congressional hearings that interstate child support enforcement was difficult because of conflicting state laws, inadequate interstate computer tracking technology of delinquent noncustodial parents, and the misinterpretation and untimely enforcement policy that the Uniform Reciprocal Enforcement of Support Act allowed. Based on the interstate child support enforcement problems that most states were having, Congress felt that the Federal Government could play an important role in tracking down and apprehending deadbeat parents. As a result, Congress concluded that when a noncustodial parent crossed state lines and chose to reside in another state, yet failed to pay child support, the delinquent noncustodial parent committed a federal offense.

Initially, the language of H.R. 1241 (House version of CSRA) stated that a six-month child support arrearage by a noncustodial parent should be a federal crime. However, the Senate introduced S. 1241 (Senate version of CSRA) which indicated that a federal crime existed only when a noncustodial parent had a one-year or \$5000 arrearage of child support. Of course, S. 1241 was adopted by both the House and Senate and passed by Congress. In fact, Congress passed the CSRA by unanimous consent. (No member of Congress opposed this legislation from becoming a public law.) Gridlock was not present when CSRA was approved by Congress, yet for some unexplained reason DOJ has written inadequate CSRA guidelines which not only insult the efforts of Congress but in addition eliminate the opportunity

that most custodial parents would otherwise have had for receiving court-ordered child support within their lifetime.

SIGNIFICANCE OF IMPROVED CHILD SUPPORT ENFORCEMENT

The Clinton Administration's time-consuming efforts to improve healthcare are beneficial and necessary. However, the issue of child support shall also affect a very large number of Americans. For instance, it is a fact that one out of every two children born today will be raised by a single parent before that child reaches 18 years of age. Currently 16 million children are owed child support of which only about 50% receive full payments. Annually there is a \$5 billion child support deficit -- about one-third of the total owed. Approximately 30% of child support cases are interstate and only \$1 of every \$10 collected is from an interstate case. Twenty-five percent of all noncustodial parents terminate employment or change jobs before the state child support enforcement agency can serve a wage withholding notice. About 75% of custodial parents entitled to child support either lack a support order or fail to receive full payments under those orders. Because of these staggering statistics, Congress believed that the CSRA would significantly reduce the severity of child support evasion.

Furthermore, President Clinton intends to end welfare as we know it. Yet, without an improved child support enforcement scheme, the Clinton Administration will be unprepared to address the following foreseeable questions: How many custodial parents require child support compliance by the noncustodial parents of their children? How many custodial parents purposely choose to remain on welfare rather than collect child support from noncustodial parents? How many newly hired (ex-welfare recipients) custodial parents will be able to adequately provide for a family without child support compliance by the noncustodial parent? Will a new welfare class be created if the government decides to prosecute a delinquent noncustodial parent or expects such parent to satisfy the huge arrearage of nonsupport that was accumulated while the custodial parent was on welfare? The improvement of child support enforcement will help custodial parents raise their children, and will also relieve the government and taxpayers of a foreseeable liability.

I have discovered that communication and compromise are beneficial in eliminating gridlock and cutting through bureaucratic red tape. I believe that the Executive Office of the President should review the CSRA Guidelines that DOJ has written and should offer its recommendations for improving such Guidelines to DOJ. If DOJ is unable to modify its CSRA Guidelines, I suggest that the White House work with Congress in proposing

legislation that would realistically allow both DOJ and the states to make court-ordered child support enforceable.

COMMENTS RE: DOJ ("CSRA") GUIDELINES

Willfulness (See DOJ ("CSRA") Guidelines, p. 2)

The DOJ ("CSRA") Guidelines separate willfulness into the following four categories:

- (1) For criminal tax cases;
- (2) With respect to ability to pay;
- (3) Willfulness cannot be presumed from nonpayment alone; and
- (4) Partial payment may be relevant to inability to pay.

To go beyond DOJ's misguided rhetoric, any first-year child support activist understands that when a noncustodial parent has a 30-day arrearage towards a child support obligation, the noncustodial parent is in contempt of that state's court-issued child support order. Also, when a noncustodial parent has at least a 30-day child support arrearage, the local office of child support enforcement sends a notice to the delinquent noncustodial parent indicating that at least a 30-day arrearage of child support has accumulated and informs the delinquent noncustodial parent of that state's child support enforcement laws.

In such cases of nonsupport, delinquent noncustodial parents frequently fail to respond to notices sent by his/her child support enforcement collection agency, and in many cases, nonresponsive deadbeat parents flee the state. It is important to note that state child support enforcement offices are able to ascertain the residence of noncustodial parents prior to the issuance of noncompliance child support notices which are sent by first-class mail to noncustodial parents who have at least a 30-day arrearage of child support. Also, in some instances noncustodial parents who have received numerous child support arrearage (30 or more days) notices contact the local child support enforcement office and agree to pay child support, but then later flee the state without ever having payed the full child support arrearage.

The DOJ interpretation of willfulness and its application of federal law and/or current Congressional documentation is obscure because the DOJ fails to understand the rules, regulations, laws and requirements of both the current and previously implemented federal and state legislation. Presently, the DOJ

("CSRA") Guidelines will be ineffective in apprehending deadbeat parents, primarily because the DOJ does not hold a deadbeat parent accountable based on the totality of circumstances, i.e., history of nonsupport, noncompliance notices mailed to noncustodial parents, failure by noncustodial parents to abide by state court-ordered child support compliance laws, etc. (Also, DOJ places the burden of proof on all custodial parents in order to determine whether noncustodial parents nonsupport was willful.)

Sentencing Issues (See DOJ ("CSRA") Guidelines, p. 3)

The intent of Congress to impose a fine and/or up to six months in prison for noncustodial parents who have a \$5000 or one-year of child support was to deter such criminal acts and repeated acts in the foreseeable future. Nobody in Congress considered jailing each delinquent parent as a positive and cost efficient solution for improving child support compliance. However, the increase in single parent households and the concerns of deteriorating family values prompted Congress to enact a law which would assist custodial parents in securing the best interest of their children.

I believe that either now or in the foreseeable future the sentencing Guidelines must apply to first-time deadbeat parents who violate the CSRA, so that repeated acts of nonsupport are decreased. Criminal penalties are an effective way to promote proper conduct and to deter willful violations of the CSRA.

Notice (See DOJ ("CSRA") Guidelines, pp. 8-9)

Informing a delinquent noncustodial parent of CSRA and then sending a second letter which advises the deadbeat parent that legal action will be taken by child support enforcement officials, unless satisfactory payment is made within a specified period of time in some cases will work. However, the element of surprise (locating and apprehending a deadbeat parent) will be gone and once notice has been given the noncustodial parent will probably flee.

Thought should be given to modifying the notice provisions. I believe that the history of notices issued by a child support enforcement agency to a noncustodial parent and the number of noncustodial responses to such notices during a 30-day-12-month arrearage should create a preponderance of the evidence. Such evidence should be permissible for having a subpoena issued to the deadbeat parent, exactly one year after an arrearage of child support has been accumulated. Moreover, in order to satisfy proper notification requirements, the following is recommended:

(1) The child support enforcement agency must prove that noncompliance notices were sent to the current address of the noncustodial parent during a 30-day-12-month arrearage;

(2) A certain number of notices must be sent by the child support enforcement office to the proven address of the noncustodial parent; and

(3) An advisory letter explaining CSRA should be sent to the noncustodial parent prior to his/her one-year support arrearage.

I believe that noncustodial parents should be served by subpoena or at the very least apprehended once a one-year child support arrearage has accumulated. It is important to apprehend deadbeat parents as soon as practical because notices, subpoenas and other child support collection/enforcement mechanisms seem to offer a noncustodial parent the opportunity to evade authorities for a longer time than otherwise would have been necessary.

CONCLUSION

It is important for you to understand that many custodial parents who do not collect child support on a regular basis are sometimes offered a settlement. For example, a noncustodial parent who has a \$25,000-5-year arrearage of child support will offer \$10,000-\$15,000 to the custodial parent in order to fulfill his/her child support obligations over time. Out of financial deprivation, and their love for their children, custodial parents accept a settlement (extremely reduced child support obligation) from the noncustodial parent. Hence, the timely enforcement of child support increases the chances that custodial parents will have for receiving the entire child support that is owed.

I submit that the best interest of children are not properly served when either child support is not received on time or when an obligation of child support is reduced.

I am also providing you with a USA Today article (see Tab 2) which was released on February 10, 1993, after I contacted USA Today regarding my concerns that DOJ would finalize inadequate CSRA Guidelines prior to the appointment of an Attorney General by President Clinton.

Furthermore, I am providing you with documentation which supports my reasons for having improved international child support enforcement (see Tab 3).

Finally, I was informed by Deborah Sorkin, DOJ, that the CSRA Guidelines were confidential and that only U.S. Attorney

Offices would be sent a copy. Ms. Sorkin informed me that in order to obtain a copy, I must submit a FOIA request. I am upset that the DOJ would consider the CSRA Guidelines confidential and not make them available to the public, especially because of the impact that these Guidelines would have on both custodial parents and their children. Also, other than DOJ trying to deceive the public, there is nothing in the CSRA Guidelines which would suggest that these Guidelines should have been classified as confidential.

I ask that the DOJ ("CSRA") Guidelines be reclassified public and made available to the public, and further ask that you obtain a copy of the DOJ ("CSRA") Guidelines with exhibits and have them mailed to my Alexandria address.

If I can be of further assistance, please do not hesitate to write me at my Alexandria residence.

Respectfully submitted,

Michael H. Bizik, Sr.

Michael H. Bizik, Sr.

Ms. Kathi Way
Old Executive Office Building
Room 218
Pennsylvania Avenue and 17th St., N.W.
Washington, D.C. 20500

cc: Bruce Reed

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U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Main Justice Building, Room 1629
10th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530

(202) 514-3111

July 15, 1993

MEMORANDUM FOR: All United States Attorneys
First Assistant United States Attorneys
Criminal Supervisors

FROM: *Anthony C. Moscato*
Anthony C. Moscato
Director

SUBJECT: Child Support Recovery Act of 1992

As you know, Congress last year enacted the Child Support Recovery Act of 1992 which became effective at the end of October 1992. Attached are national guidelines for the implementation of the enforcement of that Act. Basically, it is now a Federal crime for a parent in one state with a child in another to willfully be in arrears of lawfully ordered child support payments in the amount of \$5,000 or more, or for more than one year in any amount.

Many of your offices have been receiving public inquiries about enforcement of this act. It is therefore important that you review the attachment as quickly as possible and meet with the head of your local FBI office, to set up procedures. The FBI has been tasked with investigating these matters and should be receiving a similar directive.

We anticipate incorporating the guidelines into the United States Attorneys' Manual but in the meantime the copy of this memorandum should be disseminated to appropriate Assistants. Please keep the attachments on file so we do not anticipate that they will be made part of the Manual.

Attachments



Office of the Attorney General
Washington, D.C. 20530

July 13, 1993

MEMORANDUM FOR UNITED STATES ATTORNEYS

FROM:

THE ATTORNEY GENERAL

SUBJECT: Prosecutive Guidelines and Procedures for the Child Support Recovery Act of 1992

The Child Support Recovery Act of 1992

The Child Support Recovery Act of 1992 (CSRA), Pub. L. No. 102-521, makes the willful failure to pay a past due support obligation with respect to a child residing in another state a federal offense. 18 U.S.C. § 228 (see appendix 1). A first violation of the CSRA is punishable by six months imprisonment and/or a fine. Subsequent violations are punishable by two years imprisonment and/or a fine. The F.B.I. has investigatory jurisdiction.

The following policies and procedures are intended to ensure effective prosecution of the CSRA by providing a means for selecting egregious cases which states are unable to handle because of the interstate nature of the case.

Elements of the Offense

The United States must prove that the defendant:

1. Having the ability to pay,
2. Did willfully fail to pay,
3. A known past due (child) support obligation,
4. Which has remained unpaid for longer than one year OR is an amount greater than \$ 3,000,
5. For a child who resides in another state.¹

¹ Interstate flight is not an element of the offense.

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Definitions**Past due support obligation**

The CSRA defines "past due support obligation" as any amount:

(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

(B) that has remained unpaid for a period longer than one year, or is greater than \$5000.

18 U.S.C. § 228(d)(1).

Willfulness

According to the legislative history, willfulness has the same meaning as it has for purposes of federal criminal tax law. H. Rep. No. 103-771, 103d Cong., 1d Sess. at 6 (see appendix 2). For criminal tax cases, willfulness is the knowing and intentional violation of a known legal duty. Chask v. United States, 111 U. Ct. 504, 618 (1981).

