

### 10,000 New Child Support Workers

At a recent meeting of child support advocates and state staff, several barriers were cited as obstacles to collecting more child support:

- 1) States aren't investing enough money -- even though two thirds of state costs are funded by the federal government, many states are not investing adequate resources in their child support efforts. Research shows there's a correlation between child support staff resources and child support collections. However funding alone is not the issue -- the state of Ohio doubled its child support funding and increased its collection rate from about 25 to about 30 percent.
- 2) State political structures interfere with efficient operations. In many states, the state, the counties, and the district attorneys all play a role, creating many bureaucratic procedures. The agency that collects child support is often not rewarded with the incentive funding the state earns for its performance.

To help overcome these obstacles, we could propose to fund 10,000 new child support workers, but make them available only to states that agree to certain structural reforms. States could fill some of these positions with former welfare recipients or fathers who owe child support. This increase of 10,000 child support workers would increase child support staff by about 20 percent.

### Exclude from Medicare Doctors that Owe Child Support

We have two health related child support proposals: 1) to exclude doctors and other providers who are delinquent in child support from the Medicare program, i.e., don't allow them to bill services to Medicare and 2) provide health professional loans only to those who attest that they do not owe child support. Legislative changes would be needed for both of these.

### Child Support Law Enforcement Initiative

This initiative will increase the prosecution of egregious child support violators by establishing multi-agency investigative teams to identify, analyze, and investigate cases for prosecution. This investigative effort will result in more cases being referred to the U.S. Attorney offices ready to prosecute. HHS's Office of Child Support Enforcement, Office of the Inspector General, and Office of Investigations, working with state and local law enforcement and child support agencies, have already launched a pilot project in Columbus Ohio, which will cover 5 states (Illinois, Indiana, Michigan, Minnesota, and Ohio). This proposal would put these units in place all across the nation within the next several years. Additionally, it would provide paralegals dedicated to child support cases to the 83 U.S. Attorneys offices that do not now have them. In July, you signed into law the Deadbeat Parents Punishment Act, creating two new categories of felonies for the most egregious child support evaders. (Cost: about \$10 million over 5 years).

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## United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-8350

February 2, 1993

CHILD  
SUPPORT -  
IDEAS

The Honorable Bruce Reed  
Deputy Assistant to the President  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Bruce:

I understand you are handling child support issues for the Administration so I am writing to solicit the Administration's support for another of Senator Bumpers' initiatives, his Child Support Tax Equity Act, which is about to be reintroduced.

This bill has enough sides to it so that it fits well in the President's economic stimulus, investment or deficit reduction bills or in an Administration child support initiative.

It provides financial relief to mothers and kids where the father is not paying child support -- the mothers receive a bad debt deduction for the amount of child support not paid. This means it could be included in the stimulus or investment bills.

According to the Joint Tax Committee it cuts the deficit by \$47 million over five years in a progressive way by imposing a tax on the fathers who cannot collect child support -- a discharge of indebtedness. This means it could be included in the deficit reduction bill.

This is the only practical proposal that will guarantee a cash payment to these mothers and kids. Every other child support bill puts more pressure on fathers to pay -- which might or might not lead to more payments -- or proposes to Federalize the payment process -- which will break the bank.

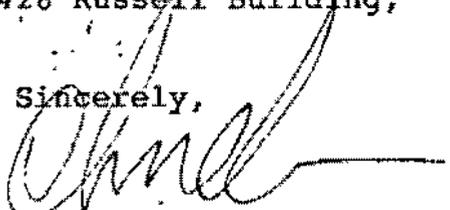
It is consistent with every other proposal to increase enforcement. The fathers remain obligated to pay the full amount owed, so it does nothing to discourage full enforcement. It's endorsed by a whole range of child support groups.

It's another of those innovative bills that I try to produce for Bumpers and Congressional Democrats.

A copy of our Dear Colleague on it is enclosed for your review.

I look forward to working with you on this and other initiatives. I can be reached at 202-224-3095; 428 Russell Building, Washington, D.C. 20510.

Sincerely,



Chuck Ludlam

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## United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-8360

January 21, 1993

### Child Support Tax Equity Act of 1993

Dear Colleague:

This letter solicits your support as a cosponsor of legislation we will shortly reintroduce to provide tax equity between the custodial parents, principally mothers, who are unable to collect child support due to them and the non-custodial parents, principally fathers, who refuse to pay the support they owe.

This bill was introduced last year as S. 2514, was cosponsored on a bipartisan basis by 22 Senators, and was included in the Senate Finance committee version of H.R. 11, the Revenue Act of 1992. A list of the cosponsors of the bill in the last Congress is attached.

This bill puts cash directly into the hands of the families that are not receiving the child support payments to which they are entitled. We support other child support bills that focus on enforcement of child support orders and these bills may eventually increase payments of child support, but this bill guarantees that these families will receive additional financial support while they await these payments and even if they never receive these payments.

This financial support for families and children does not cost the government anything and does not aggravate the budget deficit. In fact, the Joint Tax Committee has found that this bill raises \$47 million on a net basis over six years, so the bill helps to reduce the budget deficit.

The bill has two interrelated provisions.

First, a business that cannot collect a debt can take a bad debt deduction, but a mother who cannot collect the child support that is owed to her cannot. This is wrong and the Child Support Tax Equity Act will correct this inequity by permitting mothers to take a bad debt deduction for the amount of the child support they cannot collect.

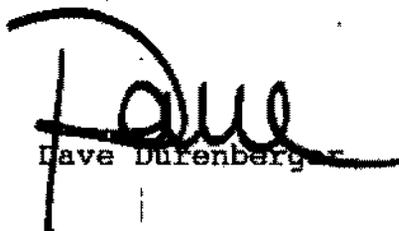
Second, when a lender discharges the debt of a borrower the borrower is taxed on the amount of the debt that is discharged, but a father who fails to pay child support pays no tax on his windfall gain. This is wrong and the Child Support Tax Equity Act will correct this inequity by requiring fathers to pay income tax on the amount of the child support debts that they refuse to pay.

The bill raises revenue on a net basis because fathers tend to be in higher tax brackets than mothers. The bill applies the revenue gain to reduce the budget deficit.

This is a bill that provides tax equity. It will help families in distress and penalize those who are responsible for this distress. The bill provides an additional weapon to use in attacking the national crisis with unpaid child support. And it helps to reduce the government budget deficit.

If you have any questions about the legislation or would like to cosponsor the legislation please have your staff contact Chuck Ludlam of Senator Bumpers' staff at x43095 or Katherine Freiss of Senator Durenberger's staff at x43244. An outline of the legislation and the anti-abuse provisions and a case study of how the legislation works are attached for your review.

We intend to introduce the legislation the week of January 25.



Dave Durenberger

Sincerely,



Dale Bumpers

LIST OF COSPONSORS OF S. 2514  
IN 102ND CONGRESS

Bumpers  
Durenberger\*

Nunn  
Grassley\*  
Levin  
Shelby  
Lieberman  
Breaux\*  
Inouye  
Reid  
Kerry  
Fowler  
Dodd  
Glenn  
Domenici  
Robb  
Harkin  
DeConcini  
Sanford  
Conrad\*  
Simon  
Burns

\* Member Senate Finance Committee

## Outline: Child Support Tax Equity Act of 1993

Bill uses tax law regarding bad debt deductions and discharge of indebtedness to help parents who cannot collect child support and to prevent windfall for parents who do not pay child support.

### Bad Debt Deduction

- \* Clarifies that taxpayers, principally mothers, who are not paid child support owed to them to take a bad debt deduction for the amount of the child support that is not paid.
- \* Deduction is allowed for taxpayers who do not itemize their deductions. Above the line deduction.
- \* Bad debt deduction is allowable up to \$5,000 in unpaid child support per child per year. Threshold is indexed for inflation.
- \* Deduction is allowable only if taxpayer's adjusted gross income does not exceed \$50,000 per year. Threshold is indexed.
- \* Deduction is allowable for any periodic payment of a fixed amount that is required to be paid.
- \* Requirement for payment to be made must be found in a legally enforceable agreement, decree or order. Encourages taxpayer to obtain enforceable child support right.
- \* No deduction is allowed for first year in which payments are not made. Encourages taxpayers who owe or are owed child support to work out initial problems with payments.
- \* In subsequent years, the deduction is allowable only if at least \$500 in child support payments have not been paid. Once threshold is exceeded, full amount of non-payment is deductible.
- \* The taxpayer claiming the deduction must identify the children with respect to whom child support payments are required to be made and, to the extent possible, the taxpayer who is required to make these payments. Same standard as in welfare reform law.
- \* The deduction is allowed for child support payments to any child for whom an exemption for a dependent is allowable.
- \* If the child support payments for which a deduction has been taken subsequently are paid the mother must include payments as taxable income in the year in which they are paid.
- \* Mother is not barred from seeking to collect the child support that is owed by father. Value of deduction is only 15% or 28% of value of payments, so mother has incentive to seek collection of full amount rather than simply taking deduction.

### Discharge of Indebtedness

\* Requires taxpayers, principally fathers, to pay tax on the amount of any child support payments they do not make as a discharge of such indebtedness. Prevents windfall for fathers who fail to pay child support.

\* When mother claims bad debt deduction, father is notified by the mother or the I.R.S. of the amount of the unpaid child support payments and that he must include this amount in his gross income on his next tax return.

\* If the father subsequently pays the child support that is due, he may claim a deduction for such payments in the year in which they are paid.

\* Minimal I.R.S. burden involved. Taxpayer claiming deduction must have legally enforceable order and record of non-payment. Taxpayer who allegedly has failed to make payments may dispute obligation to pay or provide records of payments. A simple and objective process. Current penalties for fraudulent tax claims prevents abuse.

### Budget Impact of Legislation

\* Joint Tax Committee finds that tax provisions of the bill raise \$47 million in revenue over a six year period. This is true because fathers, who pay tax, are in higher tax brackets than mothers, who claim deduction.

### Policy Issues With Legislation

\* A mother who cannot collect a child support debt should be treated the same for tax purposes as a businessman who cannot collect a debt. This is simple equity.

\* A father who refuses to pay child support payment debt should be treated the same for tax purposes as a borrower who is discharged from a debt by the lender. This is simple equity.

\* Legislation gives mothers incentive to obtain legal order requiring payments to be made and gives fathers incentive to make payment to mother rather than to I.R.S.

\* Legislation helps children of families where no child support payments are made. It penalizes fathers who fail to make required child support payments.

\* Discharge of indebtedness for fathers pays for bad debt deduction for mothers and helps to reduce the deficit.

Child Support Tax Equity Act of 1993:  
Multiple Anti-Abuse Provisions

The Child Support Tax Equity Act of 1993 contains multiple anti-abuse provisions.

1. Legal Obligation: Child support obligation must be a payment that is "required to be paid to such taxpayer during such taxable year by an individual under a support instrument..." (Page 4, lines 4-6). The "support instrument" must be "a decree of divorce or separate maintenance or a written instrument incident to such a decree, " "a written separation agreement," or another decree "of a court or administrative agency requiring a parent to make payments for the support or maintenance of one or more children of such parent."

2. Type of Payment: The payment must be a "periodic payment of a fixed amount" or "payment of a medical or educational expense, insurance premium, or other similar item."

3. Cooling Off Period: No deduction is allowed for the first year in which child support payments are not made.

4. De Minimis Non Payment: No deduction is allowed unless at least \$500 in child support payments have not been made.

5. Identification Requirements: The taxpayer claiming the deduction must give the I.R.S. "the name, address, and taxpayer identification number" of each child with respect to whom child support is owed. The taxpayer claiming the deduction must give the I.R.S. the "name, address, and taxpayer identification number" of the person who owes the child support if this information is "known" to the taxpayer.

6. Dependents: The taxpayer may only claim the deduction for a child which that taxpayer may claim as a dependent (not older than 19 unless is a student, in which case can be 24 years old).

7. Automatic Audit: When the taxpayer claims the bad debt deduction taxpayer who has allegedly failed to make payment is notified of obligation to pay tax on discharge of indebtedness. Taxpayer who has allegedly failed to make payment is given chance to show that no obligation exists or that payment has been made.

Child Support Tax Equity Act of 1993:  
Case Study of How Deduction and Debt Discharge Works

Following is a case study of how the bad debt deduction and discharge of indebtedness would work.

1. In early 1992 a mother obtains child support order for one child.
2. Father fails to pay \$5,000 in child support in 1992.
3. No deduction for mother allowed on her 1992 tax return because occurs during first year. This first year is a cooling off period when mother and father can attempt to work out satisfactory and reliable payment of obligations.
4. But, father fails to pay child support in 1993 and at end of the year he owes \$5,000 to mother.
5. Mother may claim deduction for \$5,000 on her 1993 tax return for payments not made by father in 1993. Her tax return claiming the deduction is filed with I.R.S. on April 15, 1994.
6. I.R.S. gives notice to father in May of 1994 that he must pay tax on \$5,000 discharge of indebtedness on his 1994 tax return. Father is now obligated to pay tax on \$5,000 discharge of indebtedness on his 1994 tax return (to be filed by April 15, 1995).
7. Despite this I.R.S. notice with regard to the discharge of indebtedness for his failure to make child support payments in 1993, the father fails to pay child support in 1994 and at end of year he owes another \$5,000 to the mother.
8. Father pays tax on \$5,000 discharge of indebtedness on his 1994 tax return (filed by April 15, 1995) or is subject to enforcement penalties for failing to pay tax that is due.
9. Mother claims deduction for \$5,000 on her 1994 tax return for child support payments not made in 1994. Her tax return claiming the deduction is filed with the I.R.S. on April 15, 1995.
10. I.R.S. gives notice to father in May of 1995 that he must pay tax on \$5,000 on discharge of indebtedness on his 1995 tax return. Father is now obligated to pay tax on \$5,000 discharge of indebtedness on his 1995 tax return (to be filed by April 15, 1996).
11. In June of 1995 the father decides to pay the \$5,000 in child support owed for 1993 and the \$5,000 child support owed in 1994. He makes all payments on time thereafter.
12. On her 1995 tax return (filed on April 15, 1996) the mother

pays income tax on the \$10,000 she has received from the father (offsetting the value of the deductions she had taken on her 1993 and 1994 tax returns.

13. On his 1995 tax return (filed on April 15, 1996) father takes \$5,000 deduction for child support payment made to the mother (canceling out the \$5,000 tax on the discharge of indebtedness for 1993).

11. Also on his 1995 tax return (filed on April 15, 1996) father pays \$5,000 tax on discharge of indebtedness for child support payments not made in 1994 and takes \$5,000 deduction for payment of same in 1995 (the deduction offsets the tax due).

12. Mother gets no bad debt deduction on 1995 or subsequent tax returns. She is paid child support on time and in full.

13. Father is not taxed on discharge of indebtedness on 1996 or subsequent tax returns because he now pays all child support payments on time and in full.

Chart Outlining Above Case Study

	<u>Mother</u>	<u>Father</u>
1992	No deduction.	No pay \$5,000 in child support.
1993	Takes \$5,000 deduction on 1993 tax return.	No pay \$5,000 in child support. Given notice by I.R.S. to pay tax on discharge of indebtedness on his 1994 tax return.
1994	Takes \$5,000 deduction on 1994 tax return.	No pay \$5,000 in child support. Given notice by I.R.S. to pay tax on discharge of indebtedness on his 1995 tax return. Pays tax on \$5,000 discharge of indebtedness for 1993 or faces penalties.
1995	No deduction.	Pays \$10,000 in child support due for 1993 and 1994. Pays \$5000 in child support due for 1995 on time and in full

1996

No deduction.

Pays tax on \$10,000  
in child support  
payments made for  
1993 and 1994

Takes deduction for \$5,000  
payment for 1993.

Pays tax on \$5,000 discharge of  
indebtedness for 1994 but  
takes deduction for payment of  
\$5,000 for 1994 (offsetting  
transactions)

1997

No deduction.

No tax on discharge of  
indebtedness.



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CS IDEAS

September 30, 1993

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

Dear Bruce,

I greatly appreciated your taking the time last Monday to meet with me and Claude Buller, President of Genetic Design, Inc., and Greg Gill and Chuck Dolan of Cassidy and Associates.

Based upon our communications during the last two years, I know of your interest and commitment to improving child support enforcement. Nothing is more important to this effort than paternity establishment.

As we discussed, two federal initiatives could make paternity establishment a top priority of all state and local IV-D agencies. The first step would be to make all administrative costs relating to IV-D agencies' efforts to establish paternity eligible for enhanced (90 percent) federal funding. Currently, only costs of parentage establishment testing and automated child support systems development are eligible for these enhanced federal IV-D funds.

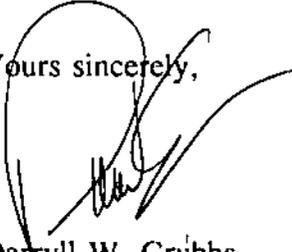
The second federal initiative that would improve paternity establishment efforts would be a federal mandate that state paternity establishment laws must include DNA testing, and that DNA testing can include testing of, not only blood, but other "bodily fluids and tissue."

This requirement would make the use of buccal swabs possible in all fifty states, permitting paternity testing immediately following the birth of a child while the parents are still present and available for testing.

We are developing legislation to implement these two proposals, and will forward a copy to you. We are very anxious to have the support of the Administration for these two initiatives.

Again, thank you very much for the opportunity to visit about this issue. Please let me know if I can provide additional information about this or any other material pertaining to child support enforcement.

Yours sincerely,



Darryll W. Grubbs  
President

cc: Claude Buller, President, Genetic Design, Inc.  
Greg Gill, Vice President, Cassidy and Associates  
Chuck Dolan, Senior Vice President, Cassidy and Associates

THANKS BULLER!  
HOPE TO SEE YOU  
REMN SON.

**CHILD SUPPORT ISSUE PAPER**

**DRAFT 8/11**

**OVERVIEW**

Child Support is a critical component for ensuring economic stability for millions of single-parent families. Research points clearly to the economic risks of raising children without the support of two parents. While many single parents can and do raise their children well on their own, the financial burden from serving as the family's sole provider can be devastating. Unfortunately, however, the present child support enforcement system too often fails to ensure that the financial support for these families comes from *both* parents.

This paper addresses both the growing need for adequate support enforcement throughout the country as well as the problems and complexities plaguing the child support system today.

**BACKGROUND**

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 mothers 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 fell from 69 million in 1970 to 65 million in 1991, the number of children affected by divorce, separation and unwed parents continued to rise. Over the last three decades, increasing numbers of children

have faced life in a single-parent family -- in 1991, 14.5 million children under the age of 18 lived in a female-headed family, more than double the number in 1960 (Table I). This means that now *nearly one out of every four children is 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 in the 1980s will spend some time in a single-parent family*.

The rise in single parent families affects all economic classes as well as all races. Eighty percent of all African American children, 43 percent of all Mexican-American children, and 36 percent of all white children will spend at least some time in a single-parent family before reaching age 16.

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. Now, the number of divorced parents has almost tripled since 1970, while the number of never-married parents has grown more than twelvefold. Overall, nearly one half of all marriages end in divorce and over one million children are born out of wedlock each year. Of these newly formed single-parent families, a large majority -- 86 percent -- are headed by women.

Despite the high rate of divorce, which has remained fairly steady since the mid 1980s, this recent rise in one-parent families is attributed largely to the dramatic growth in out-of-wedlock births during the 1980s (Table II). The number of unwed mothers increased by 64 percent since 1980. As a result, *one out of every four children in the United States is now born out of wedlock*.

Broken down by race, 67 percent of all black mothers compared to 20 percent of all white mothers and 37 percent of all Hispanic mothers gave birth to children out of wedlock in 1990. However, despite the higher rate for black women, births to unmarried women rose much faster for white women during the 1980s -- actually doubling for white women while rising 43 percent for black women.

Contrary to what many people believe, however, most of these out-of-wedlock births are not to teenage mothers. Unmarried teen mothers, age 19 or younger, were responsible for only about a third of all out-of-wedlock births in 1991. In fact, the proportion of all births to unmarried women has increased for all ages except for young teens ages 15 to 17; while the rise in nonmarital birth rates for women between the ages of 25 to 39 in particular has had the greatest impact on nonmarital childbearing.

### **Single-Parent Families Are Much More Likely to Be Poor**

The most disturbing aspect of these trends is that *children in female-headed families are five times more likely to be poor*. 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 growing up in a single-parent family will live in poverty at some point during their first ten years of life. Also, these children are much more likely to remain poor longer. According to a recent study, children raised in a single-parent family are at very high risk of facing long-term poverty -- as many as 61 percent will live in poverty for at least seven years compared to only two percent of all children growing up in a two-parent family.

Teen mothers, who are the least likely to receive child support and paternity services, are particularly susceptible to a lifetime of poverty. According to a 1988 Children's Defense Fund report, 73 percent of unmarried teens received welfare within four years of giving birth. A Wisconsin study also found that only 20 percent of single, teen mothers pursued paternity establishment; and only one in ten of these young mothers ever received child support, compared to one in four older mothers.

Household characteristics clearly have a major impact on a family's economic well-being. Studies show that children born to never-married mothers are much more likely to live in poverty than those living with divorced or remarried mothers. And many single

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

This low income status of female-headed families is not surprising when one parent is suddenly expected to do the job of two. Because many non-custodial parents fail to provide financial support, single parents must serve the difficult and dual role as both nurturer and provider. Full-time work must be balanced with the need for child care, the management of daily crises including sick children, doctor's visits, and school holidays, as well as every day obligations such as packing lunches and putting dinner on the table. These responsibilities, coupled with traditionally low wages, limit seriously how much a woman can earn. According to 1990 Census data, the average annual income for all working, single mothers is only \$13,092 insufficient to raise a family of four out of poverty.

And noncustodial parents often provide little assistance. As Table III shows, single mothers often become the sole financial contributors to the family. While 91 percent of fathers in married-couple families contribute more than \$2,500 in earnings to their families annually, and 64 percent have earnings greater than \$20,000, *less than 6 percent of fathers to families headed by the mother contribute more than \$2,500 annually.* Thus, a typical, single mother only receives a total of \$1,070 a year in both child support and alimony. Such payments, taken alone, are rarely enough to support a child. In fact, a recent governmental study estimated that the average cost to raise a child under age 18 ranges from \$3,930 to \$5,860 per year.

## THE CURRENT STATE OF CHILD SUPPORT ENFORCEMENT

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 Structure of the Child Support Enforcement System**

The present child support enforcement program, operated at the State and local levels, is overseen by the Federal government through the Office of Child Support Enforcement (OCSE). OCSE provides technical assistance and funding to States to operate IV-D child support programs -- so called because of their location in Title IV-D of the Social Security Act.

State IV-D programs must provide child support services to all IV-D cases -- both AFDC recipients (who must assign all rights to child support over to the State) and all individuals requesting assistance from the State to secure and enforce their support obligations. Non-IV-D cases -- all other cases not included in the IV-D system -- are handled through private arrangements. It is now estimated that as many as one half or more of all collections come through the IV-D collection system, 30 percent of which are AFDC collections. (Precise estimates are not possible since cases outside of the IV-D system are not tracked).

### **The Evolution of the Child Support System**

Historically, family law was 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 even operated child support programs. The enactment of the Child Support Enforcement program in 1975, requiring each State to develop its own IV-D child support program, was the first in a series of steps taken by Congress that began to influence significantly 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. Most significantly, the Amendments required States to make child support services available to *all* children regardless of their welfare status.

The Family Support Act of 1988 further strengthened the Child Support program by requiring major changes in State practices including standards for paternity establishment, immediate income withholding from noncustodial parents, presumptive support guidelines for setting child support awards, and the periodic review and adjustment of IV-D orders. Also, to improve process efficiency and to bring States up to date technologically, the Act required States to develop automated systems statewide by October 1, 1995 for the tracking and monitoring of child support cases.

### **Child Support Enforcement Today**

Many observers credit the series of Federal acts and mandates on the states for the significant improvements in child support enforcement from where the system would otherwise be. Total IV-D collections are on the rise -- increasing from 3.9 billion in 1987 to 6.9 billion in 1991. And total paternities established has risen from 269,000 in 1987 to 515,000 in 1992.

Still, despite these improvements, States in many respects are simply treading water. Even though States are showing marked improvement in collections, in relative terms gains have only been modest. The dramatic rise is due primarily to the growing number of parents choosing to handle their child support cases through the government rather than exchanging the support privately (Table IV).

The mean child support payment due, the mean amount received, and the per capita payment received has virtually remained unchanged over the past decade. See Table V.

And even though the IV-D agencies are establishing more paternities, in part because of rising out-of-wedlock births, the overall percentage remains poor. In 1986, paternity was established for approximately 28 percent of all births; today the percentage has only risen to about 34 percent.

The fact still remains that very few eligible women report receiving consistent child support payments. Of the 10 million women potentially eligible for support, 42 percent do not have a child support award in place (Table VI). And the total has changed little over the last decade, actually increasing by two percentage points over the period. This means that the fathers of 4.2 million families have no legal obligation to provide any support to their children.

There is also no guarantee that those noncustodial parents with a legal obligation will actually pay. Only 26 percent of all the women potentially eligible had an award in place and received the full amount they were due, while 12 percent had an award but received nothing. In other words, *over half of all women potentially eligible for child support (5.4 million families) received no payment at all.*

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, of those that do, only 25 percent 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, and their child support payments, when received, tend to be lower. Only 24 percent of never-married women were awarded child support compared to 77 percent of divorced women (Table VII). And, of all never-married women, only 15 percent actually received support payments with an average amount received of just \$1,888 annually, compared to 54 percent of divorced women who received an average amount of \$3,322 a year.

Because most States lack adequate support enforcement and many noncustodial parents find a way to get off the hook, there is an immense gap between the amount that is currently due in child support (\$16.3 billion) and the amount that is actually collected (\$11.2) -- currently five billion dollars a year. And this only takes into account awards now in place. If all those potentially eligible for support received an adequate award, and all awards were updated to reflect the noncustodial parents' current ability to pay, the potential gap is estimated to be at least \$25 billion annually (Table VIII -- to be revised).

### 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 sorely 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 often 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, <sup>only</sup> not because it will save welfare dollars, though it will, but because children have a fundamental right to support from 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 provide for their family's needs adequately and without relying upon welfare.

## PROBLEMS WITH THE CHILD SUPPORT ENFORCEMENT SYSTEM

In order to bring about the necessary changes in the child support system, we must better understand where the system is failing the Nation's children and the barriers to further improvements.

### **Lack of Paternity Establishment**

Paternity establishment is the first, crucial step towards securing an emotional and financial connection between the father and the child. Without this connection, the child is 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, but also to less quantifiable benefits such as the value to the child of knowing his or her father, an opportunity for extended family ties, and access to medical history and genetic information.

Despite these benefits, paternity is not established for the majority of children born out of wedlock. In fact, of a million out-of-wedlock births each year, only about one-third actually have paternity established (Table IX).

### *Barriers to Paternity Establishment*

Several possible explanations account for the low paternity establishment rate. As mentioned above, States are working against rapid trends towards 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 goes on welfare, paternity 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 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 often left on their own.

Those who do choose to establish paternity face many more hurdles. Despite changes in public laws and perceptions, current rules and procedures still often reflect archaic laws which made it a crime to parent a child out of wedlock. As a result, the process, which has typically fallen 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. Numerous layers of bureaucracy and several court hearings are often necessary to process even the most simple cases. (7)

While automation has begun to catch up with States -- States are required to be fully automated statewide by October, 1994 -- many are still plagued by delays in case tracking and processing. A number of States, such as Washington and Montana, have begun to make the process more of an administrative function, eliminating unnecessary steps and establishing paternity quickly for cases in which the father acknowledged paternity voluntarily or genetic tests prove a presumption of paternity with an extraordinarily high degree of accuracy.

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. However, recent research strongly suggests that the earnings of unwed fathers, although initially low, have the potential to rise significantly over time. Within a few years after birth, unwed fathers' earnings nearly match those of other fathers (Table X).

Experience indicates that timing is essential. 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 the information available. In fact, research has shown that the majority of births to young, unmarried parents are not the result of casual encounters, but instead, almost half of these parents were living together before the baby's birth. While 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.

Recent research, as well as the experiences of some States, have pointed to the hospital as one of the best places to establish paternity. One study of young parents found that two-thirds of fathers to children born out of wedlock actually come to the hospital for the birth and a large percentage feel that it is important for the father's name appear on the birth certificate. In addition, the State of Washington, which offers paternity establishment services in hospitals statewide, expects to have doubled the number of paternity affidavits signed between 1991 and 1988, before the program began. While only a few states are now attempting to establish paternity at birth, the Administration's paternity proposal as part of the Budget Reconciliation package will require all States to provide in-hospital paternity programs.

?

#### **Inadequate Child Support Awards**

Child support awards are often inequitable and inadequate and, in too many cases, the child's best interests do not always seem to be met. Until very recently, awards were left to the discretion of individual judges. Now, awards must be set based on State guidelines which have at least assured more uniformity *within* States. However, 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.

Further problems arise with the failure of child support awards to be updated to reflect the noncustodial parent's 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 sometimes the custodial parent as well). But parent's 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.

Non-updating of awards can hurt either parent. If custodial parents wish to have the award updated, the burden is placed on them to seek the change. If, on the other hand, the noncustodial parent's income declines, such as through a sudden job loss for which he or she has no control, that individual has 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 reflected this notion by requiring that, beginning in October of 1993, all orders be updated every three years for AFDC cases and at the request of non-AFDC cases. However, several major problems remain. First, States with court-based systems may have difficulty complying with the standard unless their procedures for updating undergo dramatic change towards a more streamlined, administrative system. In addition, non-AFDC parents still must initiate a review leaving the burden on the custodial parent to raise what is often a controversial and adversarial issue for both parents.

### Lack of Enforcement

Since so many noncustodial parents who owe support have successfully <sup>eluded</sup> ~~alluded~~ state officials, there is 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 have been tried successfully in a number of states -- reporting of new hires, 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.

Still, States often lack the necessary tools and resources to locate individuals and enforce orders across State lines. As the U.S. Commission on Interstate Child Support reported, some of the State's most difficult cases involve families which reside in different States. Because States do not have similar laws governing essential functions -- such as the

enforcement of support, service of process and jurisdiction -- handling interstate cases is far more time-consuming and complex and does not always achieve favorable results.

### Fragmentation

*caseload  
waiting list*

Before States can be expected to improve their records of enforcement and collection, the child support enforcement system must 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.

The present child support system involves every level of government and 54 separate State systems with their own unique laws and procedures. 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.

Individual cases are also treated differently depending on their status -- IV-D cases (including AFDC and non-AFDC cases) and non-IV-D cases (all non-AFDC cases) -- resulting in widespread inequities. Incentives designed to encourage States to assist AFDC cases have biased efforts inadvertently against non-AFDC cases. And the poor reputation of many child support agencies often deters many women from entering the system at all -- allowing those women who can afford to do so to handle their matters privately.

Further, cases that are particularly problematic to work are interstate cases where the noncustodial parent resides in a different State than the custodial parent. Because the coordination and handling of cases across State lines is much more complex, collection for interstate cases fares far worse than for those cases within a State. According to a recent

GAO report, even though interstate cases are just as likely to have awards in place, the chance of then receiving a payment is 40 percent greater for in-state versus interstate cases. This discrepancy raises a significant problem given that interstate cases represent almost 30 percent of all child support awards, yet only yield seven percent of all public collections.

## CHILD SUPPORT ENFORCEMENT AND INSURANCE

No

Child Support Enforcement and Insurance (CSEI or Child Support Assurance, as it is also called) is an idea that is beginning to receive more and more attention. CSEI is a program that would combine a dramatically improved child support enforcement system with the payment of a minimum insured child support payment if the non-custodial parent were unable to pay support. It is premised on the notion that parents have the primary responsibility for providing economic support for their children, irrespective of the parental relationship. But the program also recognizes that the burden of nonsupport from one parent should not be placed entirely on the custodial parent if the non-custodial parent is unable to fulfill his legal obligation.

Proponents argue that a CSEI system would reinforce work and family. Single mothers need a consistent level of support from the noncustodial parent if they are to maintain their own jobs and provide for their children. However, the reality for many low-income noncustodial parents is a tenuous job market caused by frequent layoffs and increasingly low wages. Since many single mothers alone cannot earn enough money to keep a family of four out of poverty -- it takes a good paying job, at least 50 percent above minimum wage, with medical benefits to escape poverty -- and support payments are often inconsistent or never received, welfare often becomes inevitable.

Researchers and advocates claim that a CSEI program would change the incentives for the custodial parent, making work a more realistic and viable alternative. Single-parents could combine earnings with an assured benefit without penalty -- currently welfare benefits

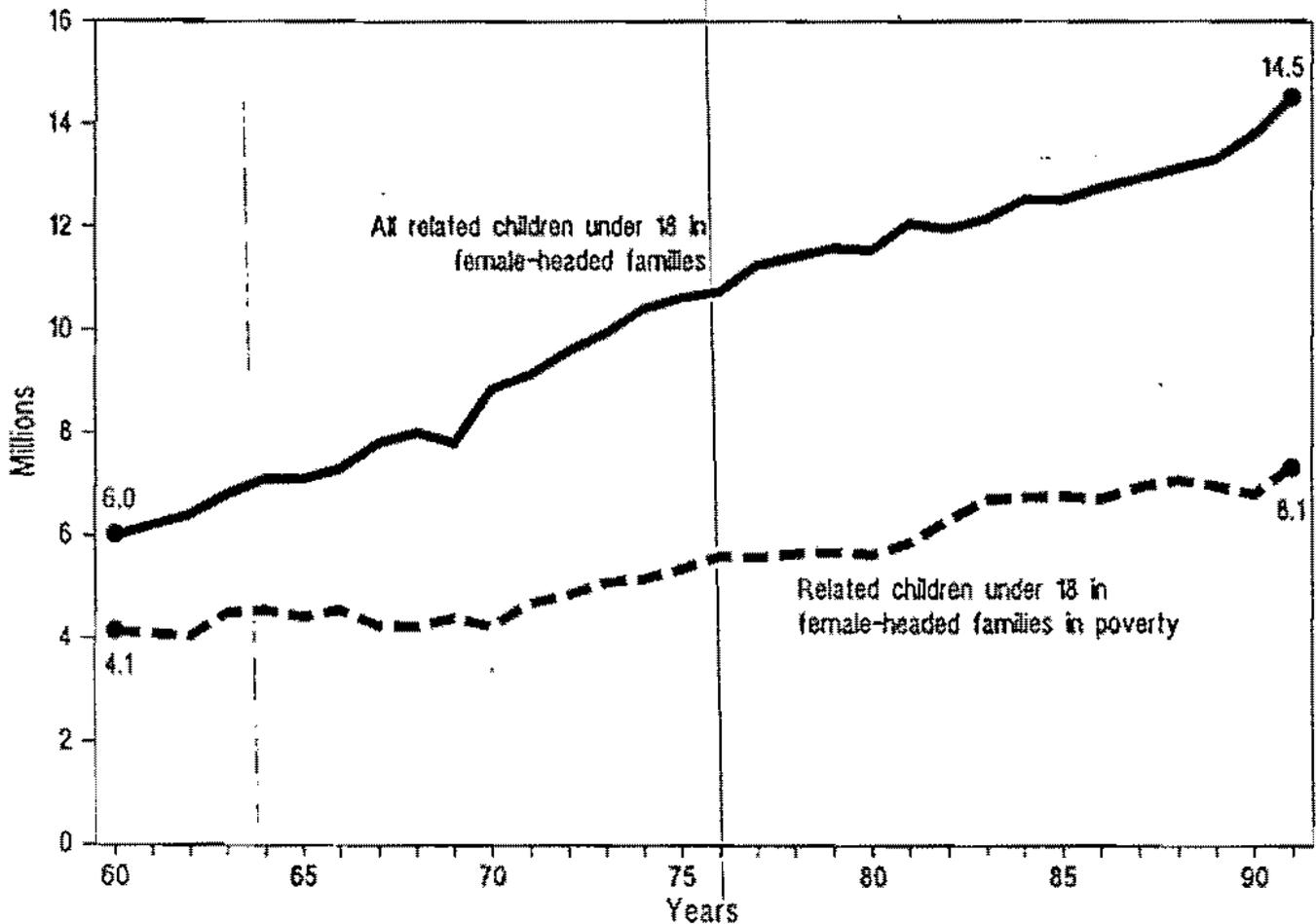
are generally reduced dollar for dollar with earnings -- increasing their opportunities and incentives to choose work over welfare.

On the other hand, some observers are cautious about the incentive effects that would be created by a CSEI program as well as the potential costs. They call for a slower -- demonstration first -- approach.

Table 1

# Children in Female-Headed Families

## "All Related" and "In Poverty"



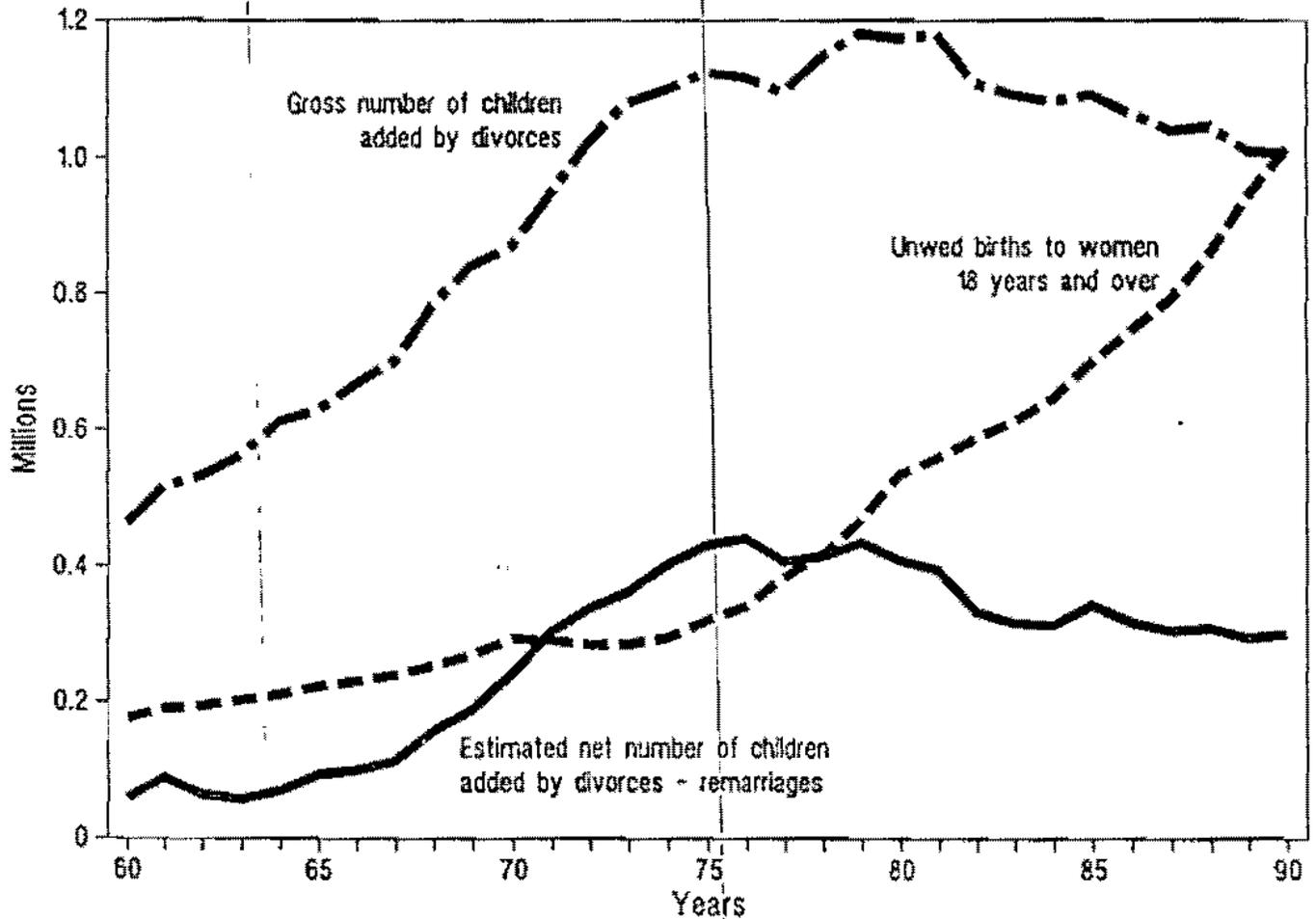
SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 181 and earlier reports.

- There is a large and increasing number of children in female-headed families
- A substantial proportion of the children in female-headed families is poor

Table II

# Gross Additions to Children in Mother-Only Families

## Annual Additions from Unwed Childbearing and Divorce Net of Remarriage



SOURCE: National Center of Health Statistics, *Vital Statistics of the United States*, annual and *Monthly Vital Statistics Report*, Vol. 41, No. 9, Supplement, February 25, 1993.

- Female-headed families are formed by divorce and by birth to unmarried mothers, but in recent years births to unmarried mothers have become the major contributor to the growth of female-headed families
- The trend is even more dramatic when remarriage is taken into account

Table III

## Distribution of Financial Contributions by Fathers & Mothers in Families with Children by Type of Family

In Some Cases, The Husband, Wife, or Female-Head Will Not Be the Biological Parent of the Children

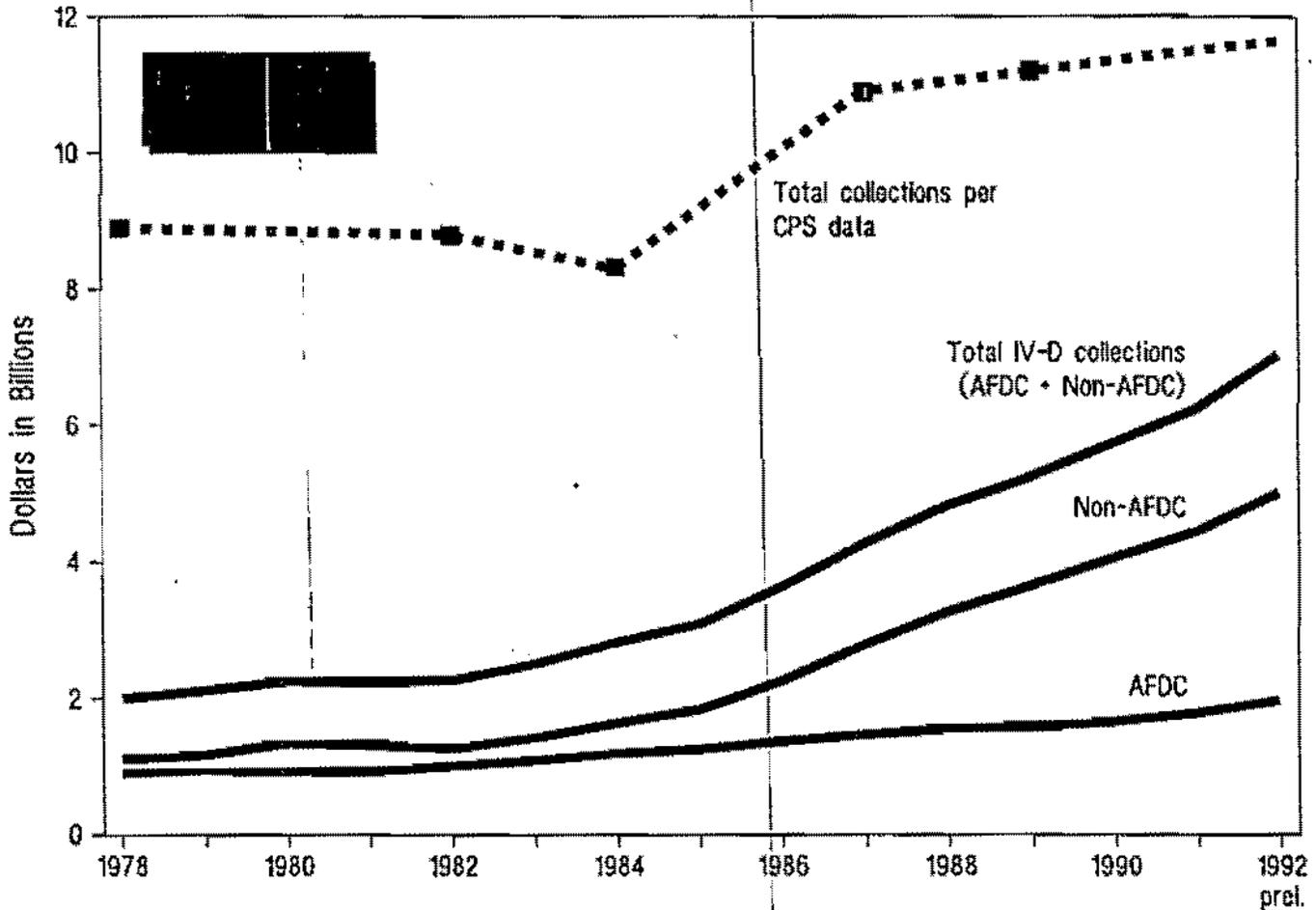
Contribution	Father's earnings in husband-wife families	Child support and alimony in female-headed families	Mother's earnings in husband-wife families	Mother's earnings in female-headed families
None	5.3%	65.4%	30.1%	31.4%
\$1 - \$2,499	1.9%	21.0%	11.2%	8.9%
\$2,500 - \$4,999	1.9%	8.0%	7.4%	5.5%
\$5,000 - \$9,999	5.8%	3.8%	14.2%	11.5%
\$10,000 - \$14,999	10.1%	1.0%	12.9%	13.1%
\$15,000 - \$19,999	11.1%	0.3%	9.7%	10.3%
\$20,000 - \$24,999	12.5%	0.2%	6.4%	7.1%
\$25,000 or over	51.6%	0.2%	8.0%	12.2%
Total	100.0%	100.0%	100.0%	100.0%
Overall average	\$27,983	\$1,070	\$8,696	\$10,452

- A primary reason for the low income status of female-headed families is that income is coming basically from only one parent

Table IV

# Total Distributed Collections

## Total & IV-D Collections (1989 dollars)



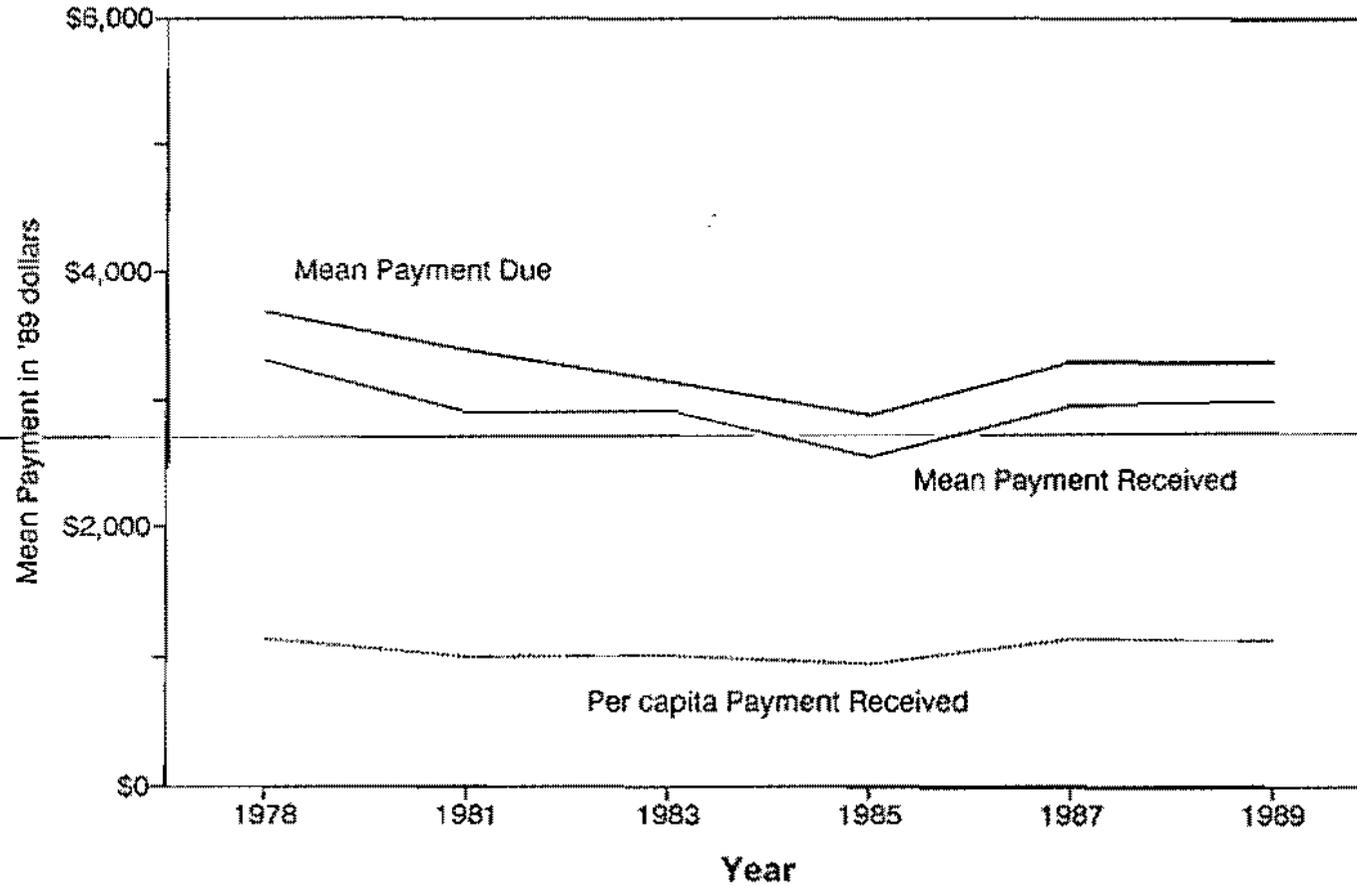
SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173.