With respect to ability to pay, the legislative history states:

the government must establish beyond a reasonable doubt, that at the time payment was due the [defendant] possessed sufficient funds to enable him to meet his obligation or that the lack of sufficient funds on such date was created by (or was the result of) a voluntary and intentional act without justification in view of all the financial circumstances of the [defendant].

H. Rep. No. 103-771, 103d Cong., 1d Sess. at 6 (see appendix 2).

Willfulness cannot be presumed from non-payment alone. 136 Cong. Rec. S17131 (October 7, 1992) (see appendix 3). The government is required to prove that the defendants, as of the date specified as the date of the offense, willfully failed to pay an outstanding amount.

Criminal culpability is not obviated by partial payment of support obligations because the statute defines past due support obligation as "any amount." However, partial payment may be relevant to inability to pay, which would negate willfulness. The

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circumstances of any case in which partial payment has been made, including the relationship of the amount of partial payment to the total arrearage and ability to pay the arrearage, should be considered before proceeding.

Venue

Venue for prosecution will lie in either the district where the child resides or the district where the non-paying parent resides. The policy considerations regarding venue are discussed infra.

Sentencing Issues

In addition to the imprisonment and other penalties described above, the CSRA provides that upon conviction the court shall order restitution of an amount equal to the past due support obligation as it exists at the time of sentencing. 18 U.S.C. § 228(c); for general information see Prosecutor's Guide to Criminal Fines and Restitution.¹

The Sentencing Guidelines do not apply to first violations of the CSRA because they are class B misdemeanors. With respect to subsequent violations, the sentencing guidelines do not include a guideline for this offense. Therefore, sentencing should be based on the most analogous offense, which is theft. See U.S. Sentencing Guidelines § 3B1.1.

Probation Condition in Offenses

The CSRA amends 18 U.S.C. § 3543(b) so that a sentencing court in any type of case, including violations of the CSRA, may provide, as a condition of probation or supervised release, that a defendant meet his support obligations.

Investigative/Prosecutive Procedures

Referral Sources

Complaints and referrals for investigation may come from private lawyers, individual complainants, or state and local agencies.

Title IV-D of the Social Security Act, 42 U.S.C. §§ 651 et seq., requires states to establish programs for the enforcement of

¹ The Prosecutor's Guide to Criminal Fines and Restitution can be obtained by contacting Richard Sponseller, Associate Director for Financial Litigation or Frank Shippen of the Executive Office for U.S. Attorneys at 202-501-7017.

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child support. The agencies operating these programs are known as IV-D agencies.³ These agencies must pursue child support on behalf of individuals who are receiving public assistance as well as at the request of individuals who are not. In addition, there may be other qualified agencies involved with child support.⁴ Ordinarily, an individual complainant should be encouraged to work with a IV-D agency or other appropriate agency to pursue other available remedies before action is taken by federal prosecutors.

IV-D agencies may have a great deal of information concerning violations of the CSMA. Due to the variation among state laws, U.S. Attorneys are encouraged to coordinate with IV-D officials or their designees and other appropriate officials on local and state levels to establish referral procedures and may wish to establish local committees to develop local guidelines. Additionally, regardless of the source of the referral, U.S. Attorneys may wish to arrange for local IV-D agencies or other appropriate agencies to prepare referral packages for prosecution.

U.S. Attorneys in multi-district states are encouraged to work together to develop a uniform state-wide approach.

Referral Package

U.S. Attorneys should require a referral package in every case. It is suggested that United States Attorneys coordinate the preparation of the referral package with the appropriate IV-D agency. Each referral package for investigation/prosecution should include the information contained in appendix 5. As a general rule, these cases should be accepted only if they make clear that all reasonably available remedies have been exhausted.

Prosecutive Screening Criteria

As a general principle, it is recommended that cases should be accepted only when the referral makes clear that all reasonably available remedies have been exhausted.⁵ Among such cases, priority should be given to cases where the following is established:

- a. a pattern of flight from state to state to avoid payment or flight after service of process for contempt

³ A list of state coordinators for all of the IV-D agencies is attached as appendix 6.

⁴ In some states, the State Attorney General may enforce child support obligations.

⁵ Specific remedies are identified in appendix 5.

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or contempt hearing; or

b. a pattern of deception to avoid payment such as changing employment, concealing assets or location, or using false social security numbers; or

c. failure to make support payments after being held in contempt; or

d. when the failure to make child support payments has a nexus to other potential federal charges, such as bankruptcy fraud (i.e. concealing assets), bank fraud (i.e. false statements to a bank), federal income tax charges (i.e. false statement or tax evasion) or other related criminal conduct.

Selecting Venue

Since venue for this crime may lie in either the district where the debtor resides or the district where the child resides, United States Attorneys may want to consider these general policy guidelines on venue after reviewing a referral package. For example, the efficiency of prosecution should be considered (i.e. costs of transporting witnesses, victims or the defendant or the availability and need for documents custodians to testify). Also, the deterrent impact of the prosecution in each district should be considered generally.

Factors that favor venue in the district where the child resides include the presence of significant evidence in that district, such as judicial or administrative orders reflecting the support obligation or arrearage. Another factor suggesting that venue may be appropriate in the child's district would be if the custodial parent receives public assistance in that district.

Factors that favor venue in the district where the non-paying parent resides include the presence of evidence showing willfulness such as documents concerning the existence or concealment of assets, change(s) of residence or "job hopping."

Notice to Target and Charging

If, after reviewing all pertinent documents, further action is believed to be warranted, the following steps should be taken before filing charges:

1) Before referring any case involving the CSRA to the F.B.I., a letter should be sent to the non-paying parent advising them of the CSRA and that they appear to be in violation of it and requesting payment of the arrearage within a specified period (see

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appendix 6). If payment is not made, the matter should be referred to the F.B.I.

2) Prior to filing charges, a second letter advising the target that charges will be filed unless satisfactory payment is made within a specified period of time. (see appendix 7).

3) If satisfactory payment is still not forthcoming and no adequate explanation for non-payment has been advanced, United States Attorneys' offices should file charges against the non-paying parent.

Inasmuch as the first offense is a misdemeanor, consideration should be given to use of a summons to obtain the presence of the defendant in court.

Except in extraordinary cases, pre-trial diversion should not be used to resolve these cases, since the impact of the felonious second offense would be avoided by pre-trial diversion of the first offense.

So that criminal process is not used to enforce a civil debt, once charges are filed, a case should not be routinely dismissed merely because an offender makes payment.

Possible Defenses

In screening cases, some of the possible defenses which should be considered are:

1. EX HAC FACTO application of statute, i.e. whether an arrearage in the amount of \$ 5000 which had accrued prior to the enactment of the CSRA constitutes a violation or whether the arrearage must have remained unpaid for a period of one year commencing on or after the date of the enactment of the CSRA.

2. Statute of limitations: whether the violation is a continuing offense, i.e., whether an arrearage dating from over five years is chargeable.

3. Custodial parent, perhaps with aid of state or local agencies, has attempted to limit or terminate visitation or otherwise interfere with contact between non-paying parent and child.

4. Payment in kind, i.e. defendant purchased clothes, food or paid tuition.

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Criminal Division Contacts

Any questions concerning the CSRA or any suggestions regarding proposed sentencing guidelines may be directed to Deborah Berkin or Phillip Talbert in the Criminal Division at 107-514-1024.

Justice Dept. left twisting in the wind

By Sam Vincent Meddis
USA TODAY

As President Clinton readies a third attorney general nomination, the wait is taking a toll.

Staffers inside the Justice Department say morale problems, a cloud over the FBI and a slowdown in judicial appointments are worsened by the lack of leadership.

Latest example: Some members of Congress fear the lack of an attorney general could lead to softening of guidelines intended to nail deadbeat dads.

Sen. Richard Shelby, D-Ala., and Rep. Henry Hyde, R-Ill., wrote Clinton Tuesday asking that the new attorney general "consider appropriate revisions" to guidelines the Justice Department is preparing.

The guidelines issue reflects how the lack of a department chief, after the controversial withdrawals of one nominee and a top candidate, is raising the anxiety level.

Topics of concern range from agency budgets and staff morale to legal policy and judicial appointments.

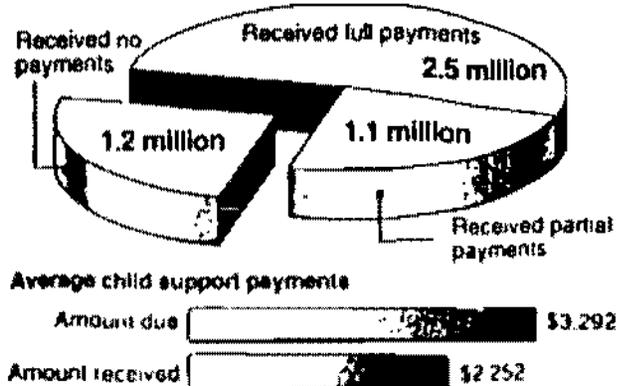
Drug Enforcement Administration officials describe their situation as bleak. They worry major staff cuts could result if a rumored \$40 million is slashed from the drug agency.

While other Cabinet members jockey for funds for their departments, Justice has no comparable voice with Clinton.

At the FBI, Director William Sessions is under the cloud of an ethics investigation. Clinton says he'll review the case, which involves questions about

Lagging child support

A 1990 Census study found that only 75% of women awarded child support payments actually received any. As much as \$20 billion in delinquent child support is owed. A look at child support in the USA:



Source: U.S. Census Bureau

By Rick Gerson USA TODAY

Sessions' use of FBI cars and whether he got a special deal on a home mortgage.

But bureau officials complain that the mere suspicion of impropriety has cost Sessions his credibility. His fate is undecided largely because there's no attorney general to resolve it, they say.

The Justice Department is being run by Stuart Gerson, civil division chief in the Bush administration. He has served as acting attorney general for nearly a month. He's getting advice from Webster Hubble, first lady Hillary Rodham Clinton's former law partner who now has an office at Justice.

Gerson acknowledged he didn't anticipate such a long tenure. But he insists Justice is

functioning well with career lawyers running divisions until political appointees arrive.

"I think we're dealing with mature people," Gerson says.

The Justice Department has pulled through tougher times, most notably during the turbulent Watergate era. More recently, the Reagan administration's attorney general, Edwin Meese, resigned after a special prosecutor did not indict him but said he probably violated conflict-of-interest laws.

"Stu Gerson is doing a decent holding action," says Georgetown University law professor Paul Rothstein.

But he says Gerson lacks the inclination and clout to make major decisions.

Among the legal issues need-

Fla. prosecutor considered

By Bill Nichols
USA TODAY

Florida prosecutor Janet Reno was the latest name to lead lists of potential attorney general nominees Tuesday, but White House aides indicated no decision is imminent.

Reno reportedly met with administration officials in Washington, though it was unclear whether she met President Clinton or his wife, Hillary Rodham Clinton.

Reno, a Dade County prosecutor for 13 years, is single and has no children, making her less vulnerable to problems that felled two previous contenders for the

attorney general post.

Federal Judge Kimba Wood withdrew from consideration last week when White House officials discovered that she had hired

two legal firm attorneys despite breaking no laws.

Previous nominee Joe Baird withdrew because of controversy over her payment of a legal firm for home-aid help.



RENO

Press Secretary Dee Dee Myers could not confirm reports that a dozen other potential appointees have lost jobs because of similar questions.

"Nobody's keeping track," Myers said. "I cannot confirm the number."

ing attention, Rothstein says, are policies on Haitian refugees and whether to push for revival of the defunct special prosecutor law. Also, there are more than 100 vacancies on the federal bench, usually filled after consultation with the attorney general, and a growing backlog of cases.

"It's not critical to have a new attorney general this minute," says Rothstein. "But certainly within a few days or a week it ought to be."

Some are anxiously waiting for Clinton to put his stamp on Justice policies.

Shelby and Hyde, for example, know Clinton campaigned hard for a law to hold fathers accountable for child support. Bush signed the bill under campaign pressure in October.

Congressional officials say FBI and Justice Department officials are not eager to strongly enforce the potentially time-consuming law, but a Clinton appointee is likely to do so.

The first step in problem solving is to identify the problem. The attached documents illustrate a very common problem that several custodial parents (including myself) are having concerning enforcing American court-ordered child support when the noncustodial parent resides in another Country.

The Interstate Commission on Child Support noted in its August 1, 1992 Report to Congress "that over 2.4 million Americans live abroad, a significant number of whom has support obligations." Of course, "significant number" does not offer a precise count for the total number of Americans that reside overseas and who have child support obligations, nor does it indicate the number of children who reside in America that are owed such support. Furthermore, this statistic precludes foreign noncustodial parents (See Exhibit A).