- Child support is collected both inside and outside the IV-D system
- Total child support collections have risen, but only modestly in the last few years
- Child support collections through the IV-D system have risen dramatically, but that appears to result mostly from a movement of non-AFDC cases into the system

Table V

# MEAN CHILD SUPPORT PAYMENTS

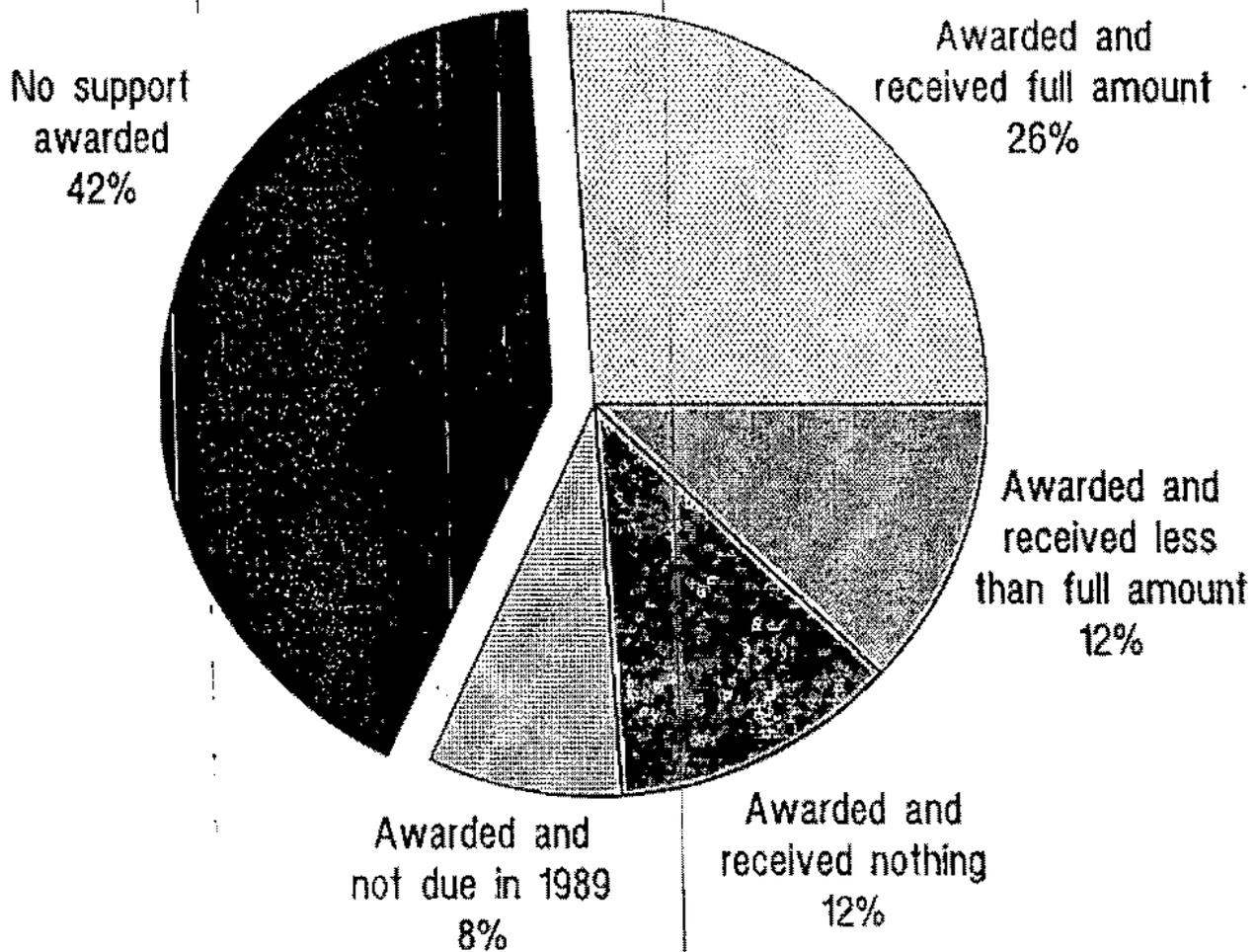
Women 15 years and older with own children under 21 years of age present from absent fathers as of spring 1990.



Source: U.S. Bureau of the Census, *Current Population Reports*, series P-23, No. 173.

Table VI

# Award and Recipiency Rates of Women



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

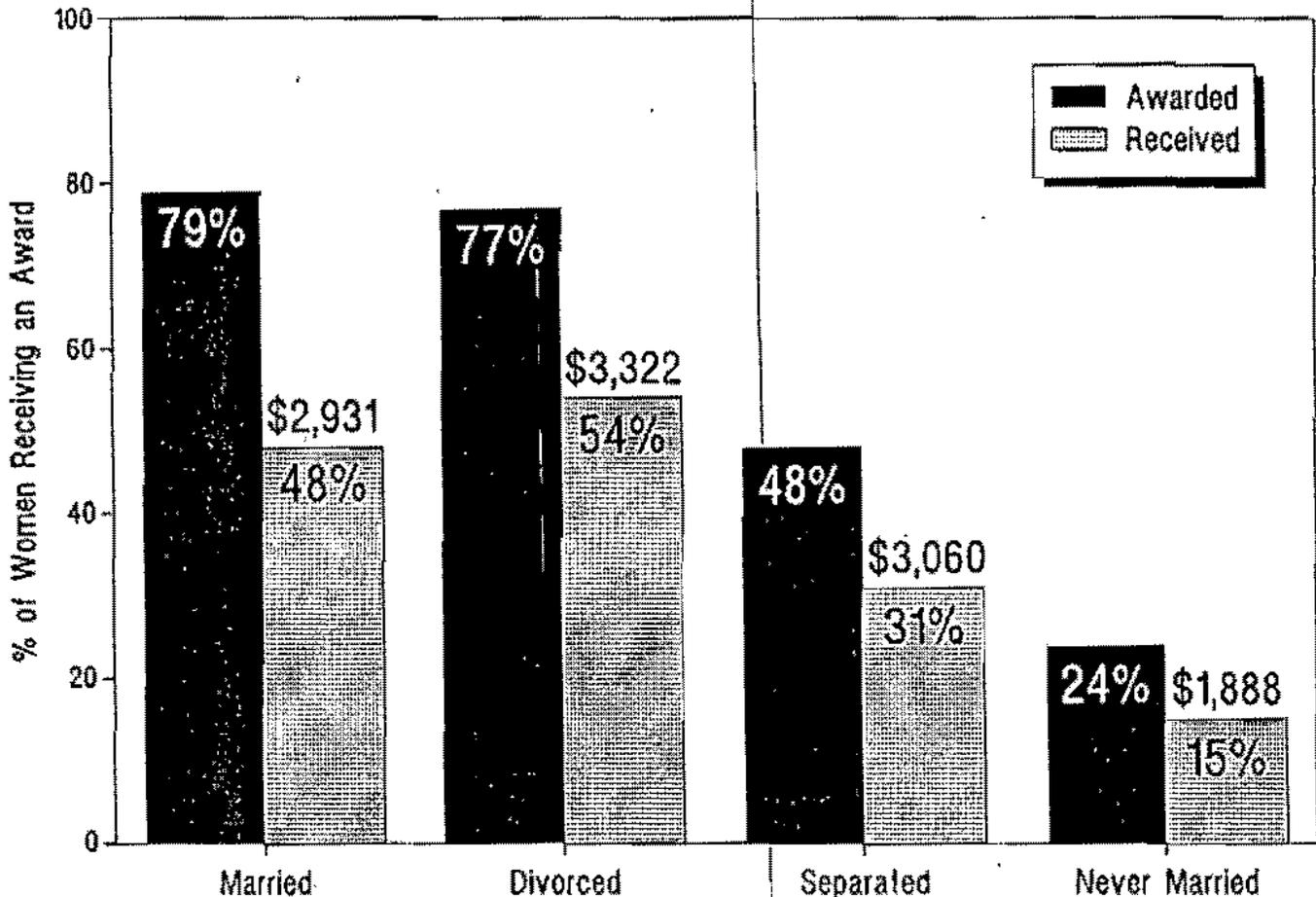
SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173

Of the 10 million women theoretically eligible for child support

- 42% had no award
- Only 26% had an award in place and received the full amount due

Table VII

# Child Support Payments Awarded and Received by Marital Status

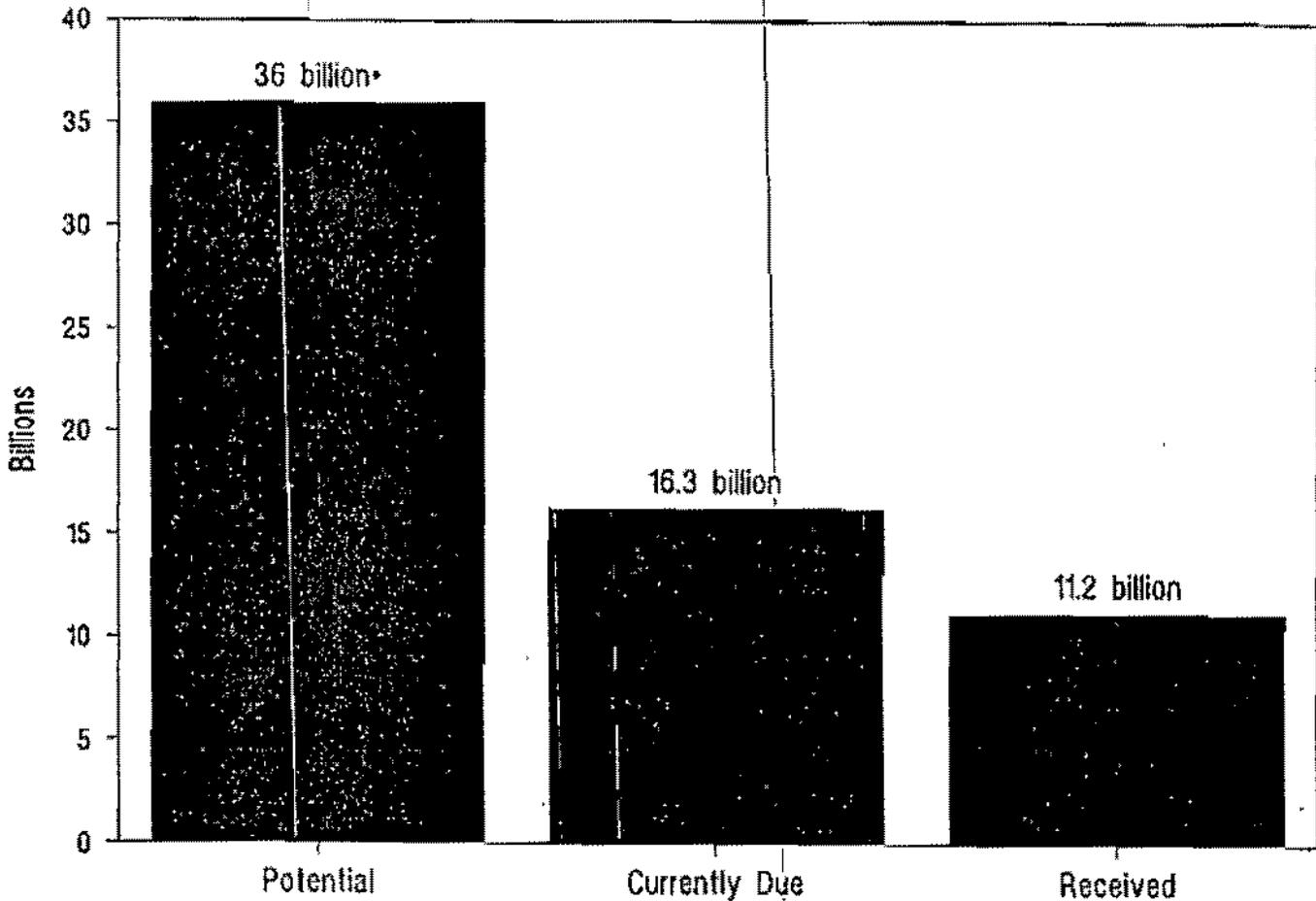


Women 15 years and older with own children under 21 years of age present from absent fathers as of spring 1990

SOURCE: U.S. Bureau of the Census, *Current Population Reports*, series P-60, No. 173

- Child support awards and amounts received vary dramatically by marital status
- Among never married mothers, the fastest growing segment of the single parent population, only 24% had awards, 15% received support and the average amount received was only \$1,888

# Table VIII The Collection Gap



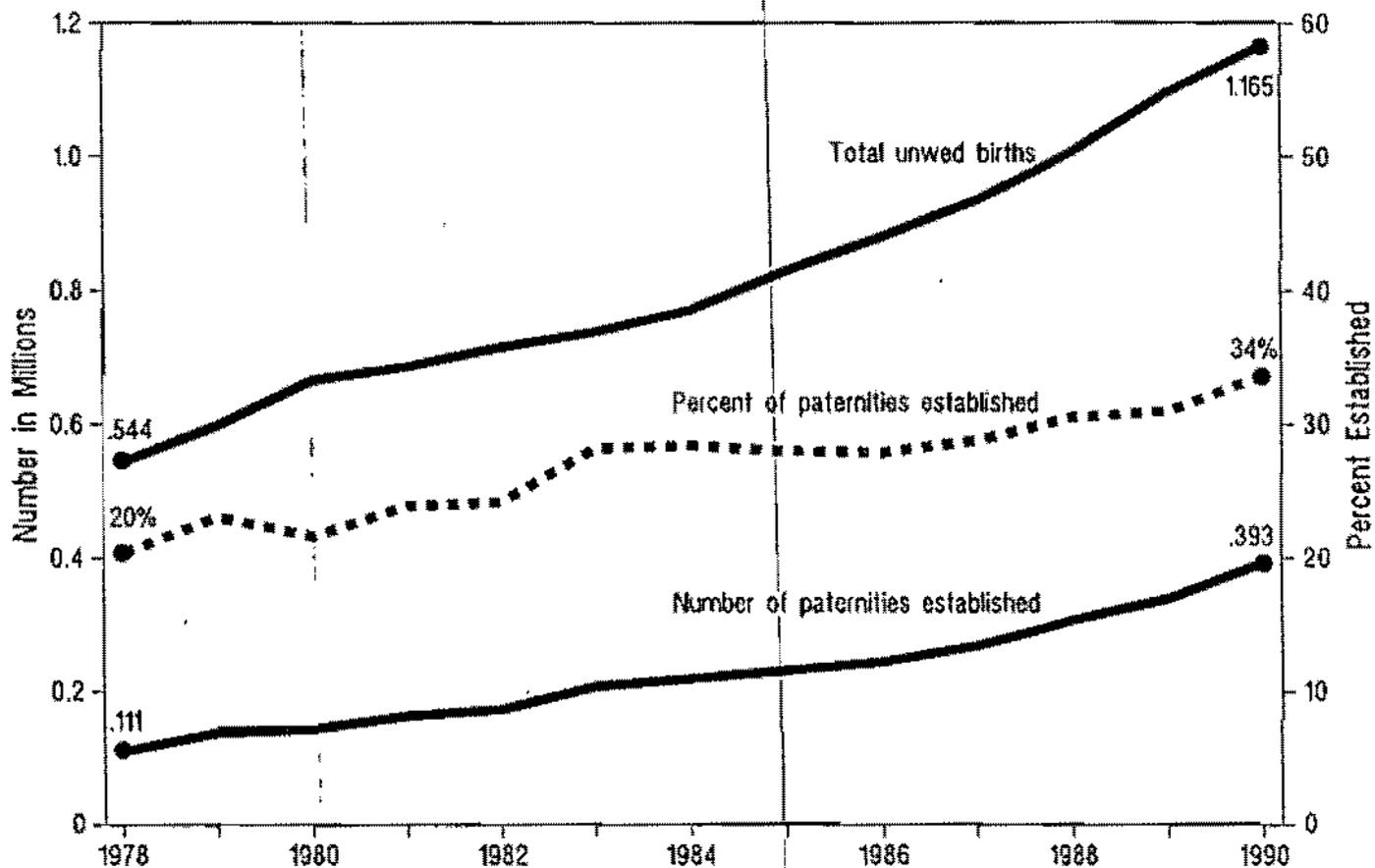
• 1983 estimate adjusted by CPIU

SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173

■ The potential for increased child support is very large

Table IX

# Unwed Births & Paternities Established

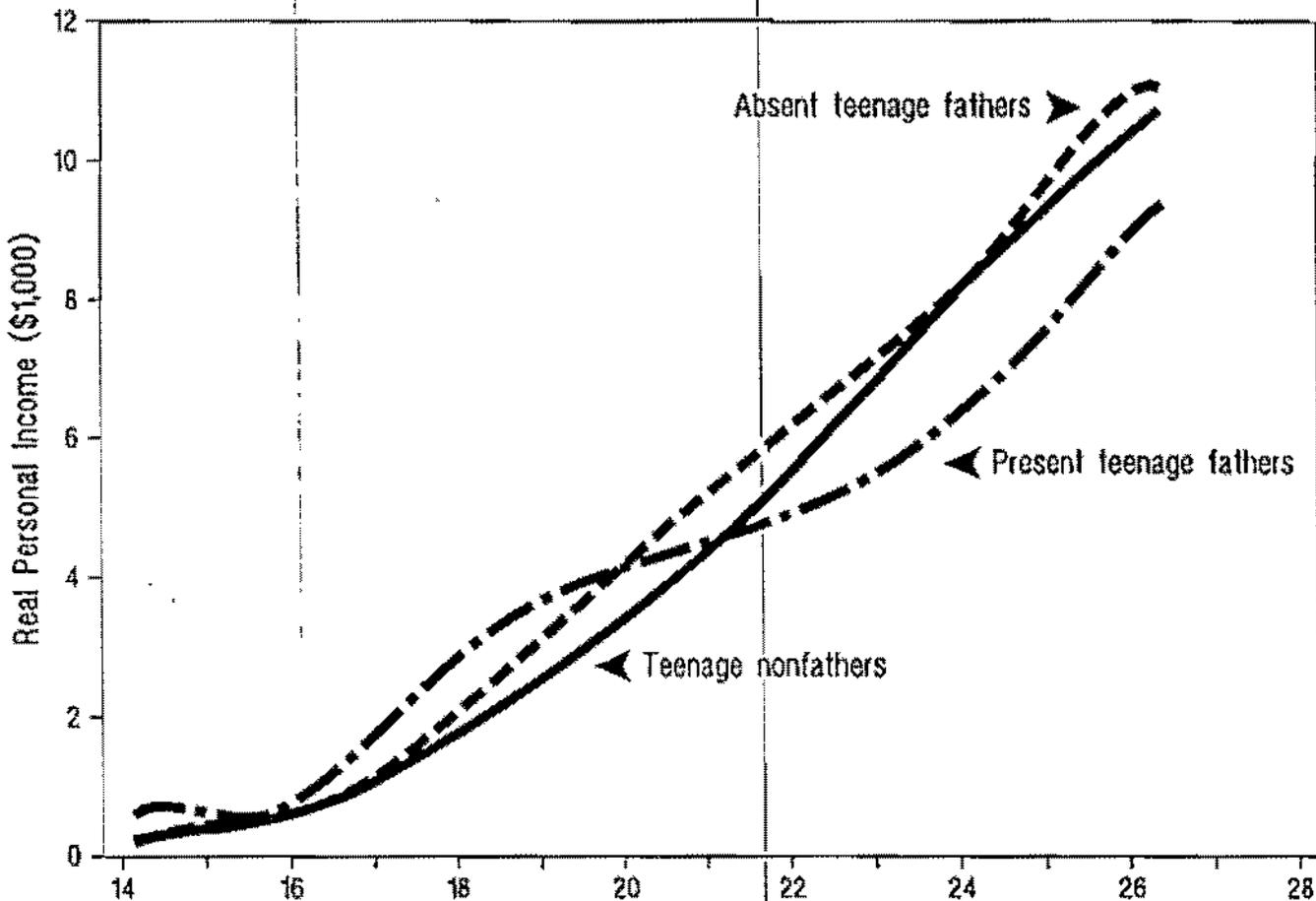


SOURCE: National Center for Health Statistics, Vital Statistics of the United States, annual and Monthly Vital Statistics Report, Vol. 41, No. 9, Supplement, February 25, 1993; Committee on Ways and Means, Overview of Entitlement Programs, 1992 Green Book.

- A major problem in child support is the establishment of paternity in cases of births to unmarried mothers
- Currently, paternity is established for only about a third of unmarried births; the percentage has risen only modestly in the last few years

*6% annual growth in unwed births*

Table X  
**Age-Earnings Profile for Teen Fathers**



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

- The child support system has historically paid little attention to unmarried fathers, especially teen fathers, because current earnings are so low
- Over time, however, even teen fathers develop the earning capacity to make contributions

File:  
CS

August 31, 1993

MEMORANDUM FOR PAUL LEGLER

FROM: BRUCE REED

SUBJECT: Comments on 8/11 Draft of Child Support Paper

Good job. The paper includes some very good stuff. With a little more work, it should attract some attention.

Here are my general thoughts, along with a few more detailed edits:

1. The paper should open with an introduction that summarizes the key findings in bullet form. If we're going to make news, we've got to spell out what is new. (I'll make a list.)

2. The theme of personal responsibility should appear throughout the paper. "People who bring children into this world have a responsibility to take care of them. Governments don't raise children; people do."

\*

August 24, 1993

To: Mary Jo Bane  
David Ellwood  
✓ Bruce Reed

From: Wendell E. Primus

Re: Comments on the child support issue paper

Attached is a preliminary version of our first working paper. I would like you to give comments to Paul Legler directly (the primary author along with Wendy Taylor) or myself by ~~8:00~~ on ~~Friday, August 27, 1993.~~

(for you!)  
Noon, Tuesday 8/31

In my opinion, the paper still has a ways to go, but before I give my comments to Paul, I thought you should also comment for there is no reason to have Paul make all of my suggested changes if you basically agree with the form of the current product.

In general, I feel the paper should be more academic. Numbers or facts should be footnoted but not to the standards of an economics journal or law review article. For example, an entire section where all the numbers are from one source could be noted as such. Graphs should be brought into the text and numbered in arabic form. Supporting numbers for each graph (for the aid and credibility of the press) should be put at the end in an appendix. The words defining the primary point of each graph should be removed; this may work for the large charts but is not appropriate for a written paper.

This paper is supposed to make the case for why our current system of paternity establishment and child support enforcement needs to be reformed. In addition, the paper should focus on how expensive the current system is to transfer only \$11 billion between private parties, the lack of an automated system, the incentives facing states to do a better job on interstate or paternity cases, the fact that the system is reactive instead of proactive and the amount of paperwork in the system. While some of these thoughts are in the paper, I believe they could all be better developed.

Ron Mincy is adding the section on the father's ability to pay. I will have a version of this late this week. There is a question of whether this should be one paper or two. Both Paul and I believe it makes more sense to merge the two papers, but you may believe differently.

MERGE

The vision for this paper is the case for child support enforcement and paternity establishment. Issues surrounding child support assurance should be left for a different paper.

YES

To get this paper out before the New Jersey hearing requires the following schedule:

August 27	Comments from Working Group Chairs
August 31	Circulate revised draft with ability to pay section to a wider audience (Steering Committee)
September 2	Comments due from above group; Two- to three-page release drafted by press office
September 7	New revised draft
September 8	Potential release date

cc: Howard Rolston  
Jeremy Ben-Ami  
Melissa Skolfield



HOUSE OF REPRESENTATIVES  
STATE HOUSE AUGUSTA 04333-0002  
287-1400

CS - Ideas

Sean F. Faircloth  
122 Maple Street  
Bangor, Maine 04401  
Legislative Toll Free:  
1-800-423-2900

July 23, 1993

Bruce Reed, Co-Chair  
Working Group on Welfare Reform  
Old Executive Office Building  
Room 216  
Washington, DC 20500

Dear Mr. Reed:

I understand the Working Group on Welfare Reform will be making recommendations to the President regarding national welfare reform proposals this fall.

I urge you to recommend Maine's new law (enclosed) as a model for the nation. This legislation allows for suspension of professional and driver's licenses of absent parents who disobey child support orders. Recently, Senator Moynihan was asked his top priority regarding welfare reform. His answer: "Make the daddies pay." As you know, delinquent child support is a chief cause of child poverty.

With this legislation, Maine's Office of Fiscal and Program Review projected \$9.7 million in savings for the State of Maine over the biennium which began July 1, and \$2.3 million in savings to the federal government over the same period. Maine only has 1.2 million people. Expansion of this program to a national scale would save billions of dollars. *Savings from AFDC?*

✓ ✕  
\$4/person/yr. state  
\$1 nationally

There has been an odor of chauvinism in federal welfare policy in recent administrations. The woman who cares for her child has been villified. Meanwhile, legions of absent parents (the vast majority of them men) pay not a dime in support with impunity. I served as Assistant Attorney General handling support cases. The problem (particularly with self-employed fathers not subject to wage garnishment) is rampant. The threat of license suspension will persuade many absent parents to obey child support orders.

Let me give you a brief history regarding this legislation. Republican State Senator Philip Harriman introduced a Governor's bill, LD 1514, the so-called "Deadbeat Dads" bill, and presented it to the Judiciary Committee on which I serve. Members of that committee were concerned that an absent parent's due process rights might be violated by the

District 118 Part of Bangor

ADD 1

legislation because the Department of Human Services (DHS) could proceed to a license suspension based upon an administrative hearing rather than a court proceeding.

I was assigned to a Judiciary Subcommittee to consider this issue. Though the due process concerns were legitimate, I thought they could be remedied. I contacted Deputy Attorney General Christopher Leighton, who supervises the Human Services Division in Maine's Office of the Attorney General. His expertise in Human Services issues is well respected. Deputy Leighton designed an amendment to LD 1514 that protects due process rights of absent parents. Most importantly, the amendment provides that a DHS license suspension action will be automatically stayed if an absent parent moves to amend the support order.

It works like this. Assume an absent parent has disobeyed an order of weekly child support for a period in excess of 90 days. DHS serves notice on the absent parent that it shall move administratively to suspend his license. The absent parent may move to amend the support order. If they so move, the DHS administrative action is automatically stayed. The absent parent must then convince a judge that circumstances have changed and he no longer has the ability to obey the court order. If the absent parent fails to meet his burden, the license suspension action may go forward.

I presented the amendment to the Appropriations Committee which incorporated LD 1514 with my amendment into Maine's biennial budget, LD 283.

Some states are considering making license suspension another sanction available in contempt. This method is certainly a step in the right direction, but the Maine version is preferable for two reasons. First, under contempt the burden is on the woman, the child and the taxpayers to prove contempt and secure the license suspension sanction. More justly, the absent parents should be required to explain why they disobey a court order.

Second, savings from using a contempt version would be much less. Florida estimated savings of \$530,000 for such a program, while Maine (one-tenth Florida's population) estimated far greater savings. States should be free to act administratively on the child's behalf while leaving it to the absent parent to go to court if they so choose.

As you know, President Clinton in Putting People First: A National Economic Strategy for America, emphasized that we must "crack down on deadbeat parents" by taking tough measures such as "reporting them to credit agencies, so they can't borrow money for themselves when they're not taking care of their children." The Maine license suspension plan is consistent with the President's vision that we should "take our responsibilities as seriously as our rights."

ADD 2

The Maine plan is designed, not to suspend thousands of licenses, but rather to create a credible sanction that will motivate deadbeat parents to pay up. The Maine license plan on a national scale would: 1) help hundreds of thousands of children; 2) protect the due process rights of absent parents; and 3) save billions of dollars. I urge you to study this plan and take this opportunity.

Sincerely,

  
Sean P. Faircloth  
State Representative

Enclosure

CS-Idrus

STATEMENT OF ROBERT F. FISLER, PRESIDENT

NEW JERSEY CHILD SUPPORT COUNCIL

BEFORE

THE WORKING GROUP ON WELFARE REFORM  
FAMILY SUPPORT AND INDEPENDENCE

September 9, 1993

On behalf of the Executive Board and over 800 members of the New Jersey Child Support Council (NJCS), I would like to thank you for giving me the opportunity to participate in this Public Forum addressing the important issues of welfare reform and child support.

My name is Bob Fidler and I am presently the Vicinage Assistant Chief Probation Officer in Camden County and am responsible for supervising the child support enforcement program in that vicinage. I am here as President of NJCS and my statements are made in the spirit of improving the child support program, especially as it may relate to welfare reform.

The NJCS is a non-profit corporation established to serve as the professional organization for all persons working in the field of child support or those individuals or groups interested in improving the delivery of child support services. Established in 1988, the major project of the Council is our annual training seminar which affords professionals throughout the state, as well as representatives from other jurisdictions the opportunity to network, exchange ideas and establish relationships to increase program efficiency. In addition, the training provided each year is timely to current issues and always well received.

While the issue of welfare reform and its direct relationship to child support enforcement could be perceived as cumbersome and an area which too difficult to approach, we applaud the work of this committee taking on this project and certainly look forward to providing you with any input you may need, either through this testimony or in the future. I am particularly pleased to see that your committee recognizes the fact that true welfare reform cannot take place without the inclusion of the child support program. A strong working relationship must be forged and maintained to insure that reform occurs and is long lasting.

If I was asked to put my recommendations into one phrase or sentence it would be "KEEP IT SIMPLE." While those of us working within the child support program are always faced with burdensome caseloads, often in excess of 1000, this is a complaint I am sure you have heard in the past, and, no doubt, will hear long into the future. This is a situation that can no longer be ignored and will be addressed in our recommendations for improving the child support program. However, after addressing the issue of workload, perhaps

the best reform that could occur would be to simplify the system within which the overworked caseload officer operates.

The biggest problem we face today, other than excessive workload and non-existent support for adequate resources to achieve our tasks, is the complexity of the regulations and enabling legislation that guide our every day decision making process. This system is in desperate need of a simplified standardization of the rules and regulations which must begin at the top of the bureaucracy and filter down to the line workers. As an administrator, I constantly hear complaints about "incompetency or complacency" from a very frustrated clientele, either obligors or obligees. As a practitioner in this field for over twenty (20) years, I can assure you that the staff performing this admirable task in New Jersey is neither of the above. The majority of our people are very dedicated, sincere and competent people. They are asked, however, to perform their assignments in an arena that is overburdened by rules and regulations designed to strengthen the program, but, in the end, probably weaken it and make it easier to avoid ones obligation. In view of these problems we offer the following recommendations for consideration, with the concept of **SIMPLICITY** being the basic foundation for change.

1. Establish a clearly defined and singular goal for the child support program. Then prioritize tasks within that program to achieve this goal and eliminate tasks which are counterproductive to this overall goal.
2. Establish a standardized maximum figure for child support caseloads and mandate programs participating in the Title IV-D Program to meet that standard.
3. Eliminate conflicting regulations that hinder workers from achieving maximum efficiency in their tasks directly related to the goal of the program.
4. Redirect incentive payments so that they are put directly into the child support program rather than becoming additional income to local governing officials who refuse to reinvest in program improvements.
5. Streamline interstate enforcement by mandating that employers honor income withholding orders from any state, thus eliminating the bureaucracy of interstate income withholding procedures. In addition, at this time the NJCSC would like to endorse the implementation of UIFSA, The Uniform Interstate Family Support Act, which has been recommended by the National Conference of Commissioners on Uniform State Laws. Perhaps the most frustrating cases to a diligent caseworker is one where they have performed every task to the best of their ability and the court in another state has not taken timely action to establish or enforce the order. Clients of the system do

not understand, nor do they care, that the local office has acted efficiently. It must be clearly understood by all committee members that states simply do not cooperate with each other as was the intention of current URESA legislation. In addition, the committee is urged to recommend that the UIFSA legislation be adopted by each jurisdiction verbatim in order to avoid the same situation from occurring again.

6. Mandate a nationwide, hospital-based paternity acknowledgment program similar to those which have been piloted and appear to be working successfully. This will facilitate faster and more efficient paternity establishment while saving valuable court time for the primary goal of establishing and enforcing support orders.

7. Eliminate or modify regulations which hinder caseworkers in the performance of their duties in an efficient manner such as confidentiality of Social Security Numbers of children on support orders. These numbers are often required by employers for medical coverage or by the IRS for an obligor's tax return. The current regulation requires the caseworker to stop all enforcement work while they attempt to obtain consent of the custodial parent to release these numbers to the obligor who, in our opinion, has every right to the number as the obligee.

To summarize, I believe my comments can be put quite simply. It is vital to give the child support program the necessary resources to complete all of the tasks identified as being part of the overall goal and to simplify the procedures so that the caseworkers can perform efficiently the tasks identified as necessary as meeting the overall goal of the program. In addition, simplification will assist our clientele, whether they are the obligee or obligor, to eliminate the myriad of red tape and regulations which are quite often frustrating and probably one of the leading causes of complaints against the program.

I also think it is vitally important that we not lose sight of the objective that keeps all of our programs running from day to day, namely our ardent desire to champion the cause of those who have no voice in the system, the children. We urge each of you to keep them in mind when making your deliberations and ultimately your recommendations to the Administration.

Again, thank you for giving me the opportunity to present this testimony on behalf of the New Jersey Child Support Council. We wish you well and certainly stand ready to provide any further input or information you may need.

## MEMORANDUM

TO: Bruce Reed  
 FR: Tim Fong  
 RE: Summary of State Child Support Proposals as reported in clippings  
 DT: 6/24/93

## New York

In April 1993, a bill passed the legislature which included the following proposals:

- Projected to save an estimated \$6.4 million by cracking down on absentee parents
- Would force parents covered by medical insurance to sign on their children
- Require an employer to withhold the pay of workers who fail to cover dependents
- Provide direct contact between the workers who deal with child support cases and the Department of Taxation and Finance
- Allow unmarried father to acknowledge paternity at the hospital, immediately upon the birth of the baby

## Arizona

April 1993 proposal from governor (failed in legislature):

- Change collections from a primarily judiciary process to administrative one
- ASU researchers find that non-custodial parents who feel they have a high degree of control in the lives of their children will pay for their support

## Massachusetts:

April 1993 Weld's administration introduced a bill:

- Would increase child support payments by \$95 million annually
- Cut the state's \$1 billion-a-year in welfare payments by \$60 million
- State Revenue Department would get power to inspect a wide range of records, including utility and credit-card billing lists
- Require banks and money-market fund managers to furnish financial information quarterly instead of annually
- Set up new procedures for the state to revoke the drivers' licenses and professional licenses of "deadbeat dads"
- Fathers of children born out of wedlock would be required to sign a sworn statement on child's birth certificate acknowledging they are the biological father
- New advisory committee including probate and divorce lawyers to oversee Revenue Department examiners who enforce child-support orders

Revenue Department has enacted additional policies:

- Post two "ten most wanted" posters of father owing tens of thousands of dollars in child support

?

- \* ● Wider use of computers to slap child-support items on state-issued unemployment and workers' compensation checks
- Require employers to send a copy of federal form within 14 days of hiring new employee

#### California

- Child-support enforcement would be transferred out of the hands of county district attorneys to a new state Department of Child Support Enforcement within the Health and Welfare Agency
- State administrative law judges would issue child-support orders according to state guidelines.

#### Minnesota

- Require insurance companies, banks and labor unions to help locate an absent parent
- \* ● Give counties a \$100 bonus for each paternity established, and \$50 for each modification of a child support order
- \* ● Allow any child support payment of more than \$100 that is more than 90 days late to be turned over to a collection agency, which could charge a fee of up to 30% of the amount due
- Require 10% interest on late payments
- Increase the fine for nonsupport from \$300 to \$700 while reducing the crime from a felony to a gross misdemeanor
- Allow judges to require either parent to enroll the child in a group health plan. Judge could require the noncustodial parent to pay \$50 a month for medical expenses or insurance
- Require parent to notify employer of any court-ordered health insurance requirements, and require the employer to withhold the premiums
- Raise from \$4000 to \$7500 the monthly income that is subject to child support under state guidelines
- \* ● Require the state to restructure the system to create informal statewide process that will not use attorneys

#### New Jersey

- Give state probation officers access to variety of records from public utilities, DMV, and State Treasury Department
- Penalties for nonpayment include suspension or revocation of licenses for such professions as law, medicine, plumbing and electrical work, truck driving, and hairdressing
- Impose restrictions on drivers' licenses, liens on motor vehicles, or required community service
- Intercept tax refunds
- Seize lottery winnings
- Confiscate settlements from class-action lawsuits

- Allow probation division to contract with private agencies to collect overdue support payments
- Make father's signature on back of a birth certificate legally binding
- Close loopholes in medical coverage
- Allow withholding of awards in civil suits for 30 days to determine if recipient owes child support

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**WORKING PAPERS**

MDRC WORKING PAPERS

CHILD SUPPORT ENFORCEMENT:

A Case Study

*CS-IDEAS*

Prepared as Part of the Parents' Fair Share Demonstration

Dan Bloom  
with  
Bridget Dixon

Manpower Demonstration  
Research Corporation

July 1993

This paper was prepared as part of the Parents' Fair Share Demonstration (PFS), a multi-site demonstration of programs providing employment and other services to unemployed noncustodial parents of children receiving welfare.

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The findings and conclusions in this paper do not necessarily represent the official positions or policies of the funders or the participating states. Interested readers may wish to contact the states listed in the appendix of this paper for more information on the program.

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## NOTE TO READERS

This paper describes a study of the child support enforcement (CSE) processes in two populous urban counties in a large state. The names of the state and the counties have been disguised for two reasons. First, the purpose of the study is not to assess the CSE program in any particular state, but rather to identify and describe generic issues that affect the system nationwide in order to inform future policy in this vital area. Although each state's CSE program operates differently, the issues identified in this paper probably affect all states to some degree. Second, the organizational structure of the CSE program in the study counties has changed in several respects since the last time researchers visited more than a year ago, and a new, highly sophisticated computer system has been implemented. Thus, in several respects, the paper does not describe the CSE program in the study counties as it operates today.

Thanks are due the child support enforcement workers and managers whose observations and insights make the quantitative data in this paper come to life. Staff gave generously of their time for interviews, patiently fielded follow-up questions, and helped in obtaining and interpreting child support enforcement casefile data. For obvious reasons, all of them cannot be named here, but their assistance is much appreciated.

This paper could not have been completed without the guidance and support of Fred Doolittle, who conceived and oversaw the study, conducted interviews, helped design the analysis, and commented on drafts. Gordon Berlin offered insightful comments on drafts, and Janet Quint played an important role in the project's early design. Patti Anderson and Adria Gallup-Black obtained and processed the computerized child support enforcement data. Maggie Sarachek, Corinne Helman, and Bob Winthrop coded CSE casefiles. Judith Greissman reviewed the paper and Pat Pontevolpe produced the tables. The members of MDRC's Committee on Employment Studies also offered helpful guidance. Particular thanks are due Phil Robins, Irv Garfinkel, and Barbara Paulin for their comments.

## PREFACE

This is one of a series of Working Papers that was inaugurated to supplement MDRC's publication of major research project reports. A wealth of thought-provoking analysis is being produced by social policy researchers that can both inform and augment demonstration and evaluation research. Our goal with this series is to provide a vehicle for examples of such work to reach the government officials, grantmakers, program administrators, and front-line service delivery staff who are grappling with the problems of poverty. The ideas and analysis presented in a Working Paper might represent early explorations, promising segments of larger, ongoing projects, or innovative methods of investigation. In all cases, however, they are featured because we believe they can contribute to the task of developing effective policies and programs to improve the lives of disadvantaged people.

Judith M. Gueron  
President

## I. Introduction

With child poverty and welfare receipt on the rise, policymakers have increasingly focused on child support as a critical source of additional income for children living in poor, single-parent families. During the past two decades, new federal laws have sought to improve the performance of states in collecting child support, especially for children receiving Aid to Families with Dependent Children (AFDC), the nation's major federally funded cash welfare program.

In 1991, a consortium of private foundations and federal agencies<sup>1</sup> and the Manpower Demonstration Research Corporation (MDRC) initiated a new 9-state pilot project – the Parents' Fair Share Demonstration (PFS) – which focuses on a vital aspect of the child support problem: unemployment or unstable employment among the noncustodial parents (generally the fathers) of children on AFDC, which prevents these individuals from making regular support payments. PFS programs provide employment services, training, and other assistance to unemployed noncustodial parents, with the goal of increasing their earnings and child support payments.<sup>2</sup>

In preparation for PFS, MDRC conducted background research on a variety of topics relevant to the demonstration in a number of states. Some of these states later became part of the demonstration and others did not. One component of this effort was a small-scale study of the child support enforcement (CSE) process in two urban counties in a large state (referred to in this paper as "the State" or the "study State"). It focuses on cases where the children eligible for support were receiving AFDC. The two study counties – which will be referred to as "County A" and "County B" – had particular relevance to PFS because, during part of the period under study, both had procedures in place to refer noncustodial parents to the State's Job Opportunities and Basic Skills Training (JOBS) program<sup>3</sup> for job search assistance when unemployment prevented them from meeting their court-ordered child support obligations.

### A. The Goals of the Study

The study had several goals. First, in building a knowledge base for PFS, it was vital to learn more about the workings of the child support enforcement system, which is generally responsible

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<sup>1</sup>The consortium members are listed on the copyright page of this paper.

<sup>2</sup>More detailed information on the Parents' Fair Share Demonstration can be found in the appendix to this paper.

<sup>3</sup>Created by Congress in the Family Support Act of 1988, the JOBS program provides funding to states for employment and training services for AFDC recipients. Noncustodial parents of AFDC children are not normally eligible for JOBS services.

for identifying and feeding clients into Parents' Fair Share programs, enforcing (and in some cases facilitating) their compliance with program rules, and translating their earnings into child support payments. Second, the State's job search program for noncustodial parents preceded PFS, providing an opportunity for the study to "preview" the interaction between the CSE system and a PFS-like intervention. Third, by obtaining and analyzing computerized and manual data from a CSE program, MDRC was able to learn a number of valuable lessons that influenced the research and data collection strategies for the larger PFS demonstration.

## B. An Overview of the Findings

In principle, the basic steps required to process a child support enforcement case in which the children are receiving AFDC are relatively straightforward: When a single parent applies for AFDC, she<sup>4</sup> is required to provide information about the noncustodial parent(s) of her children. This information is then transferred to CSE staff who – along with other agencies such as courts, sheriffs, and prosecuting attorneys – attempt to establish legal paternity for each child (if necessary<sup>5</sup>), set a child support order for the noncustodial parent if an order does not already exist, collect payments, and enforce the order when payments are not made.

In reality, the system's poor record of collecting support for children on AFDC nationwide is well known, and the experiences of the study counties are no exception to the national picture. Regular child support payments were collected in fewer than one out of every 10 cases examined in this analysis. In the majority of cases, the CSE program was never able to accomplish the first key task – legal identification of the noncustodial parent – without which no further action is possible. A child support order was obtained in only about one-third of the cases.

Although the reasons for this pattern are complex, three broad themes emerge from the quantitative and qualitative data used in this analysis:

- **The economic circumstances and lifestyles of noncustodial parents hamper CSE efforts.** CSE staff spend inordinate amounts of time simply trying to locate noncustodial parents, many of whom move and change jobs with great frequency. Even the most sophisticated location tools available to staff usually cannot provide information that is current enough to be useful. This makes it extremely difficult for staff to establish legal paternity

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<sup>4</sup>For simplicity, this paper uses masculine pronouns when referring to noncustodial parents and feminine pronouns when referring to custodial parents. In fact, some custodial parents are men and some noncustodial parents are women.

<sup>5</sup>Paternity establishment is not needed when a child is born to married parents. This is true for fewer than half of the children in AFDC households.

and a support order, since both steps generally require personal contact with the noncustodial parent. Similarly, once a child support order is established, it is difficult for the system to collect payments from parents who are chronically unemployed, have highly unstable employment patterns, or who work in the underground economy.

- There are few incentives for either parent to cooperate. It seems likely that the burden on CSE staff would be greatly reduced if custodial and noncustodial parents were more willing to cooperate with the system. Custodial parents could provide valuable assistance in locating noncustodial parents, and noncustodial parents could expedite the process by voluntarily agreeing to establish paternity and pay support, and by informing CSE case workers when they move or change jobs. In practice, such cooperation seems relatively rare in AFDC cases. This is probably related to the fact that most support collected for AFDC children is retained by the state as reimbursement for welfare costs.<sup>6</sup> This reduces the extent to which formal support payments affect the income of AFDC households and weakens the incentive for custodial parents to cooperate. For their part, noncustodial parents often feel that payments made through the formal system do not reach their children. Thus, some of those who pay do so informally, "under the table."<sup>7</sup> Custodial parents may prefer these informal, direct payments, even though they may risk welfare fraud charges if they do not report them to the AFDC program.<sup>8</sup>
- The system is overwhelmed. The two counties used a variety of organizational schemes in their CSE programs during the period under study. However, under all structures, most CSE case workers were responsible for well over 500 cases at any one time, many of which require frequent attention. With this volume of work, most staff are unable to take appropriate action on all of their cases in a timely manner. Meanwhile, other agencies that play vital roles in the process (e.g., the courts, the sheriff, and AFDC eligibility staff) are also overwhelmed and cannot respond quickly when they are needed.

same w/CSA

Working in tandem, these factors make it extremely difficult for CSE staff to make progress toward their ultimate objectives. Instead of "working" each case as appropriate, staff are forced to adopt a variety of formal and informal "triage" systems to quickly identify the relatively small minority of cases where progress is most likely, and to focus their efforts primarily on these cases.

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<sup>6</sup>Under federal law, the first \$50 in child support collected each month is "passed through" to the custodial parent to provide an incentive for her to cooperate with the system. Any child support collected above this amount is retained by the state.

<sup>7</sup>Of course, the absence of a formal child support order also allows the noncustodial parent to reduce his contributions or to stop making payments altogether without the threat of legal action.

<sup>8</sup>See Frank F. Furstenberg, Jr., Kay E. Sherwood, and Mercer L. Sullivan, *Caring and Paying: What Fathers and Mothers Say About Child Support* (New York: MDRC, 1992).

Thus, most cases receive little attention, and many are ignored for long periods.

Many researchers have observed that CSE programs throughout the country tend to place low priority on certain categories of difficult cases. This tendency may result, in part, from the federal financing structure for CSE, which provides incentive payments to states with high ratios of collections to administrative costs. This system may push states to avoid spending scarce administrative resources on cases that are unlikely to produce support payments quickly. Thus, a 1990 publication by the federal Office of Child Support Enforcement noted that states often "pursue most aggressively cases that promise short-term financial rewards."<sup>9</sup> Many observers have suggested that cases requiring paternity establishment are especially likely to be deemphasized because they often consume substantial resources in the short run without producing immediate collections.<sup>10</sup>

Interviews with CSE staff at the "street level" in the two study counties confirm the general tendency to focus on easier cases. However, at least in the paternity establishment process, the criteria for defining an "easy" case appear to have more to do with the ability to locate noncustodial parents than with likely payment performance. Staff agreed that having good information on the noncustodial parent (where he lives, where he works, his social security number) – and thus having the ability to locate him – is often the key criterion that determines whether a case can be processed successfully.