The Bureau of the Census and Alimony in September, 1991 reported the residence of 10.7% of absent fathers as other/unknown. Furthermore, the same survey indicated that full child support compliance as acknowledged by custodial mothers was a mere 46.6% when fathers resided overseas or their location was unknown (See Exhibit B). This 46.6% compliance statistic of noncustodial fathers who reside in another Country is significantly lower than the child support compliance by fathers who reside in the same or different state than the custodial mother. However, these numbers are inadequate because only custodial mothers were surveyed by the Census Bureau and does not provide any data that would indicate the total number of both noncustodial mothers and fathers who reside in another Country and owe support to a child residing in the United States.

As a result of the inadequate statistics that are available to Congress and the public concerning child support compliance by noncustodial parents who reside in another Country, I strongly recommend that a new study be overseen by Congress. I believe that the total number of children in America who are owed child support from a noncustodial parent who resides overseas exceeds 2,000,000 or rather accounts for approximately 13% of the 16 million children that are owed child support. Without accurate data, the severity of this problem will never be known.

The only mechanism that a state can employ in order to enforce American court-ordered child support overseas is to file a request for reciprocity under the Uniform Reciprocal Enforcement of Support Act (URESA) and hope that the foreign Country reciprocates. Robert Cousins, Senior Assistant Attorney General for the Commonwealth of Virginia concluded in his April 15, 1992 letter to Edouard Brunner of the Swiss Embassy, "the Commonwealth of Virginia's Revised Uniform Reciprocal Enforcement of Support Act, provides for mutual enforcement in support matters with a foreign jurisdiction which has a "substantially similar" reciprocal law in effect" (See Exhibit C).

However, asking a foreign Country to reciprocate with the United States by using URESA does not always work and is usually not an efficient legal remedy for full child support compliance. For example, Walter Neuhaus of the Swiss Government recently denied reciprocity with the Commonwealth of Virginia because "neither the U.S.A. itself nor a particular state of this Country has signed the Convention on the Recovery Abroad of Maintenance, New York, 1956 or another international of bilateral convention " (See Exhibit D). I hope that you can understand that when Virginia's URESA request for reciprocity was denied by the Swiss Government, my son's entitlement to American court-ordered child support ended.

Moreover, Congress should be made aware that reciprocating Countries will grant the requesting American State either full reciprocity or simple reciprocity depending upon the laws of the foreign Country. Full reciprocity is when another Country recognizes American court-ordered support and does everything in its power to collect any unpaid support, i.e., free custodial parent representation in the foreign Country, serving subpoenas, garnishing a noncustodial parent's salary... Whereas, simple reciprocity of American court-ordered support is simply a recognition by a reciprocating foreign Country, that a noncustodial parent residing in its Country has a support obligation, but it is the sole responsibility of the custodial parent residing in America to collect and obtain legal counsel to enforce his/her American Court-ordered child support in that Country. Hence, many custodial parents are forced to abandon the enforcement of their child support overseas, because they can not afford the legal costs involved.

Signing and ratifying the U.N. Convention of 1956 is essential, if Congress is interested in securing the best interest of all children who reside in the United States. On August 11, 1992 I submitted testimony at the Hearing on the Report of the Interstate Commission on Child Support and asked that the United States sign and ratify the Convention on the Recovery Abroad of Maintenance of 1956 (U.N. Convention of 1956) (See Exhibit E, page 7). On May 4, 1993 Congresswoman Kennelly introduced H.R. 1961 and on page 90 of the bill, she asked that the United States sign and ratify the U.N. Convention of 1956 (See Exhibit F). Congresswoman Kennelly's bill will take effect on January 1, 1995, but until then, many custodial parents (including myself) will not be able to have their American court-ordered child support enforced overseas.

Last year Congress passed by unanimous consent, the Child Support Enforcement Recovery Act of 1992. In October, 1992 President Bush signed the bill making it a law. I offered testimony before the House (H.R. 1241) and the Senate (S. 1002) Hearings. This new law makes it a criminal offense whenever a parent has a 1 year arrearage or owes at least \$5,000 worth of child support. However, the language of this new law applies only to a "noncustodial parent who resides in another state." Of course, my testimony at both the Senate and House Hearings was a gallant attempt to persuade Congress to modify the language of the bills so that parents who reside in another Country and then later re-enter the United States, could be apprehended for violating this law. Therefore, this law does not apply to noncustodial parents who reside in another Country.

It is important to note that I believe that there will be a significant increase in the number of noncustodial parents who move to another Country, because of the new and more strict child support enforcement laws.

Currently, noncustodial parents who reside in a foreign sanctuary and who have accumulated a criminal arrearage of child support are immune from prosecution, even after they re-enter the United States. I implore you to assist custodial parents in America who are having difficulties collecting child support from gallivanting noncustodial parents residing overseas. Family values is a shared responsibility of both parents providing assistance for their children, therefore, deadbeat parents must be required to live up to their moral and legal responsibilities. Congress should be prepared to send a message to all deadbeat parents, regardless of their residence, that they are not above the law.

Respectfully Submitted,

Michael H. Bizik, Sr.
MICHAEL HARRISON BIZIK, SR.

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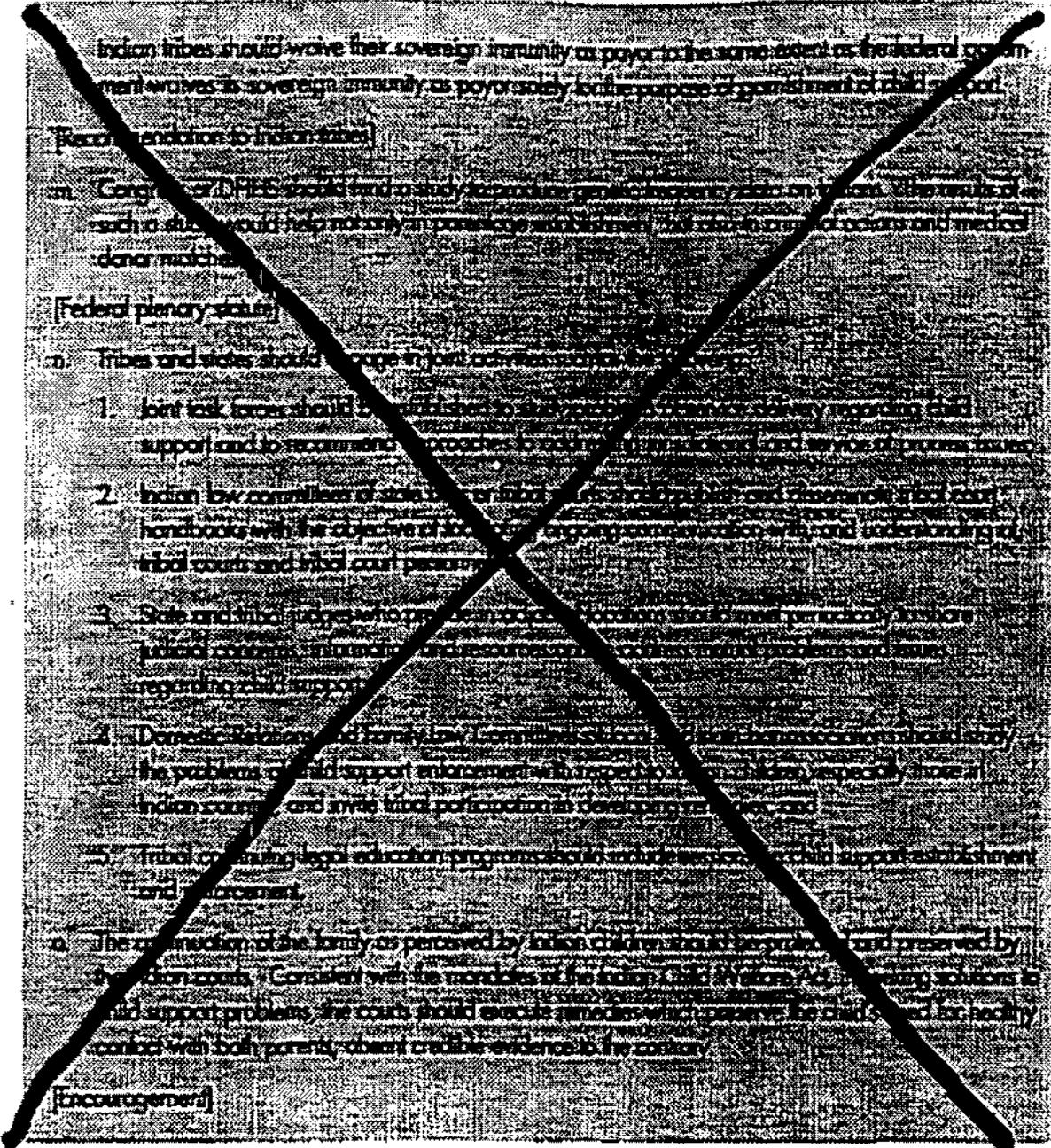
"Supporting Our Children: A Blueprint for Reform"



ADVANCE COPY

August 1, 1992

THE U.S. COMMISSION ON INTERSTATE CHILD SUPPORT'S REPORT TO CONGRESS



International Law

The Commission notes that over 2.4 million Americans live abroad, a significant number of whom has support obligations.²³ Historically, an obligor's relocation in a foreign nation made child support enforcement extremely difficult, time-consuming and expensive. There are also thousands of foreigners with offspring who reside in the United

States, who are U.S. citizens for whom support should be provided.

The United States has not signed any of the major treaties regarding international support enforcement. The United States is now considering whether to sign the Convention on the Recovery Abroad of Maintenance of 1956. If signed and ratified, the United

States would have a means to enforce an American support obligation abroad. The Commission recommends that the 1956 U.N. Convention be signed and ratified by the United States.

Pursuant to URESA, most states have reciprocal agreements with at least one foreign country or Canadian province regarding reciprocal enforcement of support orders. States do not have the power to enter into treaties. States enter into agreements of comity, where one state recognizes and honors another jurisdiction's procedures and orders. The 1968 version of URESA (RURESAs) includes foreign jurisdiction in its definition of state, allowing states to use the URESA process in international cases when the opposing party lives in a foreign jurisdiction that: (1) has laws substantially similar to those of the state seeking enforcement; and (2) extends reciprocity to the American state's orders. In many states, the state attorney general is authorized to enter into reciprocal agreements by verifying the similar nature of the foreign jurisdiction's laws.

All states have reciprocal agreements with Germany and 43 states have reciprocal agreements with Great Britain. A majority of states has a reciprocal agreement with one or more Canadian province.²⁶ The Commission recommends that states vigorously pursue such agreements, especially in countries or provinces in which many American citizens live.

Bankruptcy

For almost two hundred years, debtors have relied on the federal bankruptcy system to protect them from onerous debts. Congress enacted bankruptcy laws in 1800, and specifically added a non-dischargeability clause for alimony in 1903. Before 1903, the common practice was not to allow bankruptcy discharge of alimony debts. A debtor whose creditors seek more in payment than the debtor has available to collectively satisfy them may file a bankruptcy petition to stop (stay) enforcement. Giving debtors a fresh start is the cornerstone of the country's bankruptcy system. Depending on the type of bankruptcy, a debtor may be able to discharge a debt completely, pay a percentage of the debt or pay the full amount of the debt over a longer period of time.

Several debts may not be discharged, including debts for child support and alimony.²⁷ This means that a debtor may not escape his or her support duty merely by filing a bankruptcy petition. However, it is wrong to conclude that a support debt is never affected by the bankruptcy filing.

Postpetition debts (debts incurred after the bankruptcy petition is filed) are not directly affected by the filing. Support that accrues after the filing is collectible from the debtor, although support creditors need to be mindful of the effect a bankruptcy stay has on collection techniques until the stay is lifted.

However, prepetition debts (accrued arrears before the petition is filed) may not be collected without approval of the bankruptcy court. A support creditor could seek the lifting of the bankruptcy stay to collect the arrears. Without affirmative action on the part of the child support creditor, though, the stay remains in effect until the bankruptcy court decides to lift the stay. In fact, a child support creditor may be sanctioned for con-

23 RECOMMENDATION

INTERNATIONAL CASES

a. States are encouraged to enter into statements of reciprocity with foreign nations and Canadian provinces to promote enforcement and the collectibility of child support orders and international child support awards under URESA.

b. The United States is encouraged to ratify the U.N. Convention of 1956.

Encouragements

²² See, e.g., *Worcester v. Georgia*, 31 U.S. 576, 6 Pet. 515 (1832). See also Cohen, *Handbook of Federal Indian Law* 241-2 (ed. 1982).

²³ California, Minnesota (except for Red Lake Reservation), Nebraska, Oregon (except for Warm Springs Reservation), and Wisconsin (except for Menominee Reservation).