Recent federal regulations, written in response to the Family Support Act of 1988 (FSA), are designed to press states to take appropriate action on *all* CSE cases within certain prescribed time limits. (FSA also created new performance standards for paternity establishment.) Under the new regulations, states are permitted to assign higher priority to certain cases, but all must be dealt with in conformity with the time limits. In response to states' comments on the proposed regulations, federal officials wrote: "Case prioritization is not a system to determine which workable cases not to work."<sup>11</sup> However, the authors of the regulations also recognized that this transition would not be easy, and warned that most states would have to "review and in many cases radically change existing bureaucratic procedures" in order to comply with the new rules. The data presented in this paper appear to lend support to this prediction.

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<sup>9</sup>U.S. Department of Health and Human Services, Office of Child Support Enforcement, *The Changing Face of Child Support Enforcement: Incentives to Work with Young Parents* (Washington, D.C.: U.S. Department of Health and Human Services, 1990).

<sup>10</sup>Daniel Meyer, "Paternity and Public Policy," *Focus* 14, no. 2 (Summer 1992): 1-9. Prepared by the Institute for Research on Poverty, University of Wisconsin-Madison.

<sup>11</sup>*Federal Register* 54, no. 149, Part IV (August 4, 1989): 32303.

### C. The Organization of This Paper

The next section describes the study design and data used in this analysis, while Section III provides some background information on the State's child support enforcement system and the two study counties. Section IV uses quantitative data to provide a broad overview of the most common paths cases take through the CSE process. Sections V and VI focus on two major stages in the child support enforcement process: (1) establishment of paternity and a support order, and (2) enforcement of support orders. These sections combine qualitative and quantitative data to describe how staff view these processes and the results they achieve. Section VII presents some conclusions.

### II. The Study Design and Data Sources

This paper examines the child support enforcement process in the study counties from three somewhat different perspectives, using data that are generally available to CSE staff. First, MDRC obtained some limited information about all children receiving AFDC whose CSE cases were referred from the AFDC program to the CSE program in the study counties during a three-year period (1987-89). The data, obtained from the State's statewide CSE computer system, covered roughly 16,000 children, and included current information about:

- the child (name, birthdate, and social security number);
- the child's custodial parent (social security number, name, and zip code);
- the legal or presumed noncustodial parent (race, sex, age, zip code, social security number); and
- the child support case (case open date, whether legal paternity had been established, the size of the most recent child support order).

Together, these data provide a snapshot of the status of the children's CSE cases at one point in time

- April 1991 - 17-52 months after the cases opened.<sup>12</sup>

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<sup>12</sup>Like many systems of its kind, this CSE computer system is designed to provide current information about the status of cases, rather than a history of key events. For example, when an existing child support order is changed, the date and amount of the original order are replaced by those of the new order. Thus, the computerized data could generally be used to determine whether an event had "ever" happened on or before the date when data were extracted. However, if the event could have happened more than once, the system could only provide the date for the most recent occurrence. Similarly, although all of the children in the file entered the CSE system (i.e., had a "case open date") during the study period (1987-89), this was not necessarily the first time they entered the system; an earlier case open date may have been overwritten if the case closed and reopened.

To learn more about these cases, the analysis focused on a randomly chosen group of about 200 of them and examined their "Case Control Cards," handwritten running narratives that CSE staff produce to describe their activities relating to a particular case. These narratives provide more detailed information than is available in the automated system, and allowed the researchers to construct a history for each case. MDRC staff reviewed the Control Cards to identify and date a number of key events and activities (e.g., location of the noncustodial parent, paternity and support order establishment, and payments collected) that took place between the "case open date" and May 1991. Usable information was obtained for 187 cases. A similar process was repeated for about 100 different cases in which the noncustodial parent was referred to the JOBS program for job search services in 1990. This yielded usable information for 92 cases.

Much of the analysis relies on the Control Card data, for the reasons just noted. However, since the number of cases examined in this manner was relatively small and the Control Cards were sometimes quite difficult to interpret, the results are generally presented as rough estimates.<sup>11</sup> However, the overall picture presented by the 187 cases in the Control Card subsample is generally confirmed by data from the much larger file drawn from the computer system, as will be discussed below.

Finally, MDRC staff visited both counties, interviewing line staff and supervisors in the child support enforcement and JOBS programs, and representatives of the judiciary. Structured interview guides were used to cover a standard set of topics with staff in similar positions. Discussions with staff focused on such issues as case processing procedures, employee performance evaluation methods, and typical strategies for coping with heavy workloads.

These qualitative and quantitative data are combined to present a picture of the child support enforcement process in the study counties. A key goal of the analysis is to understand why so few cases result in successful outcomes, and the factors that determine why particular cases do or do not progress through the system.

### III. Background

Under amendments to the Social Security Act passed by Congress in 1975, each state is required to designate a single agency to oversee the provision of child support enforcement services

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<sup>11</sup>More detailed and accurate information might have been obtained by reviewing the entire contents of each CSE casefile, rather than just the Control Card. However, a data collection effort of this scale was beyond the scope of this analysis. In addition, other research projects that have used child support enforcement casefiles have encountered some serious difficulties in interpreting these data.

to all AFDC recipients (and to non-AFDC clients by request). This agency is charged with seeking legal paternity and a child support order for each child on AFDC, collecting support payments, and enforcing support orders when necessary.

#### A. Child Support Enforcement in the State

In the State examined in this analysis, as in most states, the human services agency responsible for AFDC also administers the CSE program. The institutional and legal structure of the child support enforcement process is different in each state. The study State's CSE system is court-based, meaning that key steps in the process, such as the establishment of legal paternity or a support order, must involve a judge (or a hearing officer acting on behalf of a judge). Noncustodial parents can consent to take these steps voluntarily – in which case a formal hearing may not be required – but a judge must sign off on all orders. In some other states, key actions can be processed administratively with little or no court involvement.

As in other states, child support orders in the State are generally set according to guidelines developed by the state.<sup>14</sup> These guidelines consider the income of both custodial and noncustodial parents and result in a fixed dollar amount that is usually due either weekly, bi-weekly, semi-monthly, or monthly. Judges have discretion to deviate slightly from the guidelines with no explanation, but must provide written documentation of the reasons for larger deviations.

If the noncustodial parent is unemployed when the order is set, the court can impute an income level for the support order calculation based on either his previous employment history or the minimum wage. This is done primarily for two reasons: (1) it is seen as important to take advantage of any opportunity to establish a support order because it is often difficult and time-consuming to locate noncustodial parents and bring them to court (see below), and (2) many feel that establishing an order that takes effect immediately gives the noncustodial parent an incentive to find employment and begin paying support quickly to avoid accumulating arrearages.

The performance of the State's child support enforcement program is roughly average by national standards. In 1989, the State ranked slightly above the national average in one key measure of state performance – the fraction of AFDC cases that were affected by the \$50 pass-through (i.e., received child support) – and somewhat below the national average on two other measures: collections per dollar of administrative costs, and the ratio of paternitys established by the CSE

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<sup>14</sup>A 1984 federal law required each state to develop such guidelines. The Family Support Act of 1988 required states to use the guidelines in setting orders unless the judge provides a written explanation of his or her deviation.

agency to total out-of-wedlock births in the state in 1989. However, in these latter measures, the State's performance was roughly similar to that of other states with large AFDC caseloads.

### B. The Local CSE Programs

County A and County B are both urban counties with large welfare populations and child support enforcement caseloads. In March 1991, there were more than 40,000 open child support cases in County A, about two-thirds of which involved current or former AFDC recipients. More than \$2 million in support payments was collected in the month (including about \$600,000 for AFDC cases). County B is of similar size.

The organizational structure of the CSE program was in flux in both counties during the study period. When MDRC staff first visited the counties, most case workers specialized in a specific stage in the CSE process. For example, in County B, workers were grouped into units that specialized in either intake, location, establishment (of paternity and child support orders), or enforcement. Cases were passed from unit to unit as they moved through the process. One unit, along with private attorneys contracted to represent the CSE agency, was responsible for taking cases to court. Staff also specialized in either public assistance (PA) cases, where the children received AFDC, or non-public-assistance (NPA) cases.

CSE case workers were also specialized in County A when researchers first visited in 1990 (although each unit included workers from each functional area so cases could remain in the same unit as they moved through the system). By mid-1991, however, line staff responsibilities in County A had shifted to a more generic model, where the same worker handled her or his cases through several stages in the CSE process.<sup>18</sup>

As will be discussed below, there appear to be advantages and disadvantages to both organizational models. Specialization allows workers to become experts in a particular part of a highly complex process. However, some staff complained that workers who specialized in the earlier phases of the process had fewer incentives to do a good job because the consequences of poor work were borne primarily by staff in later stages.

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<sup>18</sup>Some shifts in organizational structure were linked to the implementation of an elaborate new statewide management information system (MIS) covering both AFDC and CSE. Under the new system, counties maintain specialized intake units but after intake, cases are passed to generic workers who maintain responsibility for cases from that point forward. These workers may be assisted by location or court specialists, but they do not "hand off" their cases. The new system began operating shortly after the period covered by this study, and may have created changes in the CSE process described in this paper.

### C. Who Are the Noncustodial Parents?

Table 1 provides some basic demographic information about the noncustodial parents of children receiving AFDC who were referred to the CSE program in the study counties in 1987, 1988, and 1989, as reported in the CSE computer system.<sup>16</sup> As expected, the vast majority of noncustodial parents (88 percent) are male (although staff suggested that the proportion of female noncustodial parents is much larger than it was a decade ago). The largest fraction of noncustodial parents was between 25 to 34 years old when their cases opened. The ethnic/racial characteristics of the noncustodial parents differ slightly across the counties: County A's caseload is about one-fourth white and three-fourths black, while County B's includes a substantial Hispanic minority.

Although data on noncustodial parents' income and employment patterns were not available for this analysis (and are generally difficult to obtain), other research suggests that the noncustodial parents of children on AFDC may be a disadvantaged group.<sup>17</sup> To some extent, this reflects national trends, which have seen the earnings and employment rates of young males decline sharply since the 1970s, particularly among members of minority groups who have limited education. Many experts suggest that these poor economic outcomes are linked to high rates of out-of-wedlock births, crime, and other social problems.<sup>18</sup>

Table 2 examines the paternity status of the children appearing in the computer system file as of April 1991. Overall, paternity was coded as "not an issue" for about one-fourth (27 percent) of the children. This was typically because the child was born to married parents or because the noncustodial parent was the child's mother. This means that paternity establishment was required for the rest of the cases (nearly three-fourths of the total), suggesting that most of these children were born out of wedlock. As shown in the table, paternity had been established for 11 percent of the children (15 percent of those who needed it) by April 1991, and was needed but not established for 62 percent.<sup>19</sup>

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<sup>16</sup>The demographics cover both legal absent parents and putative absent parents who were identified by custodial parents but who had not established paternity for the child in question.

<sup>17</sup>Some recent research suggests that the income of noncustodial parents of AFDC children, though low initially, does rise substantially over time. See Daniel R. Meyer, "Can Fathers Support Children Born Outside of Marriage? Data on Fathers' Incomes Over Time." In *Paternity Establishment: A Public Policy Conference*. Special Report no. 56-B (Madison, Wis.: Institute for Research on Poverty, University of Wisconsin-Madison, 1992).

<sup>18</sup>See, e.g., Gordon Berlin and Andrew Sum, *Toward a More Perfect Union: Basic Skills, Poor Families, and Our Economic Future* (New York: Ford Foundation, 1988); William Julius Wilson, *The Truly Disadvantaged* (Chicago: University of Chicago Press, 1987).

<sup>19</sup>Nationwide, just over 60 percent of the AFDC households with one adult present involve no marriage tie (suggesting that paternity establishment would be required). The figure for the study counties is somewhat higher. This may be related to the fact that the AFDC population in the study counties is more heavily black  
(continued...)

TABLE 1

PERCENTAGE DISTRIBUTION OF DEMOGRAPHIC CHARACTERISTICS  
OF THE NONCUSTODIAL PARENTS IN THE TWO STUDY COUNTIES

Characteristic	Full Sample (%)	County A (%)	County B (%)
<u>Gender</u>			
Male	88	89	87
Female	12	11	13
Missing	0	0	0
<u>Age (Years)</u>			
14-16	1	1	1
17-18	4	4	4
19-24	23	22	23
25-34	39	35	44
35-44	14	12	17
45-54	3	3	4
55-75	1	1	1
Missing (a)	15	23	6
<u>Ethnicity</u>			
White	25	22	28
Black	68	74	60
Hispanic	6	1	11
Other	1	1	1
Missing	1	1	1
Sample size	11,313 (b)	6,034	5,279

SOURCE: Computerized Child Support Enforcement Data.

NOTES: Because of rounding, some distributions may not total 100 percent.

(a) Includes ages less than 14 and greater than 75, in addition to those with missing information.

(b) The total number of absent parents is less than the total number of children (reported earlier as approximately 16,000) because some absent parents are linked to more than one child. In this table, only one randomly selected observation for those noncustodial parents has been chosen; "duplicate" observations have been dropped.

TABLE 2

PERCENTAGE DISTRIBUTION OF THE PATERNITY STATUS IN APRIL 1991  
OF CHILDREN WHO ENTERED THE CSE PROCESS IN THE TWO STUDY COUNTIES  
IN 1987-89, BY DEMOGRAPHIC CHARACTERISTICS OF THE NONCUSTODIAL PARENT

Characteristic of Noncustodial Parent	Paternity Establishment Not Needed (%)	Paternity Established (%)	Paternity Not Established (%)
Paternity Status of All Children	27	11	62
<u>Noncustodial Parent's Ethnicity</u>			
White	38	5	58
Black	23	14	63
Hispanic	32	3	65
<u>Noncustodial Parent's Age (Years)</u>			
14-16	10	5	84
17-18	12	13	75
19-24	21	15	63
25-34	33	11	56
35-44	33	10	56
45-54	30	10	59
55-75	38	10	51

SOURCE: Computerized Child Support Enforcement Data. Sample size is 16,202.

NOTE: Because of rounding, some distributions (rows) may not total 100 percent.  
Demographic characteristics include both legal and putative noncustodial parents.

*younger = less likely*

The age and ethnicity differences in paternity status also reflect broader patterns of family structure. Paternity establishment is more likely to be necessary if the noncustodial parent is younger and if he is black. For example, paternity was coded as "not an issue" for 38 percent of the cases involving white noncustodial parents, but only 23 percent of the cases involving black noncustodial parents. This reflects the relatively lower marriage and higher out-of-wedlock birth rates for blacks, and the fact that younger noncustodial parents are less likely to have been married to the custodial parent.

Despite the prevalence of nonmarital births, these data generally do not support the popular stereotype of the noncustodial parents of AFDC children as men who father many children with multiple partners. Although about half of the noncustodial parents appearing in the computerized file were associated with more than one child, only about 3 percent were linked with more than one custodial parent. Of course, these data may not present a full picture of the parenting behavior of these fathers, since they cover only children receiving AFDC and can provide information only about relationships that are known to the CSE system.

#### IV. Pathways Through the System

Figure 1, based on the Control Card subsample described in Section II, illustrates how cases progressed through the CSE process during the study period. As noted earlier, all of these cases opened between January 1987 and December 1989. As the figure shows, the noncustodial parent was legally identified by May 1991 (17-52 months later) in less than half of all cases (45 percent). This total includes both out-of-wedlock births where paternity was legally established and cases in which paternity establishment was not necessary (e.g., in-wedlock births and cases where the noncustodial parent is the child's mother.) A child support order was established in about one-third of all cases (31 percent), and at least one child support payment was received in about one-fifth of the cases (18 percent).<sup>20</sup> Only about 7 percent of the cases received payments in more than half

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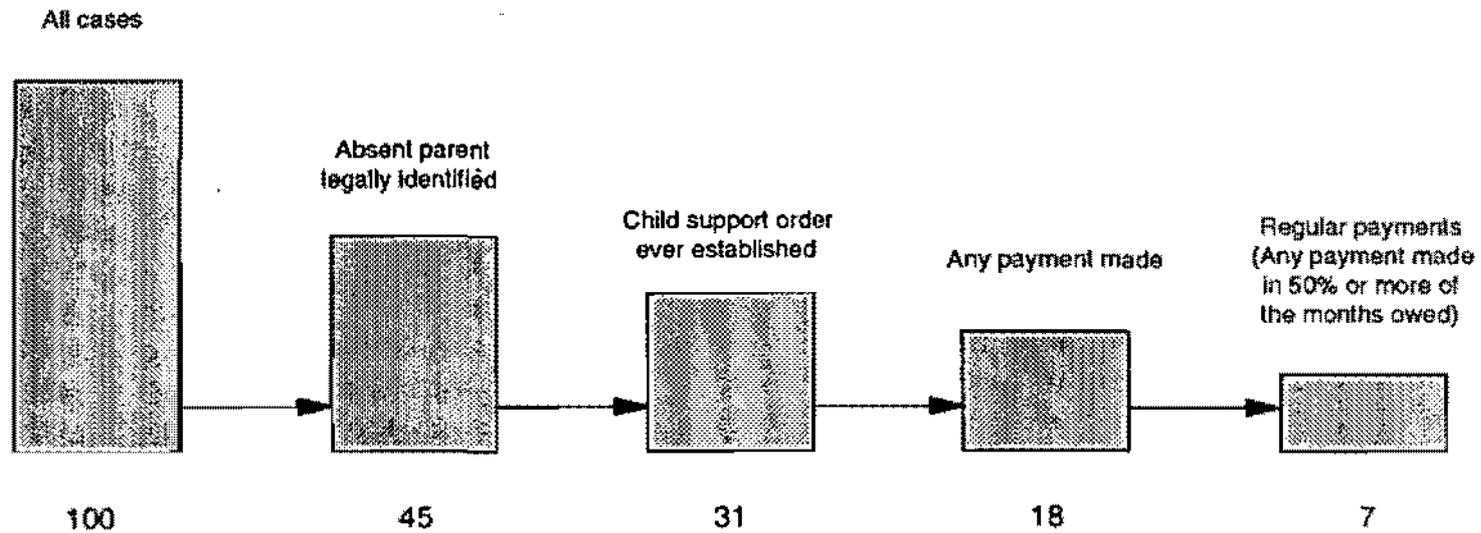
<sup>19</sup>(...continued)

than the national average, and the national percentage of AFDC households with no marriage tie is higher for blacks than for whites.

<sup>20</sup>The figures in this section are derived from the Control Card sample. The fraction of cases in which the absent parent was legally identified and the fraction with a child support order were also estimated using the larger file drawn from the computer system. These estimates were 38 percent and 21 percent, respectively, both lower than the figures obtained using the control card data. There are several possible explanations for this disparity. First, the follow-up period for the Control Card sample was slightly longer, and a few cases established paternity or a child support order too late for this information to appear in the computer system. Second, there

(continued...)

FIGURE 1  
PROGRESS AS OF MAY 1991 OF 100 TYPICAL CHILD SUPPORT CASES  
OPENED IN 1987-89 IN THE TWO STUDY COUNTIES



NOTE: Figures represent percentages of the 187 cases for which child support case records were reviewed.

the months when one was due. Since these figures do not cover the full life of these CSE cases, the number of cases that "ever" reach these milestones is probably somewhat higher. However, the data in Section V suggest that rate of activity on cases slows considerably if no progress is made in the first 2-3 years.

Although useful as a broad overview, Figure 1 masks important differences in the progress of cases whose status differed when they entered the system. Figures 2, 3, and 4 examine these patterns.

Figure 2 illustrates the fact that cases enter the system in very different situations. For example, the noncustodial parent had already been legally identified at the case open date in 32 percent of cases, usually because the children were born to a married couple, the noncustodial parent was the child's mother, or paternity had been legally established prior to that point.<sup>21</sup> In nearly half of these cases (15 percent of the overall total), a child support order was also in place when the case opened. These orders may have been established during a divorce settlement or through earlier CSE efforts. The rest of the cases in which the noncustodial parent was legally identified at the case open date (17 percent of all cases) had no child support order in place.<sup>22</sup> However, as might be expected given the earlier data on the prevalence of nonmarital births, the vast majority of cases (69 percent) began the study period needing both paternity and child support order establishment. This helps to explain why the task facing CSE staff is so difficult.

Figure 3 shows how the progress of cases during the study period differs depending on the initial case status. In the most common situation (labeled Status A), where both paternity and child

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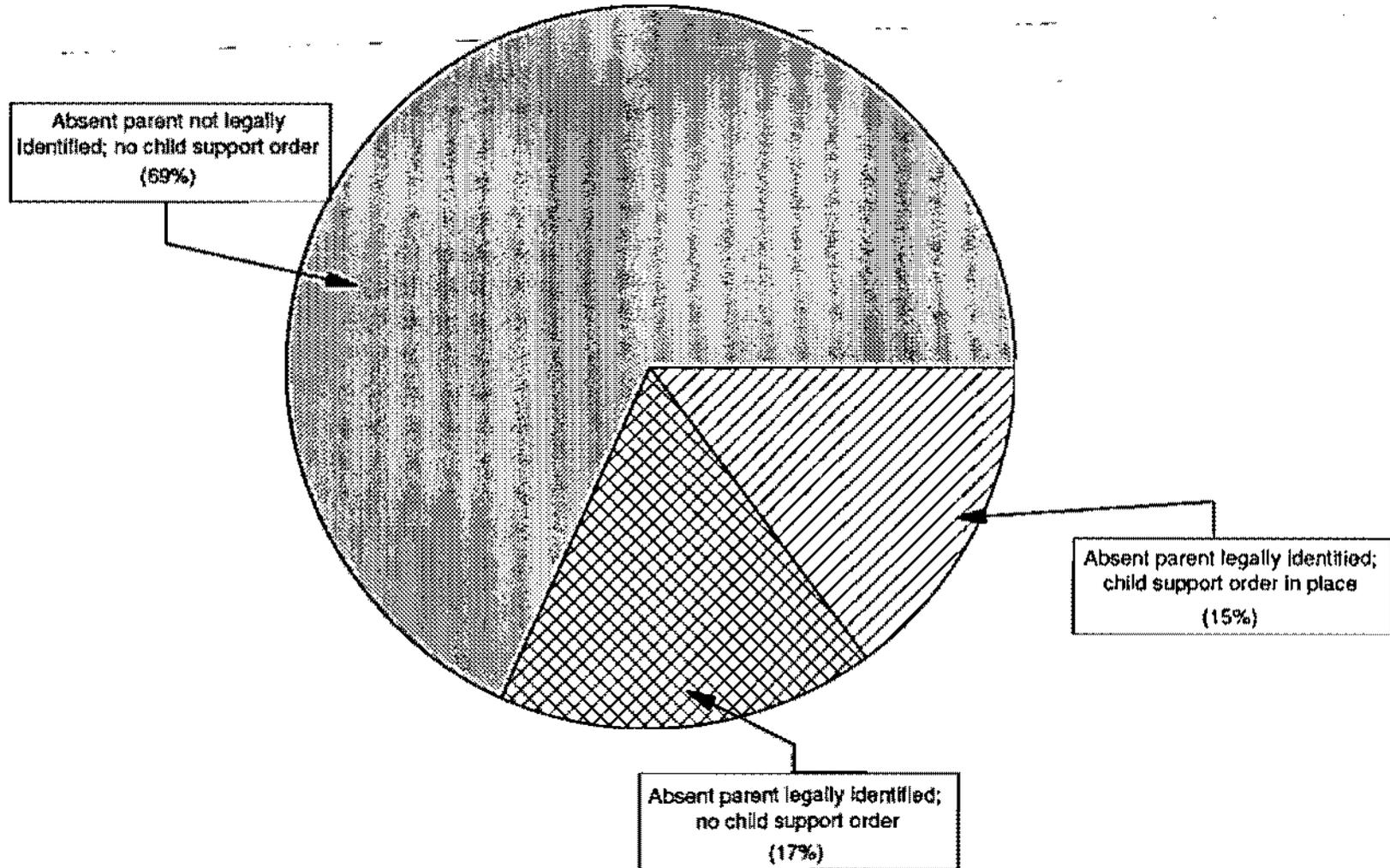
<sup>20</sup>(...continued)

is some evidence that the computer system was not always updated correctly when paternity or child support orders were established. Third, the computerized data includes only current information; thus, paternity or child support order data may have been deleted from the system when cases closed (e.g., because the youngest child reached age 18). Fourth, the computer system file was organized by child, while the control card file was organized by case; this could cause a disparity depending on the number of children in particular cases. For example, if the analysis looked at two cases, one with three children (paternity established for all three) and one with one child (paternity not established), the child-based data would suggest that paternity was established for 75 percent of the children while the case-based data would say it had been established for 50 percent of cases. Fifth, the 13 cases for which no usable control card data were available may have been cases that were less likely to establish paternity and a support order. If these cases had been coded and included in the control card sample, the percentages may have been lower.