²⁴ See *Kennerly v. District Court*, 400 U.S. 423 (1971). Ten states (Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington) accepted some degree of jurisdiction over Indian country.

²⁵ Pub. L. No. 90-201, Sections 201-70, 82 Stat. 73, 7-81 (codified at 25 U.S.C. sections 1301-1341).

²⁶ M. Haynes, and J. Melvin, *Tribal Courts: Court Reciprocity in the Establishment & Enforcement of Child Support* (U.S. Dept. of Health and Human Services 1991), p. 28.

²⁷ See, e.g., *Billie, et al. v. Abbott*, 16 Indian L. Rep. 60 (1988); *State of Iowa, ex rel. Dept. of Human Services v. Whitebread*, 309 N.W.2d 460 (Iowa 1987).

²⁸ See, e.g., *McKernan County Social Services Board v. V.G.*, 392 N.W.2d 399 (N.D. 1986), cert. denied, 480 U.S. 930 (1987).

²⁹ Haynes and Melvin, *supra* note 26.

³⁰ Haynes and Melvin, *supra* note 26.

³¹ At the time of the agreement, Washington already had legislation authorizing any State agency to enter into a cooperative agreement with a federally recognized tribe for their mutual advantage and cooperation. See *Intercultural Cooperation Act*, Wash. Rev. Code ch. 39.34 (1972 and Supp. 1991).

³² See Hansen, *supra* note 19.

³³ See 45 C.F.R. sections 302.101, 303.107, 304.210, and 305.300.

³⁴ 45 C.F.R. section 303.107.

³⁵ U.S. Bureau of the Census, *Statistical Abstract of the United States: 1991* (1991).

³⁶ G. DeHart, *International Enforcement of Child Support and Custody: Reciprocity and Other Strategies* (1986).

³⁷ See, e.g., *Alimony and Child Support: Are They Dischargeable in Bankruptcy in the Fifth Circuit?*, 58 Minn. L.J. 155, 157 (1968).

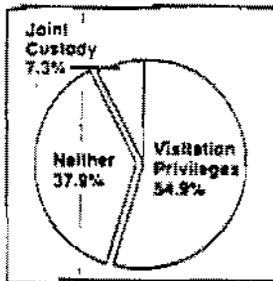
³⁸ 25 U.S.C. section 1303(a)(5) (1988).

³⁹ *Country of Santa Clara v. Ramirez*, 445 F.2d 1494 (9th Cir. 1986).

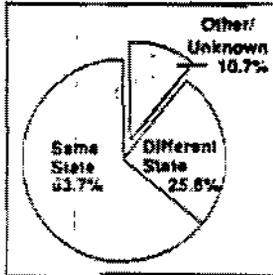
⁴⁰ *Stallone v. Stovall*, 701 F.2d 1133 (9th Cir. 1983); *Ohio v. Jones*, 94 B.R. 100 (N.D. Ohio 1988); *Oregon v. Richards*, 45 B.R. 81 (D. Or. 1984).

⁴¹ In Chapter 13 cases, almost all assets of the debtor are considered part of the estate.

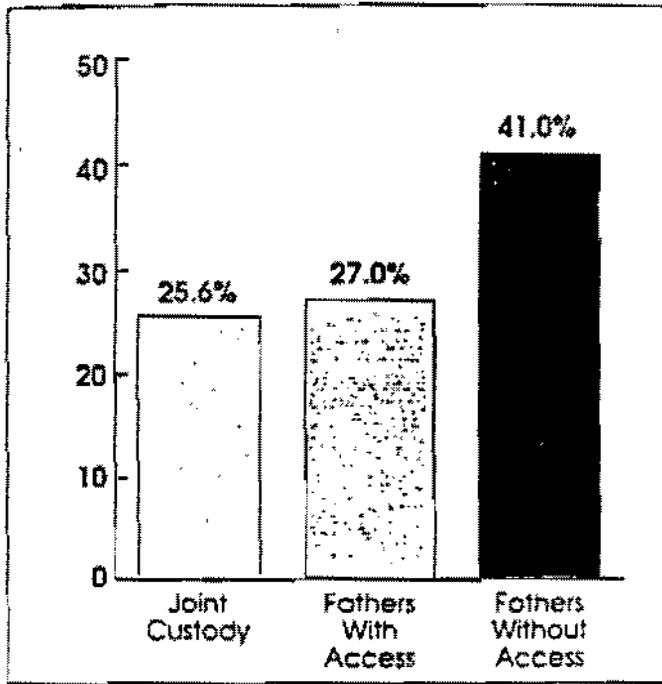
⁴² See *Caswell v. Lewis*, 757 F.2d 600 (4th Cir. 1985); *in re Pacena*, 128 Bankr. Rep. 19 (9th Cir. BAP 1991).



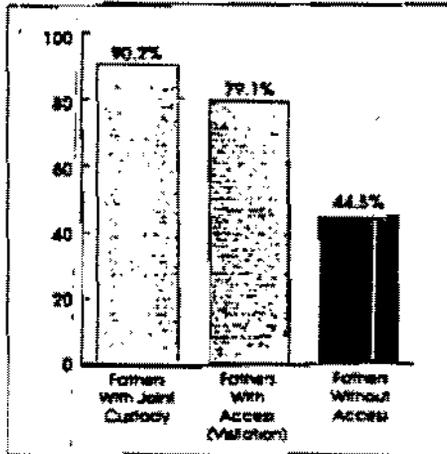
Visitation and Joint Custody Provisions of Absent Fathers (As of Spring 1990)



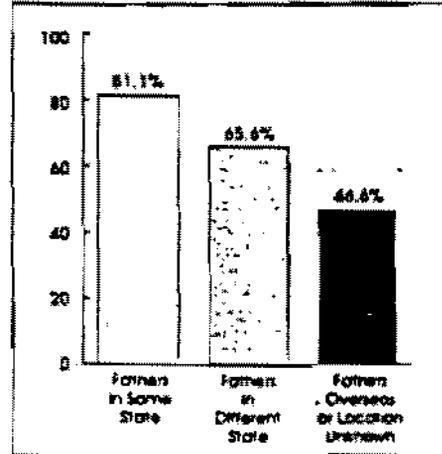
Residence of Absent Fathers (As of Spring 1990)



Poverty Rates of Mothers

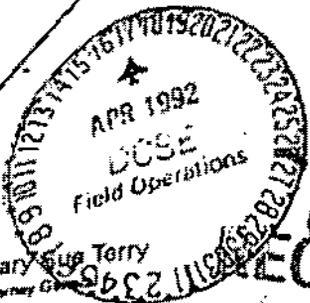


Full Child Support Compliance Acknowledged by Custodial Mothers



Source: Bureau of the Census Report - Child Support and Alimony Issued September, 1991

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Jed 4/15/92



Julie - FYI

Mary Sue Terry
Attorney General
K. Lane Kneedler
Civil Deputy Attorney General
Dorothy Love Bryant
Chief of Staff

COMMONWEALTH of VIRGINIA
Office of the Attorney General

APR 30 1992

April 15, 1992

K. Marshall Cook
Deputy Attorney General
Finance & Transportation Division

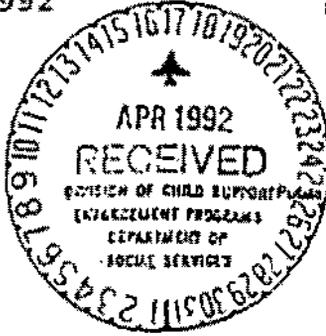
R. Claire Guthrie
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Human & Natural Resources Division

Gail Starling Marshall
Deputy Attorney General
Judicial Affairs Division

Stephen D. Rosenthal
Deputy Attorney General
Safety & Economic Development Division

DIVISION OF CHILD SUPPORT
JURIFAX DISTRICT OFFICE

Mr. Edouard Brunner
Embassy of Switzerland
2900 Cathedral Avenue, N.W.
Washington D.C. 20008



Dear Mr. Brunner:

Thank you for your letter of April 8, 1992 and the accompanying copies of the provisions of the Swiss Civil Code regarding parents' duty of maintenance of the child and Article 84 of Switzerland's Federal Code on Private International Law.

As I advised earlier, the Commonwealth of Virginia's Revised Uniform Reciprocal Enforcement of Support Act, (Section 20-88.13(1) et seq. of the Code of Virginia), provides for mutual enforcement in support matters with a foreign jurisdiction which has a "substantially similar" reciprocal law in effect. I have reviewed the provisions of the Swiss Civil Code and Article 84 and it appears "substantially similar" to Virginia's law. Therefore, reciprocal petitions filed by Switzerland should be honored by Virginia courts and Virginia orders for child support should be enforced by Swiss courts.

Petitions and requests for enforcement may be sent directly to me.

Thank you for your positive and timely response. If you require further information, please let me know.

With kindest regards, I am

Very sincerely,

Robert B. Cousins, Jr.

Robert B. Cousins, Jr.
Senior Assistant Attorney General

RECEIVED

APR 23 1992

DIVISION OF CHILD SUPPORT
JURIFAX DISTRICT OFFICE

COMMONWEALTH OF VIRGINIA
REVISED UNIFORM RECIPROCAL
ENFORCEMENT OF SUPPORT ACT

TITLE 20.

CHAPTER 21.

§ 20-23. Support of parents by children. It shall be the joint and several duty of all persons eighteen years of age or over, of sufficient earning capacity or income, after reasonably providing for his or her own immediate family, to assist in providing for the support and maintenance of his or her mother or father, he or she being then and there in circumstances...

If there be more than one person bound to support the same parent or parents, the persons so bound to support shall jointly and severally share equitably in the discharge of such duty. Taking into consideration the needs of the parent or parents and the circumstances affecting the ability of each person to discharge the duty of support, the court having jurisdiction shall have the power to determine and order the payment, by such person or persons as bound to support, of that amount for support and maintenance which to the court may seem just...

The juvenile and domestic relations district court shall have exclusive original jurisdiction in all cases arising under this section. Any person aggrieved shall have the same right of appeal as is provided by law in other cases.

All proceedings under this section shall conform as nearly as possible to the proceedings under the other provisions of this chapter, and the other provisions of this chapter shall apply in cases arising under this section in like manner as though they were incorporated in this section.

This section shall not apply if there is substantial evidence of desertion, neglect, abuse or willful failure to support any such child by the father or mother, as the case may be, prior to the child's emancipation or, except as provided hereafter in this section, if a parent is otherwise eligible for and is receiving public assistance or services under a federal or state program.

To the extent that the financial responsibility of children for any part of the costs incurred in providing medical assistance in their parents pursuant to the plan provided for in § 21-14 of the Code of Virginia is not restricted by that plan and to the extent that the financial responsibility of children for any part of the costs incurred in providing in their parents services rendered, administered or funded by the Department of Mental Health and Mental Retardation is not restricted by federal law, the provisions of this section shall apply. A proceeding may be instituted in accordance with this section in the name of the Commonwealth by the state agency administering the program of assistance or services in order to compel any child of a parent receiving such assistance or services to reimburse the Commonwealth for such portion of the costs incurred in providing the assistance or services as the court may determine to be reasonable if costs are incurred for the institutionalization of a parent, the children shall in no case be responsible for such costs for more than sixty months of institutionalization.

Any person violating the provisions of an order entered pursuant to this section shall be guilty of a misdemeanor, and an conviction thereof shall be punished by a fine not exceeding \$500 or imprisonment in jail for a period not exceeding 12 months or both.

§ 20-24. Transfer of assets to qualify for assistance; liability of transferees. In the event any person is found eligible for, and has received benefits under, any program of state public assistance or any program of state and federal public assistance, including medical assistance, and such person has made, or makes, any transfer of property or resources for a cumulative consideration of at least \$2,000 less than fair market value, the transferee or transferees of the property or resources shall be liable to the Commonwealth for the uncompensated value of the transferred property or resources if the transferee would have been ineligible for such benefits but for the transfer. In any such case, there will be a rebuttable presumption that the transferee acted for the purpose of enabling the transferor to qualify for public assistance and if such presumption is rebutted, then this section shall not apply. In the case of jointly-owned property transferred by any such person eligible for public assistance only that portion of the consideration borne fair market value which is equal to the interest of such person in the transferred property shall be included in any determination of whether there has been a cumulative failure of consideration of at least \$2,000 as provided in this section. The State Health Commissioner, the State Commissioner of Social Services, or any other head of any agency of state government having responsibility for a program of public assistance, or their designees, may petition the circuit court having jurisdiction over either the property or over the transferee or transferees for a determination of liability. Such petition may require an appropriate order requiring the transferee or transferees to make payment of the uncompensated value of the transferred property or resources to the Commonwealth in the event of the end of the benefits received under the program of public assistance by the transferee. The court's order may require the transferee or transferees to continue payment to the Commonwealth as long as the transferee or transferees receiving more than four years next prior to date on which the transferee is found eligible for public assistance. This section shall not apply to any transfers of property or resources occurring more than four years next prior to date on which the transferee is found eligible for public assistance.

§ 20-25. Purpose. The purposes of this chapter are to impose and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

§ 20-25.1. Definitions. As used in this chapter unless the context requires otherwise:

- (1) "State" includes any state, territory or possession of the United States and the District of Columbia, the Commonwealth of Puerto Rico, and in any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.
(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.
(3) "Responding state" means any state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.
(4) "Court" means a juvenile and domestic relations district court of this State and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.
(5) "Law" includes both common and statute law.
(6) "Duty of support" includes any duty of support imposed or imposed by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial legal separation, separate maintenance or otherwise and includes the duty to pay arrangements of support past due and unpaid.
(7) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.
(8) "Obligee" means any person including a state or political subdivision to whom a duty of support is owed or any person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.
(9) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this chapter.
(10) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.
(11) "Register" means to file in the Registry of Foreign Support Orders.
(12) "Registering court" means any court of this State in which a support order of a rendering state is registered.
(13) "Rendering state" means any state in which the court has issued a support order for which registration is sought or granted in the court of another state.
(14) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation or reinstatement, regardless of the kind of action or proceeding in which it is entered.

§ 20-25.14. Remedies additional to those now existing. The remedies herein provided are in addition to and not in substitution for any other remedies.

§ 20-25.15. Extent of duties of support. Duties of support arising under the laws of this State, when applicable under § 20-25.16, bind the obligor present in this State regardless of the residence or residence of the obligee.

§ 20-25.17. State Information Agency. (a) The Department of Welfare is hereby designated as the State Information Agency under this law, and it shall be its duty:

- (1) To compile a list of the courts and their addresses in this State having jurisdiction under this law and transmit the same to the State Information Agency of every other state which has adopted this or a substantially similar law.
(2) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt to every court in this State having jurisdiction under this law.
(3) To forward to the court in this State which has jurisdiction over the obligor or his property partitions, partitions and copies of the law if received from courts or information agencies of other states.
(4) If the State Information Agency does not know the location of the obligor or his property in the State and no State location service is available it shall use all means at its disposal to obtain this information, including the transmission of official records in the State and other sources such as telephone directories, real property records, vital statistics records, police records, records for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, records made to the tax offices, both State and Federal, where such offices are able to cooperate, and requests made in the Social Security Administration as permitted by the Social Security Act as amended.

§ 20-25.18. Inmate condition. The Governor of this State (1) may demand from the Governor of any other state the surrender of any person bound in such other state who is charged in this State with the crime of failing to provide for the support of any person or (2) may surrender on demand by the Governor of any other state any person bound in this State who is charged in such other state with the crime of failing to provide for the support of any person. The provisions for extradition of criminals not mentioned herewith shall apply to any such demand.

although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom, neither the demand, nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state.

§ 20-81.10. Necessity for initiation of proceedings for support; effect of such proceedings. (a) Before making the demand upon the Governor of another state for the surrender of a person charged criminally in this State with failing to provide for the support of a person, the Governor of this State may require any prosecuting attorney at this State to advise him that at least sixty days prior thereto the obligor initiated proceedings for support under this chapter or that any proceeding would be of no avail.

(b) If, under a substantially similar law the Governor of another state makes a demand upon the Governor of this State for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may require any Commonwealth's attorney to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective, if it appears to the Governor that a proceeding would be effective and has not been initiated he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If proceedings have been initiated and the person demanded has provided therein the Governor may decline to honor the demand, if the obligor persisted and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is conspiring with the support order.

§ 20-81.11. Relief from the above provisions. Any obligor contemplated by § 20-81.10 who commits in the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or non-support entered in the courts of this State during the period of such compliance.

§ 20-81.12. Child of non-support enforceable under this law are those borned or imprisoned under the laws of any state where the obligor was present during the period or any part of the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought unless otherwise shown.

§ 20-81.13. Remedies of state or political subdivision thereof furnishing support. Whenever the State or a political subdivision thereof has furnished support to an obligor it shall have the same right to initiate a proceeding under the provisions hereof as the obligor in whom the support was furnished for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

§ 20-81.14. How system of support enforced. All duties of support, including the duty to pay arrearsages, are enforceable by a proceeding under this chapter including a proceeding for civil contempt. The defense that the parties are intimate in full because of their relationship as husband and wife or parent and child is not available to the obligor.

§ 20-81.15. Petition by legal custodian of minor obligee. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian of them.

§ 20-81.16. Jurisdiction. Jurisdiction of any proceedings under this chapter is vested in the juvenile and domestic relations district courts of this State.

§ 20-81.17. Contents of petition for support, where filed. (a) The petition shall be verified and shall state the name and, so far as known to the obligor, the address and circumstances of the obligor and his dependents for whom support is sought and all other pertinent information. The obligor may include in or attach to the petition any information which may aid in locating or identifying the obligor including, but without limitation by enumeration, a photograph of the obligor, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or social security number.

(b) The petition may be filed in the appropriate court of any state in which the obligor resides. The court shall accept or refuse to accept and forward the petition on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

§ 20-81.18. Duty of court of this State as initiating state. If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and shall cause later copies of the petition, its certificate and this law to be transmitted to the court of the responding state. Consideration shall be given precedence with the requirements of the initiating state, if the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such notice to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt in the initiating court.

§ 20-81.19. Fees and costs. An initiating court shall not require payment of either a filing fee or other costs from the obligor but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligor but it may direct that all fees and costs requested by the initiating court and incurred in this State when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other services supplied to the obligor, be paid in whole or in part by the obligor. These costs or fees do not have priority over amounts due to the obligor.

§ 20-81.20. Obtaining body of defendant by appropriate process. When the court of this State has reason to believe that the obligor may flee the jurisdiction it may (a) as an initiating court request in its certificate that the responding court obtain the body of the obligor by appropriate process if that be practicable under the law of the responding state; or (b) as a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his presence at the hearing.

§ 20-81.21. Duty of court of this State as responding state; preservation of case. (a) When the court of this State receives from the initiating court the electronic copies, it shall (1) docket the case, (2) notify the official charged with the duty of carrying on the proceedings and (3) set a time and place for a hearing.

(b) The attorney for the Commonwealth shall preserve the case diligently. He shall take all action necessary in accordance with the laws of this State to enable the court to obtain jurisdiction over the obligor or his property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

§ 20-81.22. Location of obligor. (a) The attorney for the Commonwealth on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracy in the petition or otherwise the court cannot obtain jurisdiction, he shall advise the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the initiating court.

(b) If the obligor or his property is not found in the county or city, and the attorney for the Commonwealth discovers that the obligor or his property may be found in another county or city of this State or in another state he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or city or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this law apply to the recipient of the documents as forwarded. If the clerk of a court of this State forwards documents to another court he shall forthwith notify the initiating court.

(c) If the attorney for the Commonwealth has no information as to the location of the obligor or his property, he shall so inform the initiating court.

§ 20-81.23. Continuance of hearing. If the obligor is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

§ 20-81.24. Immunity of obligor from criminal prosecution. If at the hearing the obligor is called for examination as an adverse party and he or she declines to answer upon the ground that his or her testimony may tend to incriminate him or her, the court may require him or her to answer, to which event he or she may immune from criminal prosecution with respect to matters revealed by his or her testimony, except for perjury committed in this testimony.

§ 20-81.25. Order of support. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to such order. Support orders made pursuant to this law shall require that payments be made to the clerk of the court of the responding state. The court and Commonwealth's attorney of any county or city in which the obligor is present or his property have the same powers and duties to enforce the order as have those of the county or city in which it was first issued. If enforcement is impracticable or cannot be completed in the county or city in which the order was issued, the Commonwealth's attorney shall send a certified copy of the order to the Commonwealth's attorney of any county or city in which it appears that proceedings to enforce the order would be effective. The Commonwealth's attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

§ 20-81.26. Responding state to transmit copies to initiating state. The responding court shall cause to be transmitted to the initiating court a copy of all orders of support or orders for reimbursement therefor.

§ 20-81.27. Additional powers of court. In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the clerk of the court or the obligor and to report personally to such clerk at such times as may be deemed necessary.

(c) To punish a defendant who violates any order of the court in the same criminal as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court or by confinement for a period of not more than twelve months.

§ 20-81.28. Adjudication of paternity issue. If the obligor admits as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue as if the issue were in a support case initiated and tried in this Commonwealth.

§ 20-81.29. Additional duties of the court of this State when acting as a responding state. The court of this Commonwealth when acting as a responding state shall have the following duties which

may be carried out through the clerk of the court.

(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state or to the appropriate agency of the initiating state and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

§ 20-88.28. Additional duty of the court of this State when acting as an initiating state. The court of this State when acting as an initiating state shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

§ 20-88.28.1. Effect of pending or prior action. A responding court shall not stay the proceeding or refuse a hearing under this law because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In and through it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

§ 20-88.28.2. Validity of support order. A support order made by a court of this State pursuant to this law does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar law or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this State.

§ 20-88.28.3. Participation in proceeding does not confer jurisdiction. Participation in any proceeding under this law does not confer jurisdiction upon any court over any of the parties therein in any other proceeding.

§ 20-88.28.4. Proceedings where obligee and obligor are in different counties or cities in this State. This law applies if both the obligee and the obligor are in this State but in different counties or cities. If the court of the county or city in which the petition is filed finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county or city in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the petition and a certification of the findings to the court of the county or city in which the obligor or his property is found. The clerk of the court of the county or city receiving these documents shall notify the Commonwealth's attorney of their receipt. The Commonwealth's attorney and the court in the county or city to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this State as a responding state.

§ 20-88.28.5. Appeals. A. When the Commonwealth's attorney having jurisdiction is of the opinion that a support order is erroneous or inadequate or presents a question of law warranting an appeal in the public interest, the Commonwealth's attorney is authorized, on behalf of the obligee:

1. To perfect an appeal to the proper appellate court if the support order was issued by a court of this State, or
2. If the support order was issued in another state, to cause an appeal to be taken in the other state.

B. In the event the Commonwealth's attorney fails or refuses to file an appeal, the obligee may file an appeal as provided in subsections A 1 and A 2 of this section.

C. The obligor shall have the right to file an appeal to the proper appellate court if the support order was issued by a court of this State or may cause the appeal to be taken in the other state if the support order was issued in another state.

§ 20-88.29. Evidence of husband and wife. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses as to any relevant matter, including marriage and parentage.

§ 20-88.29.1. Processing payments responsibility of Department of Social Services. — Notwithstanding any other provisions of this chapter, support payments made in this Commonwealth in cases arising under this chapter or pursuant to a similar law in another jurisdiction shall be handled by the Department of Social Services or its designee after an order requiring payment to the Department of Social Services or its designee has been entered, and no clerk thereafter shall receive or disburse payments in such cases. The change in payment provision shall be initiated by October 1, 1985, unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Courts as to individual courts. The Department shall perform all functions relating to the receipt and disbursement of such payments in place of the clerk of the court. All initial and modified orders entered pursuant to this chapter on or after October 1, 1985, shall provide that support payments shall be paid to the Department of Social Services, unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Courts. If the Department of Social Services enters into a contract with a public or private entity for the processing of support payments, then notwithstanding any other provisions of this section and except as provided in the last paragraph of this section:

1. The Department shall notify the affected court of the existence of such contracts and how payments are contractually required to be made to such contractor; and

2. The affected court shall include in all support orders (i) how payments are required to be made to such contractor and (ii) that payments are to be made in such manner until different payment instructions are issued to the person making payments by the court or by the Department.

An employee of 10,000 persons or more shall not be required to make payments other than by combined single payment to the Department's central office in Richmond without the express written consent of the employer.

§ 20-88.29.2. Rules of evidence. In any hearing under this law, the court shall be bound by the same rules of evidence that bind the courts of record of this State. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (§ 20-88.26.1) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

§ 20-88.30.1. Enforcement of foreign support orders; additional remedies. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

§ 20-88.30.2. Name; obligee may register order. The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

§ 20-88.30.3. Name; clerk to maintain registry. The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall file foreign support orders.

§ 20-88.30.4. Name; when Commonwealth's attorney to represent obligee. If this State is acting either as a rendering or a registering state the Commonwealth's attorney upon the request of the court shall represent the obligee in proceedings under this article.

§ 20-88.30.5. Name; how order registered; notice to obligor. (a) An obligee or obligor seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee or obligor, showing the post-office address of the obligee or obligor, the last known place of residence and post-office address of the obligor or obligee, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee or obligor, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this law.