<sup>21</sup>The data in this figure are, in part, an artifact of the data collection methodology. As noted earlier, some of these cases may have entered the CSE system earlier than the case open date. Thus, the status of a case on the case open date does not necessarily correspond to its status when it first entered the CSE system. This means that the study period does not always cover all of the CSE program's activities and accomplishments for all cases.

<sup>22</sup>These may be households in which the parents are married and living apart but not legally separated. Thus, paternity establishment is not needed, but no support order was established during a legal divorce or separation. Such households account for about 15 percent of all AFDC cases nationwide.

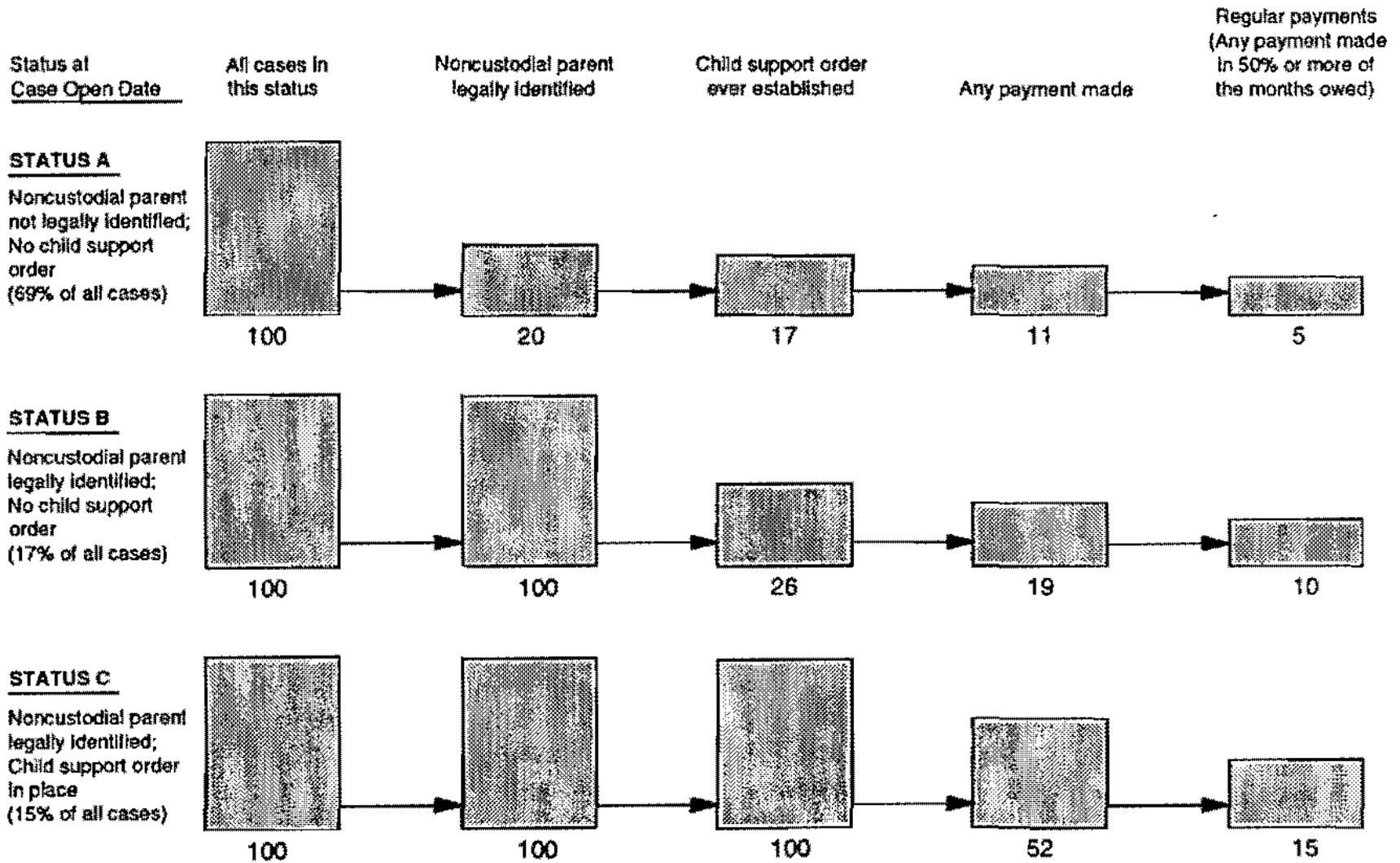
FIGURE 2  
STATUS OF CHILD SUPPORT CASES IN THE TWO STUDY COUNTIES  
AT CASE OPEN DATE



NOTE: Figures represent percentages of the 187 cases for which child support case records were reviewed.

FIGURE 3

PROGRESS AS OF MAY 1991 OF 300 TYPICAL CHILD SUPPORT CASES OPENED IN 1987-89  
IN THE TWO STUDY COUNTIES, BY STATUS AT CASE OPEN DATE



NOTE: Figures represent percentages of the 187 cases for which child support case records were reviewed.

support order establishment were required, one-fifth of the cases reached the first stage (legal identification of the noncustodial parent). In the cases where the noncustodial parent was legally identified when the case opened (Statuses B and C), part of the job had already been done, although the remaining steps still presented major challenges. For example, in Path B, where the noncustodial parent was legally identified before the case open date but no child support order existed, child support orders were established only about one-fourth (26 percent) of the time.

Figure 4 combines the data from the three previous figures. It illustrates that many of the cases that reached the key milestones before the end of the study period (noncustodial parent legally identified and child support order established) had already reached these points when the cases opened. For example, in more than two-thirds of the cases where the noncustodial parent was ever legally identified, this was already true on the case open date. This suggests that the number of cases where the CSE program was able to make substantial progress is relatively small.

In sum, the data suggest that the system's inability to establish legal parentage and obtain support orders for AFDC children is the most critical reason for low overall rates of payment.<sup>23</sup> Difficulties in the enforcement of child support orders, though clearly present, affect only the relatively small fraction of cases in which orders are in place. The next section focuses in detail on the first stage in the process, in an attempt to understand why so few cases reach the initial establishment milestones.

#### V. The First Step: Establishing Paternity and a Child Support Order

→ Require P/E at hosp.  
→ Immed. rebuttable order  
if father voluntarily leaves  
(s. 2. if min wage, or s. 2. if employed)

There are two prerequisites to collecting support for any child: (1) the identity of the noncustodial parent must be legally established if the child was not born to a married couple, and (2) a child support order must be set to inform the noncustodial parent how much and when he must pay. From the preceding section, it is clear that most AFDC child support cases never reach either of these essential milestones. This section examines why this is true.

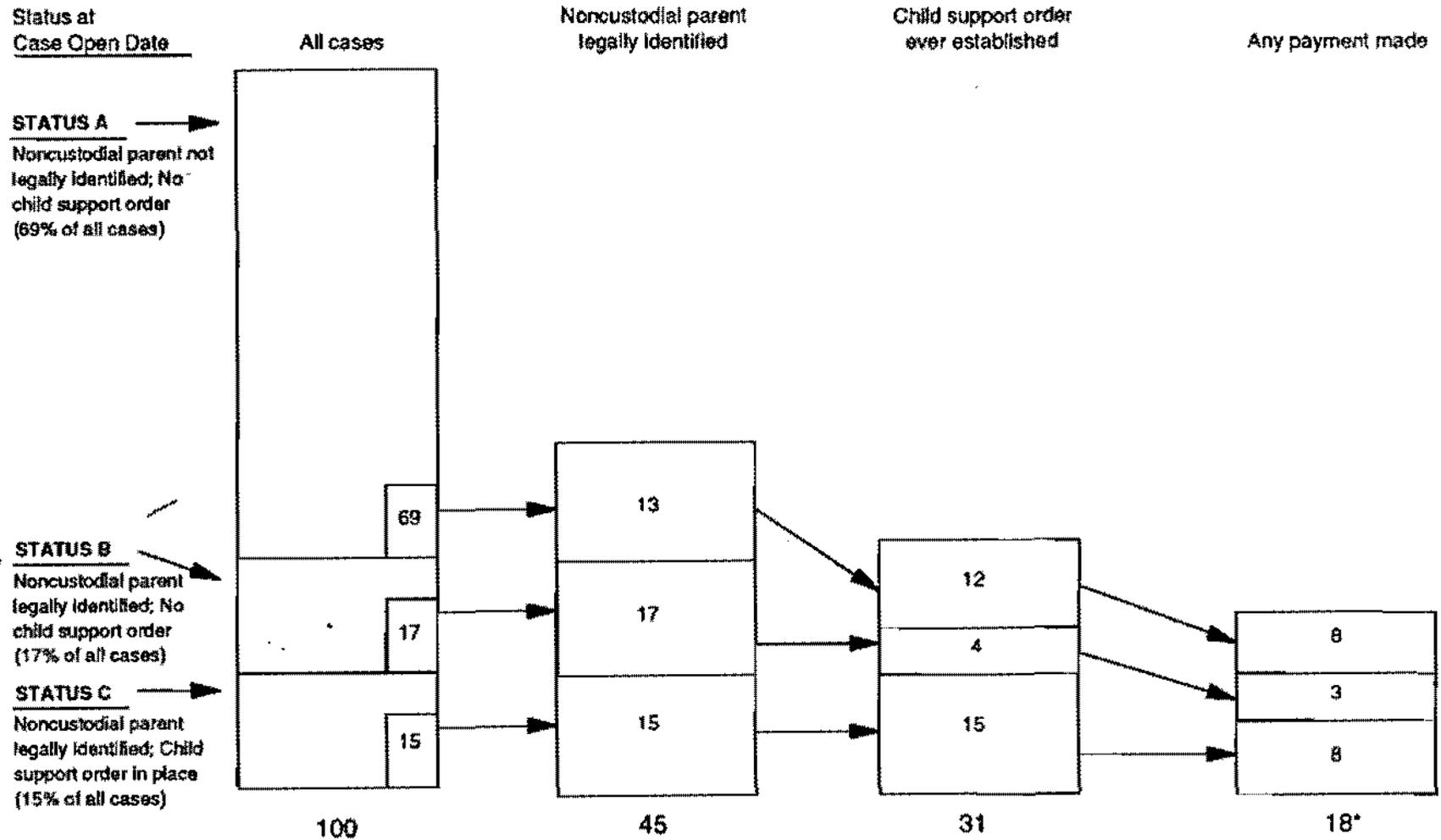
The section begins by focusing on the key preliminary steps and activities that are typically required to reach the establishment phase. Information obtained through staff interviews is used to explain why cases frequently do not progress smoothly through these stages. The section concludes by presenting quantitative data that illustrate the results of staff efforts and generally support the key points they raised. For the most part, this section focuses on cases that entered the

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<sup>23</sup>Other studies have reached the same conclusion. See, e.g., Meyer, 1992.

FIGURE 4

PROGRESS AS OF MAY 1991 OF 100 TYPICAL CHILD SUPPORT CASES OPENED IN 1987-89  
IN THE TWO STUDY COUNTIES, BY STATUS AT CASE OPEN DATE



\*The numbers representing "any payment made" do not total 18 because of rounding.

study period needing both paternity establishment and a support order (those in Status A in Figure 3), since the data available for these cases seem to present the most complete picture of CSE activities.

#### A. The Preliminary Steps

Several preliminary steps are generally required to establish paternity and a support order for an AFDC child. These basic tasks must be accomplished in all states. However, the particular legal and organizational structure of each state's CSE program affects the way they occur there. The key stages correspond roughly to the division of staff responsibilities under the specialized organizational model described in Section III. The stages are:

- **AFDC Application Interview.** Under the Social Security Act, AFDC applicants are required to transfer their child support rights to the state for as long as they remain on assistance, and to "cooperate with the State in establishing the paternity of a child born out of wedlock...and in obtaining support payments." In the State that is the focus of this study, applicants must complete an Absent Parent Basic Information Form, which requests a wide variety of information about each noncustodial parent: name, address, phone number, social security number, place and date of birth, race, sex, employment information, past military service, arrest record, vehicle identification data, and information about the noncustodial parents' parents, among other items. If the custodial parent cannot identify one individual with certainty, information may be obtained on more than one putative father. This form is transferred to the CSE program.<sup>24</sup>
- **Child Support Intake Appointment.** The child support division of the State human services agency attempts to hold a separate CSE Intake Interview with each approved AFDC applicant.<sup>25</sup> The purpose of this interview is to obtain the custodial parent's signature on a Paternity Complaint (if paternity has not been established for some or all of her children), to obtain additional information about the noncustodial parent that will assist in locating him, or to ask additional questions if no putative father was named during the AFDC application interview. The custodial parent must sign a Paternity Complaint in order for paternity to be established. At this point, it is also possible to determine what steps are necessary to process the case (e.g., paternity establishment, child support order establishment, collection, etc.).

*Is P/E required?*

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<sup>24</sup>During the study period, when the AFDC and CSE programs maintained separate data systems, the Absent Parent Basic Information Form itself was sent to CSE. With the state's new data system, this information may be transmitted electronically.

<sup>25</sup>If his whereabouts are known, the noncustodial parent is invited to this interview. However, staff report that few attend.

- **Location of the Noncustodial Parent.** In most cases, it is necessary for CSE staff to locate the noncustodial parent in order to establish paternity or a support order, or to enforce an existing order. The specific location activities vary according to the kind of information that is available, but most involve searches of large computerized databases that can be accessed via the CSE computer system. (Federal regulations require states to access certain data sources where appropriate.) The most critical piece of information is the noncustodial parent's social security number, which allows staff to access wage and employment information reported by employers in the Unemployment Insurance (UI) system, tax records, and a variety of other databases. Another important source of information is the Department of Motor Vehicles, which can sometimes provide a social security number if the noncustodial parent has a driver's license and his name and birthdate are known. Postal verification letters are used to determine whether the noncustodial parent receives mail at specific addresses.
- **Establishment of Paternity and a Support Order.** Once the noncustodial parent is located, CSE staff must contact him to begin the process of establishing paternity (if needed) and a child support order. In the study State, this generally involves a court hearing, although the noncustodial parent may choose to stipulate (admit) to being the father and agree to pay child support. Before court hearings, it is generally necessary for the sheriff's department to personally serve the noncustodial parent with legal papers stating that he has been named as a father. As noted earlier, private law firms are contracted to represent the CSE agency in court.

The analysis below illustrates how the three broad factors described earlier – excessive workloads, difficulty in locating noncustodial parents, and lack of cooperation by parents – hamper the efforts of CSE staff and cause large numbers of cases to become "stranded" at each of the preliminary stages described above.

1. **AFDC Application Interview.** The AFDC application interview is potentially the most important opportunity to obtain reliable information about the identity and whereabouts of noncustodial parents. All custodial parents attend a face-to-face interview with a human services department staff person; many are probably in contact with noncustodial parents; and the provision of this information is a condition of AFDC eligibility.<sup>26</sup> However, in practice, the high volume of cases processed by AFDC staff and the inability or unwillingness of many custodial parents to fully cooperate with the system conspire to limit the amount of information that is typically

<sup>26</sup>AFDC applicants can request a "good cause" exemption from providing information about the noncustodial parent if they fear for their personal safety. If good cause is granted, the case is not transferred to the child support agency. This analysis does not include information about these cases, but staff suggested that a relatively small fraction of cases fall into this category.

collected. Without this information, many child support cases are handicapped before they begin.<sup>27</sup>

The first problem is that it is difficult for AFDC workers to operationalize the requirement to cooperate. Some fraction of the custodial parents (probably not large) do not know the fathers of their children or, if they do, know little about them. Others may have been in touch with the father at some point, but have since lost contact with him.<sup>28</sup> Still others may be in regular contact but do not wish to provide information about his identity and/or whereabouts, for some of the reasons described below. Unfortunately, it is nearly impossible to determine which situation applies in a given case and thus is difficult to use the threat of denial of AFDC benefits to compel custodial parents to cooperate fully. why not?

Federal regulations require states to define cooperation to include attending interviews and hearings and providing "verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient." In practice, however, only the most blatant forms of noncooperation (e.g., missed appointments) are readily apparent. In cases where the custodial parent simply does not provide much information, the burden is generally on the state to prove that she did not cooperate fully; this is very difficult to accomplish given the limited resources available to AFDC and CSE staff. *No Name, No Grant*

This problem is exacerbated by the fact that completion of the Absent Parent Basic Information Form is one relatively minor part of a long and complex AFDC application interview, which focuses primarily on financial eligibility. Although both CSE and AFDC staff work for the same agency, the divisions are administratively separate and, during the period under study, used different management information systems (this is true in many states). Thus, the AFDC application interview is conducted by staff who have little expertise in child support matters, and few incentives to focus much attention on this issue. CSE staff noted that the Absent Parent Basic

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<sup>27</sup>A study of paternity processes in eight sites found that CSE managers frequently cited poor information provided in welfare application interviews as one of the key barriers to effective paternity establishment. The authors conclude that this is more likely to be true when the CSE and AFDC programs are housed in different agencies. The data in this paper suggest that the problem can exist even when the two programs are operated by the same agency. See Charles Adams, David Landsbergen, and David Hecht, "Inter-Organizational Dependencies and Paternity Establishment." Paper prepared for Paternity Establishment: A Public Policy Conference, Washington, D.C., February 26-27, 1992.

<sup>28</sup>Other research suggests that unmarried noncustodial fathers are often closely connected to custodial parents and children at the time of birth. For example, one study found that 60 percent of unmarried fathers were present at the births of their children. However, these fathers may lose contact over time, and many custodial parents do not apply for AFDC immediately after their child is born. (About half the children in the computerized file used in this analysis were at least 4 years old at the case open date.) See Esther Wattenberg, Rose Brewer, and Michael Resnick, "Executive Summary of a Study of Paternity Decisions: Perspectives from Young Mothers and Fathers." Summary of a report prepared for the Ford Foundation, February 1991.

Information Form often arrives from the AFDC unit with little useful information. In extreme cases, the noncustodial parent may be identified by a name like "John Unknown," and the form may include his race and little else.

2. **Child Support Intake.** During visits to counties, it became clear that the volume of new cases made it impossible for CSE staff to interview all custodial parents who were referred from the AFDC unit in a timely manner.<sup>29</sup> In April 1991, County B intake staff were interviewing custodial parents who had applied for AFDC in August 1990 (an eight-month lag). By the time the interviews were scheduled, some of the custodial parents were no longer receiving AFDC. During a visit to County A a few months later, generic case workers were also supposed to interview the custodial parent in all new cases. However, the CSE case workers were responsible for 600 to 800 cases each, were receiving 25 to 30 new cases per month, and could not hope to interview all custodial parents within a short period after application.<sup>30</sup>

Faced with this overwhelming volume of work, intake staff and supervisors typically developed a "triage" system: Staff quickly evaluated cases and worked first with those where progress seemed most likely. Other cases received much less attention. The criteria for rating the difficulty of cases varied from worker to worker. One worker said that cases where child support was already being paid (this information is sometimes obtained during the AFDC interview) were pushed to the front of the line. Another said that cases where the custodial parent showed interest and requested quick action were interviewed more quickly (although the staff person also noted that this happens much less often with AFDC cases than with non-AFDC cases, where child support directly affects the custodial parent's income). Another, perhaps only half-jokingly, said that she targeted cases where available income data showed that the noncustodial parent "makes more than a child support case worker."

One case worker described how clerical staff began the process by conducting some routine automated location attempts using the information collected on the Absent Parent Basic Information Form. If these turned up useful leads, the worker would schedule an intake interview with the custodial parent. Other cases received lower priority and, in some instances, were not interviewed at all. As will be described below, formal or informal strategies that prioritize cases based on the

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<sup>29</sup>If paternity has already been established at this point (or is not necessary), it is not strictly necessary for the CSE agency to interview the custodial parent. If the legal father is known, the State will pursue child support with or without the custodial parent's cooperation. However, the information she can provide during such a session can be critical to location efforts.

<sup>30</sup>The study State's AFDC caseload grew by 22 percent between 1990 and 1991.

quality of available location information are pervasive at all stages in the process.

When staff do attempt to interview custodial parents, the issue of noncooperation becomes relevant. This is first manifested in the no-show rate for intake interviews. Staff in the County B intake unit scheduled 14 interviews per day, on the assumption that 7 custodial parents would show up (no-show rates of 50 percent are also seen in employment programs for AFDC recipients). When a custodial parent does not show up for either of two scheduled interviews and does not call to reschedule, CSE staff report her noncooperation to the AFDC division. CSE staff knew little about how regularly AFDC workers followed up on these reports, but suspected that their workloads prevented quick action. In some cases, the custodial parent is no longer receiving AFDC by the time notification of noncooperation is received.

As is the case in AFDC application interviews, custodial parents often fail to provide useful information during CSE intake interviews. Staff who conduct intake interviews cited the following factors in discussing why custodial parents might or might not be willing to provide complete information and to continue cooperating after the initial interview:

- Some custodial parents are receiving informal child support that is not reported to the AFDC program, and are reluctant to jeopardize this by identifying the noncustodial parent.
- If the custodial parent is receiving AFDC because of some temporary circumstance and expects to be off assistance soon, she may be more likely to cooperate because the child support would soon be paid to her directly.
- The noncustodial parent and custodial parent may be living together without informing the AFDC system.<sup>31</sup>
- The current state of the relationship between the parents is a major factor. For example, if the relationship is poor, the custodial parent may identify the noncustodial parent to "get back at him."

The end result is that many cases are "deferred" at this early point because the agency simply has no leads to pursue. Deferred cases are reviewed periodically (e.g., the custodial parent is recontacted and automatic computer inquiries continue), but generally seemed to receive low priority. Other cases are closed, for example, because the custodial parent is no longer on AFDC when she is interviewed, or because the noncustodial parent is deceased.

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<sup>31</sup>Some of these couples may have been eligible for assistance under the AFDC-UP program for two-parent families. However, at the time of the visits, the State had only recently created its AFDC-UP program, and staff felt that knowledge of the program was not yet widespread in the community.



3. Location. Location efforts typically begin soon after a case opens and continue throughout its existence.<sup>22</sup> The fact that location is considered a distinct stage in the CSE process and, at some points, was handled by specialized staff suggests that it is rarely straightforward to find noncustodial parents. Much of the activity recorded on Control Card narratives is related to location efforts, and inability to keep track of noncustodial parents is perhaps the greatest single frustration for staff. Several factors help to explain why location is often so difficult.

First, although the location tools available to staff seem potent, their limits quickly become apparent, especially since staff rely solely on these methods and virtually never leave the office to locate noncustodial parents. In most cases, the automated data sources available to CSE staff provide information that is several months old. This can be quite useful in working with cases where the noncustodial parent works steadily and lives in the same place for some time, but is of limited use in locating a parent who moves and changes jobs frequently and seldom informs the CSE program of these movements. There is a pervasive sense that staff are not operating in "real time"; they know where the noncustodial parent *was* several months earlier, but not where he *is* currently.

The best example is wage-reporting information. Each quarter, employers report to the State's Unemployment Insurance (UI) program on the wages paid to each of their employees. If the noncustodial parent's social security number is available, CSE staff can access a work history for him that includes both quarterly earnings and the name of each employer in the quarter. This can be an excellent source of information about a noncustodial parent's recent work history, and these data are used routinely in almost all CSE cases. Unfortunately, reliable data are typically not available until six months after the earnings occur. Thus, when CSE staff receive the data and contact the noncustodial parent's last employer, they frequently find that he no longer works there. One CSE case worker suggested that if an uncooperative noncustodial parent moves and changes jobs more than once every six months, he is nearly impossible to find without assistance (e.g., from the custodial parent) or luck.

Once again, with an overwhelming workload, location specialists tended to focus on the cases where progress was most likely. One location worker in County B, with a caseload of more than 700, pointed to a vast mound of paper on her desk, which she described as her "mail." For the most part, these were responses to various inquiries she had made attempting to locate the noncustodial parents in her caseload. Many of these inquiries are initiated automatically by the

<sup>22</sup>Location efforts are not always necessary. In some cases, the absent parent's whereabouts are already known when the case opens. In others, a child support order is already in place, and only collection activities are required. However, most cases require location efforts at some point.