(b) Promptly upon registration, the clerk of the court shall send by certified or registered mail to the other party at the address given a notice of the registration with a copy of the registered support order and the post-office address of the obligee; he shall also docket the case and notify the Commonwealth's attorney of his action. The Commonwealth's attorney shall proceed diligently to enforce the order.

§ 20-88.30.6. Name; effect of registered order; petition to vacate, hearing, staying enforcement. (a) Upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this State and may be enforced and satisfied in like manner.

(b) The obligor has twenty days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is continued.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this State may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State.

§ 20-88.30.7. Construction of chapter. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 20-88.31. Short title of chapter. This chapter may be designated and cited as the Revised Uniform Reciprocal Enforcement of Support Act.

D



Bundesamt für Polizeiwesen
Office fédéral de la police
Ufficio federale di polizia
Uffiz federal da polizia

RECEIVED

DEC 13 1992

3003 Bern, December 9th, 1992

031 / 61 43 45
Teletax 031 / 61 53 80

DIVISION OF CHILD SUPPORT
FAIRFAX DISTRICT OFFICE

Division of Child
Support Enforcement
3953 Pender Drive
Fairfax/Virginia 22030
USA

In Zeichen
Voire nif.
Vostro rif.
Unser Zeichen
Nora nif
Nostra rif.

L 26 506 N/Wi/Tam

Child support enforcement; your request of October 13th and 27th, 1992
Debtor: WELS Mylena, born 9.10.1965, Wattstrasse 12, CH-4056 Basel
Creditor: BIZIK Michael, born 14.6.1983, 5922 Mayflower Court,
Alexandria, Virginia 22312

Dear Sirs,

We acknowledge receipt of the documents in the above mentioned matter.

We are afraid we can not help you.

The problem is that neither the U.S.A. itself nor a particular state of this country has signed the Convention on the Recovery Abroad of Maintenance, New York, 1956 or another international or bilateral convention in this matter.

The only possibility for Mr. Bizik is the private way; in other words he has to ask a swiss attorney at law to represent efficaciously his interests.

All we could can do is to try that Mrs. Wels sign an agreement, but we have noted that actually there is no arrearage (where is the problem?).

Yours faithfully

FEDERAL OFFICE FOR POLICE MATTERS

Walter Neuhaus

RECEIVED

DIVISION OF CHILD SUPPORT
FAIRFAX DISTRICT OFFICE

E

PREPARED TESTIMONY OF
MICHAEL HARRISON BIZIK, SR.,
CUSTODIAL PARENT AND FATHER,
ALEXANDRIA, VIRGINIA

THE HOUSE WAYS AND MEANS COMMITTEE,
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON THE REPORT OF THE
INTERSTATE COMMISSION ON CHILD SUPPORT

August 11, 1992

My name is Michael Bizik, and I am from Alexandria, Virginia. I am the natural father and sole custodial parent of Michael Harrison Bizik, who is now 9 years old. I have raised Michael on my own as a single parent since he was 15 months old. I am very grateful for the opportunity to submit testimony before the House Subcommittee on Human Resources.

On July 1, 1988, the Commonwealth of Virginia implemented guidelines which would help Judges in determining a fair amount of child support to be awarded. Based on these child support guidelines a Judge could take the combined income of both parents, calculate the earning percentage of each parent based on their total combined income and then order one parent to pay child support based on his/her earning percentage. For example, if a father was ordered to pay child support and earned \$60,000 per year, while a mother earned \$40,000 per year, a father would be required to pay 60 percent of the costs involved in raising a child, since he earned 60 percent of the total combined income.

Initially, the Commonwealth of Virginia hired economists who would help with the calculating of expenses involved in raising a child. The economists concluded that the costs involved in raising each child would be different based on the income of that child's parents. For instance, the costs involved in raising a child whose parents earned more than \$100,000 per year would be higher than parents of a child who earned a combined income of \$20,000 per year.

As a result, child support could be ordered by Judges in Virginia far more easily and a parent's responsibility would be similar to the financial support that each parent would have been able to provide, if the parents had remained together. These child support guidelines were designed to be fair, but remained at the Judge's discretion whether to apply them.

On July 21, 1988, I went to court to simply ask for child support. During the child support court hearing, the Judge openly displayed disdain for my claim. He questioned whether I might spend the child support on beer and claimed that the legal representation afforded me by law through the Virginia Division of Child Support Enforcement was a "terrible waste of taxpayers' money." I was finally awarded support in the amount of \$217 per month, which was below the amount of the July 1, 1988 child support guidelines. In fact, my former wife was ordered to pay only 20 percent of the cost of raising our child, despite having a salary which was 40% of the total combined income. The Judge ordered my former wife to pay \$217 per month instead of the \$338 per month which the child support guidelines recommended that a Judge apply.

I appealed my case to the Court of Appeals in Richmond, Virginia on the grounds that the presiding Judge at my child support hearing erred when he requested that I prove changes in circumstances, instead of his applying the recently enacted child support guidelines. Changes in circumstances is used by a Judge when determining the amount of child support which the Judge "solely" believes should be awarded. However, changes in circumstances can only be applied by a Judge when a parent has a preexisting order for child support. Since there was no preexisting order of child support concerning my child, the Judge erred when he requested that I prove changes in circumstances, thereby significantly reducing the amount of child support for which my son was entitled to receive.

However, the case was dismissed by the Court of Appeals when it was discovered that the court reporter's audio recording of the court hearing had been mysteriously destroyed. In Virginia, any person who appeals a case to the Court of Appeals or

the State's Supreme Court, must provide the appropriate court with a copy of the tape/transcript or a Statement of Facts from the Court below. In fact, I learned that the owner of the current court reporting company which was responsible for losing the tape of my child support hearing had been fired in 1982 (by the Judge who presided during my child support hearing) after losing several tapes and for altering the text of several trials, yet was rehired by the same Judge who heard my child support hearing.

I attempted to obtain a copy of the Statement of Facts from my former wife's attorney, but his recollection of the facts of the child support case was different than mine. Later, I learned that my former wife's attorney was appointed Judge to the same Court by the Judge who presided at my child support hearing. Also, I learned that the court reporting company which was responsible for losing the tape of my child support hearing was not licensed as required by law.

For more than two years after my child support case was heard in Virginia, I shared the facts that I uncovered concerning a probable conspiracy with both State and Federal Legislative Representatives. Approximately six months after sharing the facts with my Legislative Representatives and their failure to do anything substantive, I learned that the owner of the court reporting company who lost the tape of my child support hearing was fired for losing the tapes of at least 12 different trials. However, the owner of the court reporting company was not fired by the Judge who hired him until after several newspaper articles were released which informed the public of the incredible number of tapes for which the court reporting company was responsible for losing.

Despite receiving an unfair child support award, having been illegally denied an appeal and spending an enormous amount of time and energy on an investigation for which no one other than myself cared about, I was forced to focus my attention on receiving child support since my former wife had accumulated a six month arrearage towards her child support obligation.

Once again, I wrote several letters to both my Federal and State Legislative representatives and the Division of Child Support Enforcement in Virginia in order to secure payments. Eventually, my former wife's bank account was frozen and her salary was garnished.

During the past four years of trying to obtain child support, my former wife has sought out and found the loopholes in our child support system, as evidenced by her history for not paying child support. In addition, my former wife has offered every excuse imaginable for not being able to offer our son the financial and emotional support for which he is entitled.

During November, 1991, I encountered the biggest child support enforcement nightmare yet. My former wife married a doctor and has moved to Switzerland; which is one of several countries with whom the United States has no reciprocal agreement for the collection of child support. Prior to my former wife's departure to Switzerland, she gave her assurance to the Division of Child Support Enforcement in Virginia that she would pay child support, yet despite living in Switzerland for approximately eight months, she has not sent any child support. Although my former wife is able to work, thereby having the ability to provide support for our son, she has negligently decided against providing any support.

I was told by local child support officials that despite my former wife's history of not paying child support, their office was convinced that she would pay child support once

she moved to Switzerland. Hence, how ironic it is that despite the condemnable history that my former wife had for not paying child support, child support officials were not convinced of the true intentions which she would have for not paying child support once she left the United States. Furthermore, the handicap which local child support officials appear to have had was their inability to prove the intent of my former wife for fulfilling her child support obligations. As a result, my former wife was able to move to Switzerland (without any legal restraints), thereby escaping the laws of the United States which would have required her to pay child support.

Under the Uniform Reciprocal Enforcement of Support Act (URESA), I submitted a request on October 14, 1991, to the Division of Child Support Enforcement in Virginia requesting that reciprocity be established with Switzerland for the collection of child support. On January 10, 1992, I received confirmation that Gloria DeHart, Deputy Attorney General in California, and the Vice President of International Reciprocity of the United States, had requested reciprocity with Switzerland.

I have recently learned that during the European Community (EC) talks with Switzerland regarding membership in January, 1993, negotiations will begin between the United States and Switzerland concerning establishing reciprocity in order that child support can be collected. It is important to note that child support will not be provided by my former wife in a timely fashion due to her reluctance to pay such support despite the numerous notices requesting that she pay such support which were sent to her Swiss home address by the Division of Child Support Enforcement in Virginia. Hence, my former wife's child support arrearage will continue to accumulate and our son will be deprived of the full emotional and financial support to which he is entitled, until reciprocity has been established with Switzerland.

It is estimated that my former wife will become between 18 and 24 months behind in her child support obligations before reciprocity with the Swiss is granted. It is further believed that since my former wife is expecting to give birth in November or December of 1992, she will be reluctant once again to provide any financial or emotional support for our son.

Under U.S. laws the first born child takes precedent over all other children born thereafter. However, since my former wife does not reside in the United States and U.S. laws are not binding on people who live in Switzerland, it may prove interesting concerning how the Swiss (if reciprocity between the U.S. and Switzerland is granted) may react to my former wife's indulgence for not being able to afford support to our child. However, I will request that the Swiss government agree to incorporate important child support enforcement laws of the United States during the negotiations in January, 1993 while establishing reciprocity, in order to assure that my former wife fully complies with her child support obligations.

Because I am a male custodial parent, several people have continuously displayed animosity towards me for not only asking for child support, but for expecting that such support be paid. I ask any member of Congress who continues to use the "Deadbeat Dad" phrase to refrain from its use. "Deadbeat Dad" is a harmful stereotype that makes it even more difficult for the growing number of custodial fathers like myself to secure financial support from the noncustodial mother. This gender-biased stereotype breeds bias against the custodial father but mostly deprives children of a male custodial parent the financial support that the law mandates. Moreover, both custodial and noncustodial fathers who provide support to their children are adversely affected by the usage of "Deadbeat Dad."

How many law abiding fathers will be treated differently in our society, simply because "Deadbeat Dad" may be implied by some to mean every father is a "deadbeat dad?" If any person in Congress does not understand the significance of such a prejudicial statement which labels all fathers as deadbeat dads, then I suggest that they go public with calling delinquent noncustodial mothers "Deadbeat Moms." I am sure that Congress will understand the enormous impact of unwarranted name calling, based on the negative response that it will receive from law abiding Americans who simply do not like to be categorized with the thugs of our society.

The emotional issue of child support cannot be helped by name calling, but rather in unifying both male and female custodial parents who require and demand that noncustodial parents meet their parental obligations by providing support. Once unified, both the male and female custodial parents can be properly represented by Congress and the responsible party (noncustodial parent) can be sought after for the support to which a child is entitled. If anyone in Congress wishes to ventilate their frustrations, I ask that they do not alienate law abiding male or female parents who are trying to do the best for their children, but rather that Congress passes legislation which would hold parents accountable when they willfully refuse to support a child.

I favor any legislation which would help to secure the best interests of children. However, whatever legal remedies for which Congress plans to implement in order to ensure that each parent measures up to his/her moral and legal responsibilities for providing the financial and emotional support that our children are entitled to, Congress must first clearly give its interpretation to the best interests of a child. It is important that the best interest of a child is defined by Congress so that when a parent fails to offer the fundamental support for which a child richly deserves, such a parent can be easily exposed for not living up to his/her parental responsibilities.

Congress should establish guidelines which will help to identify the intent of either parent and his/her failure to provide both the financial and emotional support of American children. By identifying the intent of a parent who fails to provide support to a child, local child support officials will be able to hold parents accountable more often and will be able to collect child support in a more timely fashion. These guidelines will help to eliminate the emotional disparity of justice which many parents feel, when one parent chooses to rationalize his/her reasons for abandoning a child. Often, many parents who fail to provide support to a child, recruit friends and families to not only assist with their abandonment of a child, but also in trying to convince several innocent bystanders that they were victims of circumstances. This victims of circumstances rationalization used often by noncustodial parents in defending their position for not providing support to a child does not serve the best interest of a child and makes a mockery of a Judge's order for awarding custody and child support to a custodial parent. These guidelines will help child support officials to prove beyond a reasonable doubt the true intentions of those parents who cross state lines or leave the United States in order to willfully avoid providing support of a child.

Many criminals in our society are held accountable for repeated offenses. In many cases, those criminals who have a history of committing the same crime more than once (repeat offenders) are dealt with more severely. The reasoning for which Judges offer stiffer penalties and deal with repeat offenders more severely, is to help deter such acts by those people who did not learn the first time. Since jailing a parent who does not

provide support is costly and is usually not in the best interest of a child, I ask that the history of nonsupport by a parent be used to incriminate such a parent in any future legal proceeding. Thus, parents who freely choose to withdraw their ability to support or have not supported a child, can be held accountable and can eventually be reprimanded for his/her reluctance for offering support. As a result, all parents will recognize the importance of providing support to a child and the consequences involved for their failure to provide such support.

I hope that Congress can understand the ego, emotional state of mind, pride and politics for which a noncustodial parent incorporates in his/her all out attack to not only undermine the abilities of the custodial parent who has chosen to support a child, but also the great harm that a noncustodial parent inflicts on an innocent child as a result of such emotions. Child support is a very emotional issue. Until Congress establishes a foundation which can identify the best interest of a child and it establishes rules which would help govern the conduct for those parents who consider themselves to be above both American and God's laws, the problems attributed to the lack of parental support will continue.

Many custodial parents are pushed to the edge both financially and emotionally, yet most responsible parents are able to do whatever it takes, even without the support of the noncustodial parent in providing the fundamental support of a child. It is interesting that a noncustodial parent cannot afford to find a job or pay child support, despite the fact that many custodial parents find the time and energy to not only raise a child but also are able to work more than one job in order to provide for a child. I have very little sympathy for the noncustodial parent's claim that they cannot afford either the financial or emotional support for a child because they cannot find a job. If Congress believes that providing job programs for noncustodial parents will help secure the financial support of children, then I agree that the implementation of a noncustodial job program is a good idea. However, based on the child support payment history of many American parents, I am of the firm belief that many noncustodial parents are vindictively malevolent towards the custodial parent's role for being solely responsible for the child. As a result, the real reason of nonsupport is the lack of will that a noncustodial parent has for paying child support.

To overhaul State child support collection facilities is an overreaction by Congress and would be an increasingly expensive and timely process. I propose that Congress can better assist State child support collection facilities by providing them with the tools necessary for the enforcement and collection of child support. An example of improved legislation which will greatly assist a State's ability to collect child support is Congressman Hyde's proposal of H.R. 1241. The bill would establish a criminal penalty for flight to avoid payment of arrearages of child support. On January 31, 1992 I submitted testimony to the House Subcommittee on Crime and Criminal Justice supporting H.R. 1241.

I am against Federalizing the child support industry because of the enormous costs to the taxpayer and the time (at the cost of child support recipients) for which it will take to fully implement a competent agency by the Government. However, it is imperative that Congress continues to study child support issues with the hope that such studies can help to improve a State's ability for collecting child support. Further, I ask that the U.S. Census Bureau, the General Accounting Office and any other offices which can offer Congress important data on child support be required to do so. The computation of child

support statistics would provide Congress with the necessary insight for improving the child support industry in America.

Finally, it is essential that this Committee help to expose and prevent the financial and emotional deprivation which many custodial parents and their children experience when a noncustodial parent is permitted to escape (without any legal consequences) from his/her American court-ordered child support obligations by departing to another country. The August 1, 1992 report by the U.S. Commission on Interstate Child Support noted that a significant number of the 2.4 million Americans who live abroad have support obligations (see U.S. Commission on Interstate Child Support Report (August 1, 1992), 10-24). In essence, this statistic indicates that approximately 15% of the 16 million children who are owed support can be attributed to those noncustodial parents who live in foreign countries. However, the total number of children who may be owed child support by noncustodial parents who reside outside of the United States might very easily be higher when calculating the total number of children for whom these noncustodial parents owe support. For example, if the average number of children who are owed support by a noncustodial parent who resides in another country is 1.5, then 1.5 children multiplied by the 2.4 million noncustodial parents who reside in another country would equal 3.6 million children who are owed child support or rather accounts for 22% of the 16 million children who are owed support. Moreover, even though Interstate cases represent about 3 out of 10 child support cases, and although only \$1 of every \$10 collected by the system is from Interstate cases, I am willing to wager that the amount collected from the noncustodial parents who reside in foreign countries is enormously less than the Interstate cases statistic of \$1 collected for every \$10 owed.

In order to help enforce court ordered child support of the United States abroad, the United States should sign and ratify the convention on the Recovery Abroad of Maintenance of 1956 (U.N. Convention of 1956). This Committee is urged to expand the current language of child support legislation before Congress by including criminal penalties for noncustodial parents (who reside in or have citizenship with another country) who have at least a one year arrearage of American court-ordered child support, so that these parents can be apprehended when trying to re-enter the United States. At the very least, the United States should play a more active role in helping custodial parents in the United States collect unpaid child support from a noncustodial parent who chooses to live in another country, so that child support can be fully enforced and collected in a timely manner.

Currently, each state becomes solely responsible for establishing reciprocity with another country in order to ensure that child support orders are established and enforced abroad. The time for which it takes a state to establish reciprocity with another country is long and there are no guarantees that reciprocity will ever be granted. In addition, there are many risks involved when a state independently establishes reciprocity with another country, such as the amount of child support as ordered in the United States is contested by the noncustodial parent could be dramatically and improperly lowered by the reciprocating foreign country. As a result, the United States must play a larger role in helping both the custodial parent and his/her child in securing and enforcing American court-ordered child support abroad.

When a foreign country denies a state's request for reciprocity and whereas the United States is unable to help a custodial parent collect the child support owed by a noncustodial parent who resides in the same foreign country that has denied reciprocity, some custodial parents may decide to forcibly abduct

a noncustodial parent from their foreign country in the hope that an American court can collect the unpaid child support to which his/her child is entitled. The Supreme Court decided on June 15, 1992, in United States v. Humberto Alvarez-Machain, 112 S.Ct. 2188 (1992), that a forcible abduction does not prohibit a trial in a United States court for violation of this country's criminal laws. Although a forcible abduction by a custodial parent would be construed by many laymen as illegal, the reasoning behind such an abduction might help to convince many congressional members that vast changes concerning improved international enforcement of American court-ordered support are needed. Furthermore, based on the statistical history of the United States concerning collecting child support, it is logical to conclude that many noncustodial parents will increasingly decide to move to another country in order to escape from his/her child support obligations once the child support laws are improved in the United States.

I congratulate Chairman Downey and the members of the House Subcommittee on Human Resources on holding this Hearing concerning the report of the Interstate Child Support Commission.

Thank you.

“Supporting Our Children: A Blueprint for Reform”



ADVANCE COPY

August 1, 1992

THE U.S. COMMISSION ON INTERSTATE CHILD SUPPORT'S REPORT TO CONGRESS

Indian tribes should waive their sovereign immunity to the same extent as the federal government waives its sovereign immunity as payor solely for the purpose of payment of child support.

[Recommendation to Indian tribes]

m. Congress or DHHS should fund a study to produce genetic frequency data on Indians. The results of such a study would help not only in paternity establishment, but also in organ donation and medical donor matches.

[Federal priority statute]

n. Tribes and states should engage in joint activities such as the following:

1. Joint task forces should be established to study problems of service delivery regarding child support and to recommend approaches to addressing jurisdictional and service of process issues.
 2. Indian law committees of state bars or tribal courts should publish and disseminate tribal court handbooks with the objective of documenting ongoing communication with, and understanding of, tribal courts and tribal court personnel.
 3. State and tribal judges who preside in adjacent locations should meet periodically in short judicial councils, informally and routinely, to discuss tribal problems and issues regarding child support.
 4. Domestic Relations and Family Law Committees of local and state bar associations should study the problems of child support enforcement with respect to Indian children, especially those in Indian country, and invite tribal participation in developing remedies, and
 5. Tribal continuing legal education programs should include sessions on child support establishment and enforcement.
- o. The construction of the family as perceived by Indian children should be protected and preserved by the Indian courts. Consistent with the mandates of the Indian Child Welfare Act, in seeking solutions to child support problems, the courts should execute remedies which preserve the child's need for healthy contact with both parents, absent credible evidence to the contrary.

[Encouragement]

International Law

The Commission notes that over 2.4 million Americans live abroad, a significant number of whom has support obligations.³⁵ Historically, an obligor's relocation in a foreign nation made child support enforcement extremely difficult, time-consuming and expensive. There are also thousands of foreigners with offspring who reside in the United

States, who are U.S. citizens for whom support should be provided.

The United States has not signed any of the major treaties regarding international support enforcement. The United States is now considering whether to sign the Convention on the Recovery Abroad of Maintenance of 1956. If signed and ratified, the United

States would have a means to enforce an American support obligation abroad. The Commission recommends that the 1956 U.N. Convention be signed and ratified by the United States.

Pursuant to URESA, most states have reciprocal agreements with at least one foreign country or Canadian province regarding reciprocal enforcement of support orders. States do not have the power to enter into treaties. States enter into agreements of comity, where one state recognizes and honors another jurisdiction's procedures and orders. The 1968 version of URESA (RURESAs) includes foreign jurisdiction in its definition of state, allowing states to use the URESA process in international cases when the opposing party lives in a foreign jurisdiction that (1) has laws substantially similar to those of the state seeking enforcement; and (2) extends reciprocity to the American state's orders. In many states, the state attorney general is authorized to enter into reciprocal agreements by verifying the similar nature of the foreign jurisdiction's laws.

All states have reciprocal agreements with Germany and 43 states have reciprocal agreements with Great Britain. A majority of states has a reciprocal agreement with one or more Canadian province.²³ The Commission recommends that states vigorously pursue such agreements, especially in countries or provinces in which many American citizens live.

23 RECOMMENDATION

INTERNATIONAL CASES

a. States are encouraged to enter into statements of reciprocity with foreign nations and Canadian provinces for purposes determination, and the establishment, modification and enforcement of child support awards, under URESA.

b. The United States is encouraged to ratify the U.N. Convention of 1956.

[Encouragement]

Bankruptcy

For almost two hundred years, debtors have relied on the federal bankruptcy system to protect them from onerous debts. Congress enacted bankruptcy laws in 1800, and specifically added a non-dischargeability clause for alimony in 1903. Before 1903, the common practice was not to allow bankruptcy discharge of alimony debts. A debtor whose creditors seek more in payment than the debtor has available to collectively satisfy them may file a bankruptcy petition to stop (stay) enforcement. Giving debtors a fresh start is the cornerstone of the country's bankruptcy system. Depending on the type of bankruptcy, a debtor may be able to discharge debt completely, pay a percentage of the debt or pay the full amount of the debt over a longer period of time.

Several debts may not be discharged, including debts for child support and alimony.²⁴ This means that a debtor may not escape his or her support duty merely by filing a bankruptcy petition. However, it is wrong to conclude that a support debt is never affected by the bankruptcy filing.

Postpetition debts (debts incurred after the bankruptcy petition is filed) are not directly affected by the filing. Support that accrues after the filing is collectible from the debtor, although support creditors need to be mindful of the effect a bankruptcy stay has on collection techniques until the stay is lifted.

However, prepetition debts (accrued and charges before the petition is filed) may not be collected without approval of the bankruptcy court. A support creditor could seek the lifting of the bankruptcy stay to collect the arrearage. Without affirmative action on the part of the child support creditor, though, the stay remains in effect until the bankruptcy court decides to lift the stay. In fact, a child support creditor may be sanctioned for con-

²¹ See, e.g., *Worcester v. Georgia*, 31 U.S. 576 (6 Pet. 515 (1832)). See also Cohen, *Handbook of Federal Indian Law* 241-2 (ed. 1982).

²² California, Minnesota (except for Red Lake Reservation), Nebraska, Oregon (except for Warm Springs Reservation), and Wisconsin (except for Menominee Reservation).

²³ See *Kennerly v. District Court*, 400 U.S. 423 (1971). Ten states (Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington) accepted some degree of jurisdiction over Indian country.

²⁴ Pub. L. No. 90-209, Sections 201-70 (82 Stat. 73, 77-81 (codified at 28 U.S.C. sections 1301-1341)).

²⁵ M. Haynes, and J. Melvin, *Tribal & State Court Reciprocity in the Establishment & Enforcement of Child Support* (U.S. Dept. of Health and Human Services 1991), p. 28.