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Comm. Policing  
right nat. service  
kids to work as  
Deadbeat Cops  
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forward  
Have  
welfare more  
do the same  
that ought to  
make now  
think twice about  
opposing us

computer system. The worker described how she first tried to work with her "good mail" (cases where the inquiry uncovered potentially useful information). "Bad mail" - i.e., responses that did not produce useful leads - had to wait, and these cases might eventually be deferred. This might mean that only periodic automated searches would be initiated.<sup>31</sup>

Frequent AFDC case closures also hindered location efforts. In general, when a custodial parent leaves AFDC, she is not obligated to continue receiving CSE services, and can instruct the CSE program to stop working on her case. Although a noncustodial parent may be held liable for the AFDC payments made to his children, it is in fact difficult to pursue this "state debt" in cases where paternity has not even been established. Some workers speculated that AFDC recipients sometimes briefly closed their cases for one or two months when CSE staff were about to locate the noncustodial parent (e.g., they had called and asked to speak with him). Other workers felt that these shifts were more likely to be caused by AFDC rules or the unstable life circumstances of custodial parents, and were seldom related to CSE issues.<sup>32</sup>

= ?\*\*  
who?  
How many?  
No one who  
can pay stl.  
leaves their  
family on AFDC

4. Establishment. Most workers saw the first goal of the establishment stage as "getting legal service." Cases with good location information would be referred to the attorneys, who would then request that the sheriff's office serve the noncustodial parent with legal papers informing him that he had been named the father of a specific child. Once the noncustodial parent was "served," he would have to admit to being the father, request a blood test, or attend a paternity hearing in court to argue his case. If he failed to attend this hearing, the court would likely enter a "default" judgment establishing him as the legal father.<sup>33</sup>

Serving a noncustodial parent in person obviously requires highly reliable location information.<sup>34</sup> In some cases, this is not available even in cases that are officially deemed "located." For example, under the specialized organizational structure, where cases are passed from unit to unit as they move through the process, establishment staff complained that many cases that were

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<sup>31</sup>Federal regulations require states to renew location efforts on these difficult cases quarterly. In the CSE office described above, supervisors had developed systems to ensure that staff "touched" (i.e., took some action on) every case periodically. However, even these goals were often difficult to achieve. In addition, staff interviews suggest that the definition of "touching" seemed to be open to some interpretation.

<sup>32</sup>Other research confirms that many AFDC recipients move on and off assistance frequently due to administrative issues, employment, changes in family status, and other reasons. See, e.g., Paul Warren and David Maxwell-Jolly, "How California's Welfare Dynamic Affects Work Programs Such as GAIN."

<sup>33</sup>The noncustodial parent has 30 days to contest this judgment.

<sup>34</sup>It is possible to obtain "substitute service" through a relative or someone else who knows where the noncustodial parent is and agrees to pass along the information. However, this is considered much less reliable than personal service because a noncustodial parent who fails to attend a hearing and has not been served personally can later claim that he was not informed about the hearing.

transferred to them from the location unit were "not really located." An example would be a case where the "location" was based primarily on postal verifications. This would indicate that the noncustodial parent has been receiving mail at a given address but, in many cases, does not prove that he lives there. Thus, it might be difficult for the sheriff to find the noncustodial parent at this location. Some staff suggested that the functional division of responsibilities created a situation where workers at earlier stages did not "suffer the consequences" of poor work.

In other cases, reliable location information is available at the time service is requested, but delays and backlogs prevent the sheriff's office from taking immediate action. Then, by the time service is attempted, the location information is obsolete. Staff also complained that the sheriff's office was not persistent enough, often attempting to get service only once or twice. In these cases, CSE had the option of using a private process-server, which seemed to achieve somewhat better results.

Recognizing the potential problems with this adversarial approach, some staff attempted to avoid the necessity of a hearing whenever reliable location information was available and a paternity complaint had been signed. As noted above, in the study State, both establishment steps must be accomplished by a judge (or hearing officer, with the judge's approval). However, if the noncustodial parent is willing to "stipulate" (admit) to paternity and agree to pay the appropriate amount of child support prior to a court hearing, a judge can simply approve the order, thereby eliminating the need for a hearing.<sup>37</sup>

Some establishment specialists worked hard to persuade alleged fathers to stipulate to paternity. These workers would routinely attempt to contact the alleged noncustodial parent and schedule an appointment for him at the CSE office. If he appeared, staff would describe the benefits of establishing paternity and also explain that blood tests are highly accurate and would eventually identify him even if he did not stipulate that he was the father. They would also explain that child support orders are generally set according to uniform guidelines that leave little discretion to courts. Thus, the same order would likely result from a court hearing or a stipulation. A few staff said they made these efforts because they recognized how much a stipulation could accelerate the process and save valuable court time. Others noted that the private attorneys were often inexperienced in

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<sup>37</sup>Many CSE programs are attempting to increase voluntary acknowledgments as a strategy for decreasing the length of the paternity process and increasing the number of paternities established. See, e.g., Adams et al., 1992.

child support enforcement matters and failed to handle cases effectively without the assistance of CSE staff.

Although quite useful in the long run, efforts to increase stipulations were not the rule. Many establishment workers said they routinely referred all cases to the legal firm without attempting to schedule an appointment with the noncustodial parent. Some workers said they did this because meeting with noncustodial parents took too much time; others simply did not see interviews as part of their job. In this instance, it appeared that the system was simply not set up to encourage voluntary cooperation by noncustodial parents.

## B. The Results

The qualitative data above highlight the extraordinary difficulties staff face in locating noncustodial parents, the overriding importance of "locatability" in determining whether cases are able to progress through the CSE process, and the key role played by custodial parents in furnishing initial information about the identity and whereabouts of the noncustodial parents of their children. Staff strategies for coping with large caseloads suggest that cases considered strong by these criteria would progress through the system, while others might easily bog down. The quantitative information supports this picture.

1. Where Do Cases Bog Down? When researchers visited County B in 1991, staff in each of the major functional specialties were asked to estimate the fraction of cases that successfully moved through their stage in the CSE process. The sequential case-handling system made it relatively easy to isolate each stage in the process because staff could think concretely about the fraction of cases they were able to "complete" and pass on to the next unit. Their estimates were as follows:

- Intake staff estimated that one-third of all cases were deferred at this point because there were no leads to follow. Another 10 to 15 percent were closed, because the custodial parent was no longer receiving AFDC when she was interviewed, the noncustodial parent was deceased, or for other reasons. Thus, roughly 55 percent of cases were passed on for location efforts.
- Location staff estimated that they had "a good chance" to locate roughly two-thirds of the cases referred from the intake unit. This would be about 37 percent of all cases (two-thirds of 55 percent).
- Establishment staff estimated that paternity was eventually established for about two-thirds of the cases referred from the location unit (or 25 percent of all cases).

Combining these estimates, as in Figure 5, suggests that 35 to 40 percent of cases are ever located, and roughly 25 percent establish paternity. A large proportion of location problems can be attributed to incomplete or insufficient information provided by custodial parents, since such a large fraction of cases are never even referred for formal location efforts.

MDRC's analysis of Control Card data produced similar results, although it was not possible to examine the link between intake and location using these data. In analyzing the results of location activities, MDRC created a strict definition of a successful location effort. In order to be considered "located," a case had to meet one of the following criteria:

- **Personal Contact.** There was personal or telephone contact between the noncustodial parent and either CSE staff or staff in some other agency associated with the process. This would include office interviews, phone conversations, attendance by the noncustodial parent at a court hearing, personal service by the sheriff, or other personal contacts.
- **Other Verified Information.** The noncustodial parent was also considered to have been "found" if CSE staff confirmed his *current* place of employment, if he paid support during the follow-up period, or if he was confirmed to be in jail or prison.<sup>38</sup>

By this definition, just over one-third of the cases that needed both paternity and support order establishment (those in Status A in Figure 3) were ever located by CSE staff during the follow-up period. Of these, a little more than half – or 20 percent of the overall total – reached the stage of paternity establishment.

2. **Which Cases Make Progress?** As noted earlier, some observers have suggested that child support agencies often do not stress paternity establishment (especially in cases involving young noncustodial parents) because such efforts are expensive, unlikely to produce payments in the short run, and damaging to a state's cost-effectiveness ratio and federal incentive payments. (Of course, with a growing fraction of AFDC cases headed by never-married mothers, paternity cases represent a large fraction of all AFDC child support cases, which is why the Family Support Act requires states to improve their paternity establishment performance.)

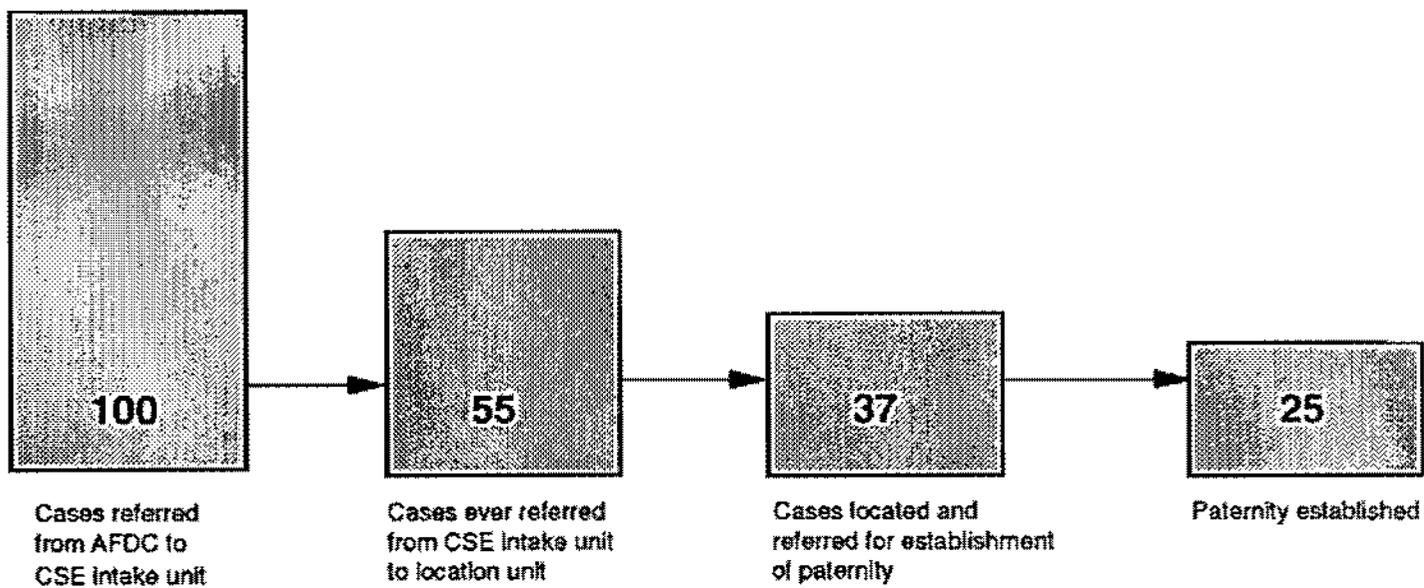
The experience in the study counties appears to have been slightly different, especially during the period when workers specialized in one phase of the CSE process. Under this organizational

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<sup>38</sup>This definition does not necessarily conform to any operational standard used in the CSE program. However, it was both relatively easy to recognize and code in the Control Cards and seemed to reflect the consensus among staff about the types of location information that tended to be most useful. For example, staff were wary of postal verifications and unconfirmed reports from custodial parents about the whereabouts of noncustodial parents, so these were not considered valid.

FIGURE 5

STAFF ESTIMATES REGARDING THE PROPORTION OF AFDC CSE CASES  
EVER REACHING KEY MILESTONES IN THE PATERNITY ESTABLISHMENT PROCESS



No  
perf-based  
evaluation

model, there were few incentives for intake, location, or establishment workers to consider the likelihood of payment in their decisions about how to prioritize cases. Their performance was evaluated on factors related to their functional area (e.g., number of interviews conducted, taking the proper location steps, etc.), and staff insisted that they attempted to establish paternity for all cases that needed it. At these early stages, the ability to locate the noncustodial parent appears to be the overriding factor determining which cases progress through the system."

Not surprisingly, staff suggested that cases where the noncustodial parent does not move or change jobs frequently are most likely to move forward because these characteristics make location possible. They also highlighted cooperation by custodial parents as a critical factor. The quantitative data used for this paper provide little evidence on this question because no reliable information was available on the employment and residential patterns of the noncustodial parents or the types of information and assistance provided by custodial parents. However, the data do suggest that rates of paternity establishment (in cases where it is needed) are higher among blacks than among whites (see e.g., Table 2). Other studies suggest that black unwed absent fathers are more likely to live near and have frequent contact with their children than their white counterparts.<sup>49</sup> This could serve to enhance their "locatability." The data also show that paternity establishment rates are slightly higher for children born just before the case open date, which is consistent with other research cited earlier about the patterns of interaction between never-married fathers and their children.

Finally, it is interesting to note that simply having a legally identified noncustodial parent does not necessarily mean that locating this parent, establishing an order, and collecting payments will be easy. In fact, it seems clear that knowing the identity of the father is of little help unless the system also knows where he is. For example, there is a sharp difference between the rate of child support order establishment among cases where paternity is established through the efforts of CSE staff (nearly 90 percent of these cases obtained an order), and the corresponding rate in cases where paternity establishment was not required (only 26 percent of these cases obtained an order), even though the identity of the noncustodial parent had been legally established in both instances. This disparity probably stems from the fact that the successful paternity cases were located (indeed, child support orders are often set at the same hearing where paternity is established), a step that

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<sup>49</sup>However, it seems likely that, in the long run, cases that are easier to locate are those where the absent parent works more steadily, and these are likely to be the same cases where payment is most likely.

<sup>40</sup>Robert Lerman, "A National Profile of Young Unwed Fathers." Prepared for Conference on Unwed Fathers, Catholic University, Washington, D.C., October 1, 1986.

appears to have presented difficulties in the majority of cases where paternity was not an issue.

3: **How Long Does It Take?** Some CSE staff noted that the constant pressure to focus on easier cases created a situation where "good cases" could make relatively rapid progress and difficult cases might be neglected for long periods. Once again, the data appear to bear out their perceptions. However, it is important to note that factors beyond the control of CSE staff (e.g., the availability of docket space, and the intensity of the sheriff's efforts to obtain service) help to determine processing time, and also limit the speed with which any case can move through the system.

Although paternity establishment dates are not available through the CSE computer system, it is possible to compare the paternity codes of groups of cases that entered the system at different times. Since the study period ended at the same time for all cases, this means that different cohorts of cases had been in the system for different lengths of time when the data were extracted. This provides a rough picture of the timing of paternity efforts. Figure 6 shows that children who entered the system in early 1987 and had four years of follow-up (Bar I) are only slightly more likely to have had paternity established than those who entered in late 1989 and had two years of follow-up (Bar IV). Eleven percent of children in the former group had paternity established, compared to 9 percent of those in the latter group. This suggests that if paternity is not established within two years, it may be unlikely to happen.

Using the Control Card data, it is possible to obtain the date when a case was first located and when paternity and a support order were established. An analysis of these data for the relatively small sample of cases needing both paternity and support orders who were in the system for at least three years by May 1991 reveals roughly the same pattern. For example, Figure 7 shows that within the first 18 months, about 31 percent of these cases were located successfully. However, during the next 18 months, staff were able to locate only an additional 8 percent of the cases. This suggests that if a case is not located relatively quickly, the chances of its ever happening drop considerably.<sup>4</sup>

## VI. Monitoring and Enforcing Child Support Orders

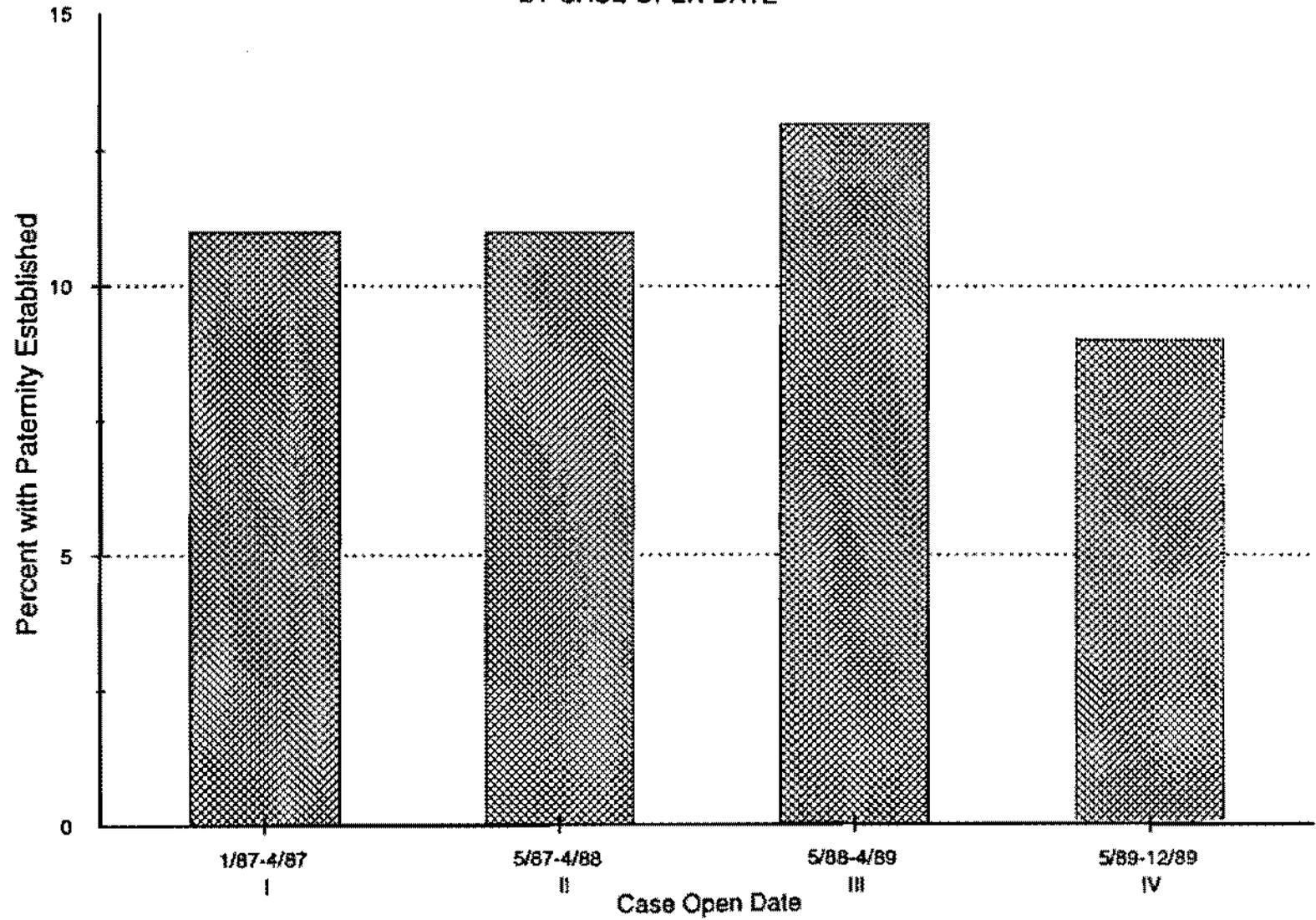
The previous sections illustrate that monitoring and enforcement of child support orders are needed in only a relatively small fraction of all cases, since most noncustodial parents are never

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<sup>4</sup>Other research confirms that CSE success rates tend to be higher when cases can be processed more quickly. See Meyer, 1992.

FIGURE 6

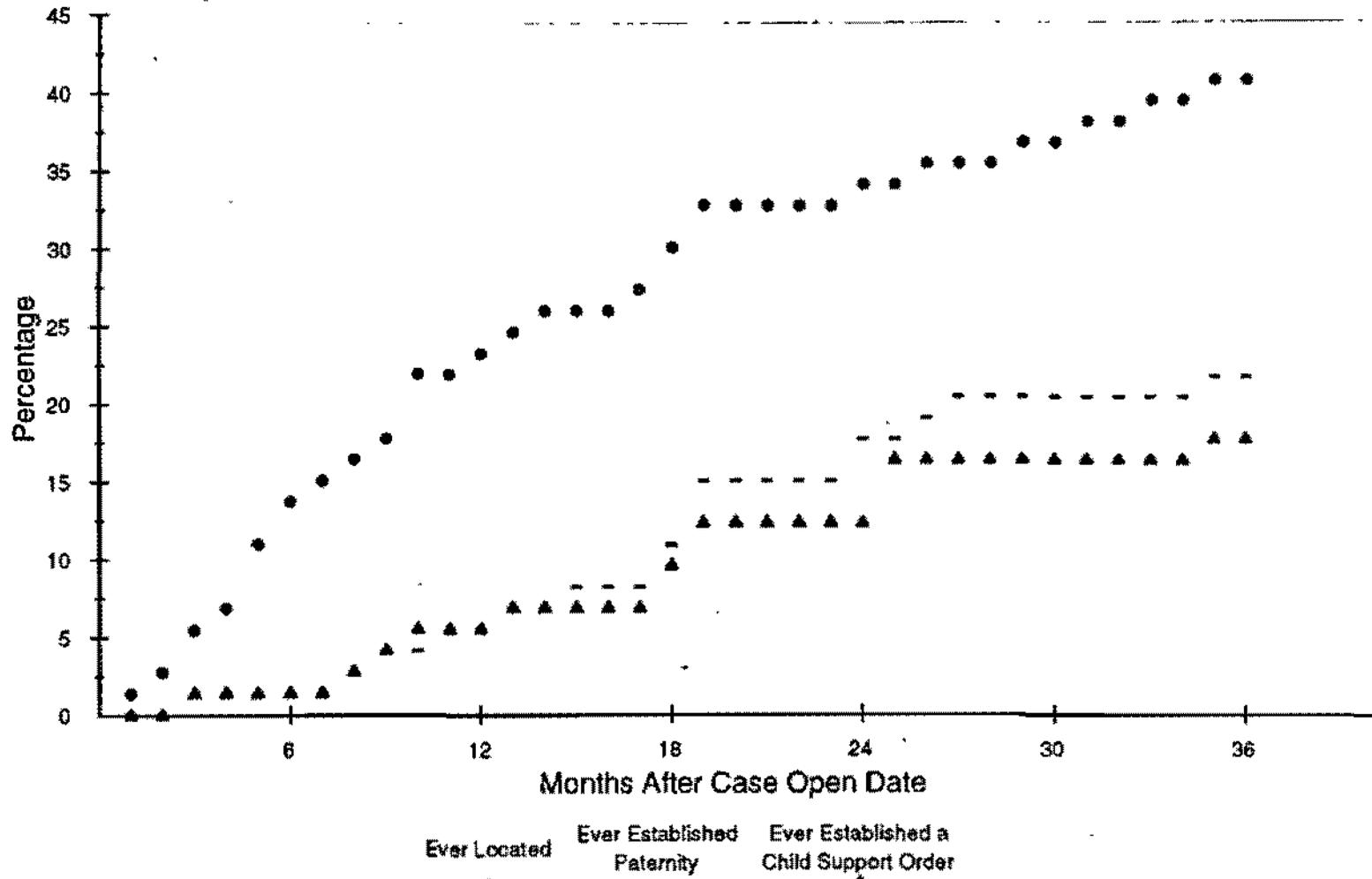
PATERNITY STATUS IN APRIL 1991 OF CHILD SUPPORT CASES OPENED IN 1987-89,  
BY CASE OPEN DATE



SOURCE: Computerized Child Support Enforcement Data. Sample size is 16,202.

FIGURE 7

CHILD SUPPORT CASES REACHING SELECTED MILESTONES WITHIN THREE YEARS  
OF CASE OPEN DATE



NOTE: Figures represent percentages of the 72 cases for which child support case records were reviewed, which were in the system for at least 3 years by May 1991, and which needed both paternity and support orders established.

ordered to pay support. Nevertheless, these are a critical part of the CSE program's mission.

As in other areas, the technological sophistication of the collection and enforcement tools available to CSE staff has increased greatly in recent years. The most important tool for collections is the Income Deduction Order (IDO), which allows staff to deduct child support payments directly from noncustodial parents' paychecks. Computerized monitoring systems inform workers fairly quickly when payments are not made so that delinquent cases can be followed up. Staff can also intercept the tax returns or even lottery winnings of delinquent parents and, ultimately, refer them to court for contempt action.