²⁶ See, e.g., *Billie, et al. v. Abbott*, 16 Indian L. Rep. 603 (1988); *State of Iowa, ex rel. Dept. of Human Services v. Whitebreast*, 309 N.W.2d 460 (Iowa 1987).

²⁷ See, e.g., *McKernan County Social Services Board v. V.G.*, 392 N.W.2d 399 (N.D. 1986), cert. denied, 480 U.S. 930 (1987).

²⁸ Haynes and Melvin, *supra* note 26.

²⁹ Haynes and Melvin, *supra* note 26.

³⁰ At the time of the agreement, Washington already had legislation authorizing any State agency to enter into a cooperative agreement with a federally recognized tribe for their mutual advantage and cooperation. See *Intercultural Cooperation Act*, Wash. Rev. Code ch. 39.34 (1972 and Supp. 1991).

³¹ See Hansen, *supra* note 19.

³² See 45 C.F.R. sections 302.101, 303.107, 304.210, and 305.300.

³³ 45 C.F.R. section 303.107.

³⁴ U.S. Bureau of the Census, *Statistical Abstract of the United States: 1991* (1991).

³⁵ G. DeHart, *International Enforcement of Child Support and Custody: Reciprocity and Other Strategies* (1986).

³⁶ *Boz, Alimony and Child Support: Are They Dischargeable in Bankruptcy in the Fifth Circuit?*, 58 Miss. L.J. 155, 157 (1983).

³⁷ 28 U.S.C. section 1333(a)(5) (1988).

³⁸ *Id.*

³⁹ *County of Santa Clara v. Ramirez*, 45 F.2d 1494 (9th Cir. 1986).

⁴⁰ See *In re Stouff*, 701 F.2d 1133 (9th Cir. 1983); *Ohio v. Jones*, 94 B.R. 100 (N.D. Ohio 1988); *Oregon v. Richards*, 45 B.R. 81 (D. Or. 1984).

⁴¹ In Chapter 13 cases, almost all assets of the debtor are considered part of the estate.

⁴² See *Caswell v. Long*, 757 F.2d 600 (4th Cir. 1985); *In re Pacana*, 120 Bankr. Rep. 19 (9th Cir. BAP 1991).

F

Robert F. Kennedy
Member of Congress

103D CONGRESS
1ST SESSION

H. R. 1961

IN THE HOUSE OF REPRESENTATIVES

for herself, and Mr. Meehan, Mr. Barlow, Mr. Lewis of
Mrs. KENNELLY introduced the following bill; which was referred to the Georgia, and
Committee on _____ Mr. Moran

A BILL

To improve the interstate enforcement of child support and
parentage court orders, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CON-
4 TENTS.

5 (a) SHORT TITLE.—This Act may be cited as the
6 "Interstate Child Support Act of 1993".

7 (b) REFERENCE TO SOCIAL SECURITY ACT.—Except
8 as otherwise specifically provided, wherever in this Act an
9 amendment is expressed in terms of an amendment to or

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1 “(28) provide that the State must treat inter-
2 national child support cases in the same manner as
3 the State treats interstate child support cases.”.

4 **TITLE V—COLLECTION AND**
5 **DISTRIBUTION**

6 **SEC. 501. PRIORITIES IN DISTRIBUTION OF COLLECTED**
7 **CHILD SUPPORT.**

8 (a) STATE DISTRIBUTION PLAN.—Section 457 (42
9 U.S.C. 657) is amended by adding at the end the fol-
10 lowing:

11 “(a) Beginning on September 1, 1984, the amounts
12 that a State collects as child support (including interest)
13 pursuant to a plan approved under this part, other than
14 amounts so collected through a tax refund offset, shall
15 (subject to subsection (d)) be paid—

16 “(1) first to the individual owed the support or
17 (if the individual assigned to the State the payment
18 of the support) to the State, to the extent necessary
19 to satisfy the current month's support obligation;

20 “(2) then to the individual owed the support, to
21 the extent necessary to satisfy any arrearage that
22 accrued after assistance with respect to the child
23 under this title ended;

24 “(3) then, at the option of the State—

Conference of Chief Justices
Conference of State Court Administrators

OFFICE OF GOVERNMENT RELATIONS

National Center for State Courts
1110 North Glebe Road, Suite 1090
Arlington, VA 22201-4795
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President

Jean A. Turnage
Chief Justice
Supreme Court of Montana

March 18, 1994

President

Joseph C. Steele
State Court Administrator
Nebraska Administrative Office
of the Courts/Probation

Mr. Bruce Reed
Deputy Assistant to the President for Domestic Policy
Old Executive Office Building
17th & Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. Reed:

At their recent midyear meetings, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) jointly adopted the enclosed *Policy Statement on Child Support and State Courts*. Within the context of our Policy Statement, CCJ also passed the enclosed *Resolution In Support of the Uniform Interstate Family Support Act*.

If you should have any comments or questions, please contact our Washington staff, Maria Schmidt at the Office of Government Relations of the National Center for State Courts (703) 841-0200.

Sincerely,



Chief Justice Michael F. Cavanagh
Michigan Supreme Court
Chair, Conference of Chief Justices
Courts and Children Committee



Lowell L. Groundland, Director
Delaware Administrative Office of the Courts
Chair, Conference of State Court
Administrators Courts Children and Families
Committee

Enclosures: *CCJ/COSCA Policy Statement On Child Support And State Courts*
CCJ Resolution in Support of the Uniform Interstate Family
Support Act (UIFSA)

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Supreme Court of Montana

RESOLUTION XI

In Support of The Uniform Interstate Family Support Act

WHEREAS, in August 1991, the Conference of Chief Justices concluded that the support of children, one-quarter of whom now live in single parent households, is basic to the health of our nation and that enforcement of child support orders is an area of law which must be viewed as a priority for judicial case management; and

WHEREAS, presently interstate child support enforcement cases, about 30% of cases nationally, are the most difficult and complex child support cases to resolve and have the poorest collection record, largely due to a lack of uniformity in multiple litigation of court orders across state lines; and

WHEREAS, in August 1992, the National Conference of Commissioners on Uniform State Laws approved and recommended to the states for enactment The Uniform Interstate Family Support Act (UIFSA), developed by the Uniform Law Commissioners and which provides for a clear efficient method of interstate case processing when parents live in different states; and

WHEREAS, the overriding principle of UIFSA is that only one valid child support order will be in existence at any one time, making the child's "home state" dominant in establishing priority for conflicting jurisdictions, a reasonable solution to long-standing interstate jurisdictional conflicts that have often been a refuge for those avoiding payment of court-ordered child support;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices approves the principles imbedded in the model Uniform Interstate Family Support Act; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices urges each state legislature to approve, in its present or similar form, the Uniform Law Commissioners' Uniform Interstate Family Support Act.

Adopted by the Conference of Chief Justices at the Seventeenth Midyear Meeting in Sea Island, Georgia, on February 10, 1994.

CONFERENCE OF CHIEF JUSTICES CONFERENCE OF STATE COURT ADMINISTRATORS

POLICY STATEMENT ON CHILD SUPPORT AND STATE COURTS

Effective administration of child support is vital to children and families who depend on it, and by extension, to society at large. Achieving this goal requires a determined effort by government agencies, communities and courts who must work in an integrated manner and as equal partners. The Conference of Chief Justices and the Conference of State Court Administrators, as the leadership voice for state courts, are committed to participating in this mission.

Since the inception of the Title IV-D program, federal legislation and resulting regulations have not recognized the proper role of state courts in the child support system. While this role varies from state to state, there needs to be consistent recognition by Congress and federal regulatory agencies that the state judiciary is an important partner in the child support system.

Public policy, and funding to support the policy, must balance the needs of administrative and judicial entities and reflect the different service delivery methods that exist. Ideally, judicial involvement in child support ought to be focused on those functions where it will have the most impact in a cost and time efficient manner. Where administrative services are more effective, they ought to be used.

The Conference of Chief Justices and the Conference of State Court Administrators are committed to work for needed legislative and regulatory reforms, and support:

- ◆ federal policy recognizing state courts as partners in identifying problems and solutions in the child support area;
- ◆ realistic incentives, rather than unfunded mandates, designed to improve intrastate and interstate child support enforcement services; and

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CLAUDE L. BULLER
PRESIDENT

October 7, 1993

Mr. Bruce Reed
Deputy Director, Domestic Policy
Office of the President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Reed:

Thank you for spending so much time with me and my colleagues recently to discuss the Administration's child support initiative. We fully support your goal of having a welfare reform bill to the Congress by next January. We believe that establishment of paternity is a key to effective welfare reform. Early establishment can lead to father/child bonding, more money for supporting our children, and less government welfare spending. As we discussed during our meeting, we should set a goal for 100% paternity establishment by the year 2000. While ambitious, I think such a focus would have important benefits in creating public support for welfare reform.

I believe you should have received a letter from Darryll Grubbs dated September 30. In addition to Mr. Grubbs' points, I would like to suggest that if the Administration determines that a national initiative is not appropriate for whatever reason, you consider authorizing several pilot programs in selected sites which would encompass both AFDC and non-AFDC mothers.

Thank you again for meeting with us. I look forward to assisting you and the Administration however we can.

Sincerely,

Claude L. Buller

CLB/lm

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CS

MEMORANDUM

TO: BRUCE REED
FROM: JULIA MOFFETT
DATE: AUGUST 9, 1993
RE: STEERING COMMITTEE MEETING

Attached is the agenda for this morning's presentation on paternity establishment as well the weekly issue group status report.

The outline accurately follows the flow of the discussion which ensued. Paul described the many problems currently encountered in paternity establishment: the process doesn't start until the mother goes on welfare; there are few incentives for IV-D agencies as well as mothers and fathers to participate--the mothers' fear of violence from the fathers, the fact that many mothers' lives have moved on, and that the pay off for them tends to be low; and finally, cooperation is infrequent--agencies claim mothers don't give them enough information and mothers claim agencies are unhelpful. Paul stated that they are currently seeking more information on this last point.

There are many proposals being discussed to address these problems. One of the most frequently discussed is the idea of funding incentives and the granting of Federal Financial Participation to states that create new innovative, successful methods of identification. This was one of several suggested measures intended to empower states to come up with innovative programs on their own.

In addition to funding incentives, completely new procedures were discussed. Expanding voluntary acknowledgement of paternity in hospitals and setting up systems at pre-birth doctor's visits was one recommendation. Additionally, a less popular procedure of giving IV-D agencies the authority to conduct blood tests was visited. New educational and outreach programs designed to change perceptions and make paternity a more valued part of our society are also being explored.

Lastly, the discussion ended with a look at new modes of responsibility in this equation. The intention is to separate the responsibilities of the mother from those of the agencies, requiring that mothers provide the name of the father, social security number, etc...upon the birth of their child. If the mother chooses to withhold that information, there were discussions of withholding many things ranging from housing subsidies to AFDC to food stamps to the ability to write off your child on your income tax statement.

This led steering committee members to comment that this system would only work for current AFDC recipients at which point David and others agreed that if a mother seemed a likely recipient of welfare in the future, she could be required to adhere to these standards and have her future AFDC delayed if she did not. David's strong feelings on the matter were derived from a belief that every child deserves to know who its father is and that a two year delay in trying to compile that information makes the task close to impossible. David

acknowledged the potential conflicts with the right to privacy, yet felt that when a mother exercises that right in this instance, society is left "holding the bag".

As I mentioned earlier today, several people raised serious concerns with this approach, claiming it's okay to hold states accountable not the individuals--"It may be true that a child deserves to know who its father is, but a woman does not have an obligation to share the information with the government."

The conversation ended with most people acknowledging that the Family Support Act already requires paternity acknowledgement but that it doesn't contain any "sticks" which make people adhere. The group agreed to continue to look at both "sticks"--either incentives or disincentives-- as well as to have a follow-up conversation regarding some of the deeper philosophical issues inherent in this issue. There was agreement that this issue is one of the underpinnings of the policy to be developed and needed much further attention.

CHILD SUPPORT ENFORCEMENT AND INSURANCE
August 9, 1993

Paternity Establishment

Problems

- Lack of attention
- Does not start until the mother goes on welfare
- Process
- Lack of incentives for IV-D agencies, mothers and fathers
- Cooperation?

Possible Solutions Under Consideration.

- New paternity measure
 - Performance standards
 - FFP
 - funding incentives
- Process changes
 - Expand voluntary acknowledgement
 - Administrative procedures, administrative process
- Education and outreach
- Clear Responsibility
 - Holding the mothers more responsible
 - Stricter cooperation requirement
 - Possible sticks
 - Holding the IV-D agencies more responsible
 - Determining cooperation
 - Strict timelines to sanction or establish paternity