Although collections have grown substantially in recent years, the system's record is still relatively poor nationwide. In 1989, no payments were received in about one-fourth of the cases nationally that were supposed to receive payments. Another one-fourth received partial payments.<sup>42</sup> In the study counties, Control Card data show that, for about 40 percent of the cases with orders in place, no payments were collected during the follow-up period.<sup>43</sup> In about 23 percent of the cases with orders in place, payments were made in at least half the months for which they were due. It appears that noncustodial parents were somewhat more likely to pay during the first few months after an order was set and generally less likely thereafter. In the three-month period immediately after an order was set noncustodial parents made a payment in about 44 percent of the months. The overall figure for all months was 34 percent.

The three major challenges that affect CSE staff in other parts of the process – heavy workloads, inability to locate noncustodial parents, and lack of cooperation by parents – are also present in the enforcement stage and limit the effectiveness of collection and enforcement tools. Two examples are discussed below.

#### A. Collection

Child support payments have been deducted directly from the paychecks of noncustodial parents for some time. However, until recently, this method was used primarily with noncustodial parents who failed to make court-ordered payments. More recently, the Family Support Act required states to begin to use wage withholding routinely in new support orders.

In general, CSE staff in both counties agreed that IDOs are an extremely valuable tool for collecting support payments. Staff noted that some noncustodial parents prefer this arrangement

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<sup>42</sup>These data are obtained from the Census and include all child support cases, not just AFDC cases.

<sup>43</sup>Statistics from the study State show that, in the month of June 1991, approximately 31 percent of County A's AFDC cases with an obligation received any payment.

as well because it means they do not have to remember to make payments. The Control Card data show that IDOs were successfully implemented at some point in about 40 percent of the cases with orders. Payments tended to increase somewhat just after IDOs were put in place, but it is not possible to determine how much of this is due to the fact that the noncustodial parent is employed, and how much to the presence of the IDO.

However, the unstable employment patterns and low levels of cooperation that characterize the noncustodial parent population often make it difficult to implement withholding in practice.<sup>44</sup> Most noncustodial parents do not routinely notify their CSE case worker when they get a new job. In many instances, staff discover this employment by reviewing data from the quarterly wage reporting system. However, as noted earlier, the data available through this system are typically several months old. Thus, by the time staff contact the employer to verify employment and initiate an IDO, the noncustodial parent may be gone. The Control Cards were full of situations where staff began the process of implementing an IDO only to discover that the noncustodial parent had left a job.

The prevalence of underground or "off the books" employment also limits the effectiveness of wage withholding, since this type of income is much harder to uncover and generally cannot be withheld. Although it is nearly impossible to obtain hard evidence about the prevalence of this kind of work, staff described a wide variety of jobs in the local economies of both counties that offered opportunities for off-the-books income. The positions typically involved manual labor, and hired people for brief periods.<sup>45</sup>

Staff had different views about whether noncustodial parents purposely left jobs or worked underground to escape IDOs. Some staff told of wily noncustodial parents who always seemed to stay "one step ahead" of the system or knew how to work under a false social security number. Others felt that unstable employment patterns are simply part of the daily life of many noncustodial parents of children on AFDC, and that efforts to evade the CSE system probably explain only a small portion of this job-switching. Ironically, some staff speculated that the increasing sophistication of the CSE system may actually drive some noncustodial parents further underground or stimulate even more unstable employment patterns, since ever improving technology will make it increasingly difficult to work steadily in the mainstream economy and avoid paying support.

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<sup>44</sup>This result was also found in Anne R. Gordon, *Income Withholding, Medical Support, and Services to Non-AFDC Cases After the Child Support Enforcement Amendments of 1984* (Princeton, N.J.: Mathematica Policy Research, 1991).

<sup>45</sup>Legitimate self-employment income presents many of the same problems.

## B. Enforcement

Workloads at the enforcement stage were typically heavy. CSE case workers noted that cases making regular payments required little work, but that they were still unable to follow up quickly on all those who did not comply. Some enforcement tools – such as the Internal Revenue Service intercept – were implemented automatically through the computer system. However, this collection method seems most useful with noncustodial parents who work steadily in the mainstream economy, and it was used only in about 3 percent of the cases examined in the Control Card analysis.

As in the establishment phase, a few enforcement workers seemed to actively promote voluntary cooperation among noncustodial parents. One CSE case worker, who claimed to have the best collection record in his unit, explained that he made it clear to noncustodial parents that he was "willing to work with them." In practice, this meant that he would not initiate legal action against them for nonpayment as long as noncustodial parents kept him up to date about their circumstances and appeared to be making a good faith effort to pay. This seemed to promote increased cooperation, which allowed him to manage his cases more efficiently and improve the results. However, this type of proactive case management did not seem typical. As in other stages, most staff relied on the standard legal process to enforce cooperation. This involved referring cases to the attorneys for initiation of a contempt action.

In theory, noncustodial parents who willfully fail to pay support can be jailed. However, in practice, this process is constrained by several factors. First, the court dockets tend to be quite full – often with other types of cases that receive higher priority – and it is not always possible to get a child support contempt hearing onto the docket quickly. In County B, the court had designated one hearing officer to handle only child support cases in order to reduce the backlog. Second, noncustodial parents must generally be served with legal papers prior to a contempt hearing. Thus, location efforts are frequently required before a contempt hearing can be scheduled. According to the Control Card data, many of the cases that were ever located needed to be relocated at some subsequent point.

Finally, the system's treatment of cases where the delinquent noncustodial parent claims to be unemployed effectively restricts the options available to staff. Since child support is a civil matter, noncustodial parents are generally not found in contempt of court unless the agency and its attorneys can demonstrate that they had the means to pay support but willfully refused to do so. (Jail is used to coerce people to pay, not to punish them for not paying.) This is extremely difficult

to do, since the information available during the court hearing is often out of date.

The research team observed several contempt hearings during which judges struggled without success to determine how much income was actually available to nonpaying noncustodial parents, many of whom had accumulated substantial arrearages. In most of these cases, the judge had no choice but to set a "purge payment" (an amount that the noncustodial parent is clearly able to pay) and order the noncustodial parent to pay this sum within two weeks or go to jail. The purge sometimes amounted to a few hundred dollars out of a total child support debt of several thousand, but there were few other options available. Staff were full of colorful tales of noncustodial parents who had walked into the corridor after a hearing and returned moments later with hundreds or thousands of dollars in cash to meet a purge payment and avoid jail. Their pattern of nonpayment then began anew.

### C. A New Option

This dilemma led to the creation of the JOBS/Child Support Enforcement Pilot Project in the study counties. Child support staff and judicial authorities were aware that some noncustodial parents needed assistance in finding and keeping jobs. Others were clearly working in the underground economy but simply refused to pay support. However, the courts had few means to uncover the truth in specific cases.

The pilot project provided judges and hearing officers with a new option: Noncustodial parents who claimed to be unemployed during establishment or contempt hearings could be ordered to participate in the JOBS program.<sup>46</sup> This served two purposes: First, those who truly needed assistance would receive it (although the services available to the noncustodial parents were quite limited owing to the lack of special funding for this initiative). Second, those who were working underground, when faced with an order to attend a program during working hours, frequently agreed to begin paying support. Staff suggested that this "smoke out" effect occurred in as many as one-third of the cases: Noncustodial parents would confess in court to having a job or would find one immediately after the hearing and never appear at the JOBS office.<sup>47</sup>

For this analysis, MDRC examined Control Cards for 92 cases that were referred to JOBS in 1990, tracking them for about six months after the referral (and also examining their child

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<sup>46</sup>Eventually, a provisional referral to JOBS was written into all new support orders. At that point, CSE staff could refer noncustodial parents into the program directly without a court hearing whenever they claimed to be unemployed. However, some staff felt that the order to participate carried more weight if issued by a judge.

<sup>47</sup>Judges were free to order noncustodial parents to seek employment before the pilot project began, but had few means to monitor compliance with these orders.

→ Have AFDC moms  
work by teaching  
at schools  
etc

support histories back to 1987). In the absence of a reliable comparison group, it is impossible to tell what would have happened to these individuals if the pilot project had not existed. However, it is clear from the data that noncustodial parents paid somewhat more regularly in the months following their referral to JOBS than in the months directly preceding it. For example, noncustodial parents made some payment in about 10 percent of the months immediately preceding the referral; in the six months after the referral, this figure rose to nearly 20 percent.<sup>46</sup> It also appears that one-third of the noncustodial parents obtained employment that was verified by CSE staff after their referral. However, in just over one-fourth of the cases, the CSE agency received notification from JOBS that the noncustodial parent had not participated in his assigned activities. These cases were supposed to be referred to court for contempt action; since the noncustodial parent had been given an order with which he could comply (attending the program), the follow-up hearing could in principle result in a jail sentence.

In interviews, CSE staff were generally supportive of the JOBS pilot program, mostly because it provided the system with another option for dealing with parents who claimed to be unemployed. However, several staff were skeptical of the program's ability to make much difference. They suggested that the real problem facing the noncustodial parents was not an inability to find *any* job, but rather an inability (or unwillingness) to find a job they would keep. Since JOBS offered simple job search assistance, rather than training or education that might build occupational skills, staff speculated that it would not break the cycle of unstable employment.

VII. Conclusions

The analysis presented in this paper highlights several of the reasons why it is often difficult to collect support for children receiving AFDC: Custodial and noncustodial parents have few incentives to cooperate with the CSE system; the data available to the staff responsible for locating noncustodial parents and collecting payments are often too out-of-date to offer much help in keeping track of a highly mobile population; and the sheer volume of work at all points in the process makes it difficult for staff to devote much attention to any one case or to follow up quickly on the information that is obtained.

Most recent federal efforts to improve states' performance have focused on squeezing better

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<sup>46</sup>Again, the absence of a control group against which to compare this outcome limits the utility of this figure. One might expect payment rates to increase after the referral because the period prior to the referral was, by definition, one of poor payment compliance.

results out of the existing CSE system. For example, the Family Support Act of 1988 requires states to take necessary actions on all cases within prescribed time limits, establishes new state standards for paternity establishment, and seeks to standardize support orders and increase the use of reliable collection tools such as wage withholding.

These efforts are bound to generate additional collections. However, the analysis presented here suggests that the recent reforms may address only a subset of the barriers facing CSE managers and staff. For example, as long as staff seldom if ever leave their offices, and rely primarily on wage reporting and other data with long time lags, they will have difficulty keeping up with mobile noncustodial parents. Requiring employers to report new hires might provide more timely data, and increased or redeployed CSE staffing structures might reduce the time needed to react to such data. Ultimately, however, as long as the system provides AFDC parents with few incentives to cooperate, CSE programs are likely to continue to have difficulty locating noncustodial parents and collecting payments. Even if, as some have suggested, the Internal Revenue Service were to assume responsibility for collections, this would primarily affect noncustodial parents who work in the mainstream economy. Ironically, those who work (and, in some cases, pay support) outside the formal system might have even fewer incentives to come above ground.

There are numerous strategies for improving the incentives facing parents, but each has real or potential drawbacks. For example, increasing the size of the child support pass-through above the current \$50 might provide an additional incentive for both custodial and noncustodial parents to cooperate, but would also reduce the amount of AFDC reimbursement flowing into state coffers. A child support assurance system, which would provide a guaranteed monthly payment to each custodial parent with a support order, might increase the incentives for custodial parents on AFDC to accurately identify noncustodial parents. The fact that this assured benefit would not be reduced by a custodial parent's earned income would increase the rewards from working. However, such a system does not appear to substantially alter the incentives facing noncustodial parents, and might actually reduce the incentive for custodial parents to continue providing information once an order exists.

While they do not affect incentives directly, programs such as Parents' Fair Share, which offer employment services and training to unemployed noncustodial parents, can make the system seem more balanced and responsive to these parents, while simultaneously providing CSE staff and courts with a viable strategy for dealing with non-paying parents who claim to be unemployed. It seems clear that unemployment or unstable employment limits the ability of some noncustodial parents of AFDC children to meet their support obligations. Others may be working off the books,

but claim to be unemployed when confronted by agency staff or courts about their lack of payments. In practice, it is nearly impossible for judges or staff to discern the truth in these situations. The option of a mandatory referral for employment services can both "smoke out" those who are working underground and get services to those who need them. Parents' Fair Share also includes a peer support component that is specifically designed to help change attitudes toward child support.

None of these solutions is perfect, but experimentation and change seem critical, since the data presented here suggest that the potential of the current system may be inherently limited.

APPENDICES

## TECHNICAL APPENDIX

This appendix focuses on the two major data sources used in the quantitative analysis in this paper: the computerized data, and the Control Card casefile data.

### I. Computerized Data

The computerized data were used to present a broad view of the progress of cases through the CSE system. The file included information (current as of 4/91) about all cases referred from AFDC to CSE during a three-year period (1987-89).

#### A. The Data

MDRC obtained a computer file containing 16,202 records, each corresponding to a child receiving AFDC who had a CSE "case open date" between 1/1/87 and 12/31/89. Each child-record included the following information:

For the child:

- name
- social security number
- birthdate

For the child's custodial parent (CP):

- name
- social security number
- AFDC case number
- zip code of residence

For the legal or putative noncustodial parent (NCP):

- name
- social security number
- birthdate
- gender
- race
- zip code and county of residence

For the CSE case:

- case open date
- child support order date
- child support amount and frequency
- paternity status (established, established with HLA [blood test], HLA test requested, no paternity [not needed], pending, closed, unknown)<sup>1</sup>

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<sup>1</sup>In the analysis, these are collapsed into three categories: (1) paternity established (including the "established" and "established with HLA" codes), (2) paternity not needed (including the "no paternity" code), and (3) paternity not established (including the "pending," "closed," "HLA test requested," and "unknown" codes).

As noted in the text, all of these fields included *current* information as of April, 1991, when the data were extracted. Thus, for example, the child support order date and amount referred to the most recent order; information about earlier orders had been overwritten.

## B. Analysis Issues

In analyzing the computerized data, MDRC staff encountered several difficult issues and made a number of simplifying assumptions. The most critical of these are discussed here.

1. The Unit of Analysis. There were three main options:

- The Child. This meant essentially leaving the file as it was received, with each record corresponding to a child.
- The Noncustodial Parent. Since an NCP could appear on more than one child-record, it was possible to use social security number to create a unique record for each noncustodial parent, including information about each of his children and their custodial parent(s).
- "Union." It was possible to identify all children linked to a specific pair of parents, and then to create one record for each such "union" including information about each parent and all relevant children.

There were advantages and disadvantages to each unit of analysis, and the most appropriate choice often varied depending on the research question being addressed. Here are three examples:

- In assessing the CSE system's success in establishing paternity for children born out-of-wedlock (or to determine how often paternity establishment was required), it seemed logical to address the question: "For what fraction of children was paternity established, not needed, not established, etc.?" In this case, the child-based approach seemed most appropriate.
- In assessing the demographics of the NCPs, using the child-based file would have given more weight to NCPs with more than one child. Thus, it was preferable to count each NCP once. Nonetheless, there were several problems with this approach. First, the same NCP could appear in the file more than once with different demographics (e.g., different birthdates). In these cases, it was necessary to randomly choose one of the records. Second, the demographic data include both legal and putative NCPs. Demographics could easily be incorrect or missing for the latter group. Third, it is not possible to positively identify all situations where a given NCP appears more than once. For example, the same individual could have established paternity and have his social security number noted for one child, but appear under a pseudo-social security number (because the real number was unknown) in another case.

As a compromise, in analyzing the demographics of the NCPs, we first examined whether using the child-based file would yield a substantially different demographic profile than an NCP-based file; it did not. While we use an NCP-based file in producing Table 2, the remaining analyses are based on the child-based file.

- In assessing whether paternity status varies with NCP demographic characteristics, there was no clear answer, since paternity codes refer to children and demographics refer to NCPs. Thus, for example, the same NCP could easily appear in the file more than once with different paternity codes, making the NCP-based approach unreliable. However, the child-based approach counts the same parent more than once if he appears in more than one child record. However, as discussed in the preceding point, because the child-based file did not appear to be biased as a result of weighting NCPs with more than one child more heavily, we decided to use the child-based file, and avoid the disadvantages of an NCP-based file.

2. **Using Current Information.** As noted above, the computerized file included only current information. This presented a particular problem for several of the key fields:

- Child Support Order Date. In assessing the fraction of cases with child support orders, the analysis assumes that records with a date in this field had an order at some point, and records with no date did not.
- Case Open Date. There is no ideal way to work with this date. It was simply necessary to recognize that this was not necessarily the first time the case entered the system.
- Paternity Code. We assume that paternity codes are generally not a problem. However, 271 child records (less than 2 percent of the total) had a "closed" code. In these cases, it is possible that a "paternity established" code had been overwritten when the case closed.

## II. Control Card Data

To get a more detailed picture of CSE activities, MDRC requested photocopies of the Case Control Card for a total of 300 cases. This included a random sample of 100 of the cases in the computerized file in each county; these 200 cases provided the data for the Control Card analysis presented in this paper. It also included 50 other cases (not randomly selected) in each county in which the noncustodial parent had been referred to the JOBS program in 1990. The quantitative analysis in Section V.C. of this paper is drawn from the data provided by these 100 cases.

## A. The Data

MDRC developed a coding sheet for use in reviewing the Control Cards. Staff reviewed the Cards, looking for specific events or CSE activities, and coding the date(s) when they occurred. The events and activities were:

- Location activities
- Paternity establishment
- Support order establishment
- Noncustodial parent located
- IRS refund intercept
- Income Deduction Order (IDO) put in place
- Noncustodial parent jailed for child support
- Noncustodial parent jailed for reasons other than child support
- Change of custodial parent
- Employment confirmations
- Referrals to JOBS
- Noncompliance with JOBS
- Contempt hearings held
- CSE case closures and deferrals
- AFDC case closures
- Support order suspensions and modifications

## B. Analysis Issues

A host of complex problems and issues emerged in coding and analyzing the Control Card data. Here are the most critical examples:

- Choosing the Sample. Since Control Cards refer to a "case" (essentially a CP/NCP couple) rather than a child, and the computerized file we drew the sample from was child-based, it was sometimes difficult to resolve discrepancies between the different definitions of a case.
- Missing Data. Some of the Control Cards for sample members could not be located. Others were missing pages, or contained illegible pages.
- Incorrect "Unions." In some cases, the Control Card received referred to the correct noncustodial parent, but a different custodial parent. This, combined with the "missing data" problem discussed above, account for the coding of 187 cases, rather than 200.
- Coding Problems. The coding was extremely difficult for several reasons: the quality of handwriting varied, many abbreviations were used, the amount of documentation and the level of detail varied greatly. Complex rules had to be created for each of the activities or events (e.g., the definition of location). Some of the codes were not used in the analysis because the coding was not deemed reliable.

- Dealing with Pre-Case Open Date Activity. As noted earlier, the case open date appearing in the computerized file was not necessarily the first time a case entered the CSE system. In coding the Control Cards, it was sometimes clear that activity had occurred before the case open date appearing in the computerized file. In these cases, we usually coded the activity and supplied the case open date for the unknown date.

## THE PARENTS' FAIR SHARE DEMONSTRATION: AN INITIATIVE FOR UNEMPLOYED NONCUSTODIAL PARENTS OF CHILDREN RECEIVING PUBLIC ASSISTANCE

The Parents' Fair Share Demonstration (PFS) is a challenging national demonstration project for unemployed noncustodial parents (usually fathers) of poor children. The project's central goals are:

- to increase the employment and earnings of noncustodial parents (usually fathers) who are unemployed and unable to adequately support their children;
- to reduce poverty among children receiving public assistance by encouraging and requiring their noncustodial parents to establish paternity and pay child support; and
- to assist noncustodial parents in providing other forms of support to their children when appropriate.

The nine Parents' Fair Share Demonstration programs use a variety of approaches, built around four core services: employment and training, peer support and instruction in parenting skills, mediation, and enhanced child support enforcement. The nine sites in the demonstration are listed at the end of this overview.

Parents' Fair Share is the product of a unique public/private partnership—the Parents' Fair Share Consortium—that includes The Pew Charitable Trusts, the Ford Foundation, the AT&T Foundation, the U.S. Department of Health and Human Services, the U.S. Department of Labor, The McKnight Foundation, the Northwest Area Foundation, and the Manpower Demonstration Research Corporation (MDRC), a nonprofit organization that develops and evaluates programs to help the disadvantaged become more self-sufficient. MDRC is responsible for coordinating the demonstration and for evaluating its success. The other partners set policy and provide overall guidance.

The demonstration was launched in early 1992 with an 18-month to 2-year pilot phase. The project will be extended for several more years if the pilot experience indicates the feasibility and potential value of using a rigorous experimental research design to determine program effectiveness and benefits and costs for the participants and the agencies providing services. If this effort is successful, it will provide a model for meeting the employment and training needs of disadvantaged unemployed men, while simultaneously helping to complete the vision of shared parental responsibility for children at the heart of current national welfare reforms. It will also show

policymakers how a broader attack on poverty among children in single-parent families can be mounted by involving both custodial and noncustodial parents.

### The Program Model

Parents' Fair Share presents major programmatic challenges. The results from evaluations of previous employment programs that served disadvantaged men have generally been discouraging. Ethnographic research has described the many legal, financial and skills barriers these men face and the limited opportunities available to them. However, while some researchers have also examined the characteristics of noncustodial parents using surveys or large national databases, little is known specifically about the noncustodial parents of AFDC children or their likely response to a targeted intervention. Parents' Fair Share is designed to answer these questions.

Given the lack of existing knowledge, demonstration programs are not expected to follow a uniform design. Instead, the Consortium has encouraged states to meet some general requirements, such as the establishment of linkages and cooperation among the agencies involved in Parents' Fair Share (including child support, judicial, welfare, and Job Training Partnership Act [JTPA] employment and training agencies). In addition, programs must provide some level of services in four key areas that MDRC's preliminary research suggested may be important to the success of this initiative: (1) employment and training; (2) enhanced child support enforcement; (3) peer support and instruction in parenting skills; and (4) mediation.

Sites are free to vary the emphasis they place on these components, to add further services, and to design programs that represent a range of possible options. For example, some are "late intervention" programs that work primarily with noncustodial parents who have legally established paternity but are not meeting their child support obligations. These programs typically intervene when a noncustodial parent appears before the courts, either because of failure to pay child support or when an order is established, and informs the judge or hearing officer that he or she cannot pay because he or she is unemployed. Such parents are referred to Parents' Fair Share and required to participate in lieu of legal action. Relatively small-scale programs of this type existed in a few jurisdictions prior to Parents' Fair Share, often initiated by judges who were frustrated by their lack of alternatives in cases where delinquent noncustodial parents claim to be unemployed. Some of these programs have been adapted and are now part of Parents' Fair Share.

The demonstration also includes a few "early intervention" programs that recruit noncustodial parents who have not yet established paternity and a support order. These programs are designed to address a major flaw in the current child support enforcement system: the inability to identify noncustodial parents and legally establish paternity in a substantial proportion of public assistance

cases. These programs conduct outreach and recruitment in communities and at hospitals, JTPA programs, and even prenatal clinics. The goal is to reach fathers through Parents' Fair Share with a combination of reduced or suspended child support orders and employment and training opportunities before arrearages accumulate putting them in debt. Ultimately, establishment of paternity and a support order is necessary in order for parents to participate in the full range of program activities. Some Parents' Fair Share sites operate both early and late intervention programs together.

#### Components of Parents' Fair Share Programs

- **Employment and training.** The centerpiece of Parents' Fair Share programs is a group of activities designed to help participants secure long-term, stable employment at a wage level that will allow them to support themselves and their children. Since noncustodial parents vary in their employability levels, sites are strongly encouraged to offer a variety of services, including job search assistance and opportunities for education and skills training. In addition, since it is important to engage participants in income-producing activities quickly to establish the practice of paying child support, sites are required to offer opportunities for on-the-job training.
- **Enhanced child support enforcement.** A primary objective of Parents' Fair Share is to increase support payments made on behalf of children living in single-parent welfare households. The demonstration will not succeed unless increases in participants' earnings are translated into regular child support payments. Although a legal and administrative structure already exists to establish and enforce child support obligations, it may be advantageous for demonstration programs to develop new procedures, services, and incentives in this area. These include steps to expedite the establishment of paternity and child support awards and/or flexible rules that allow child support orders to be reduced while noncustodial parents participate in Parents' Fair Share.
- **Peer support and instruction in parenting skills.** MDRC's preliminary research suggests that employment and training services, by themselves, will not lead to changed attitudes and regular child support payment patterns for all participants. Education, support, and recognition may be needed as well. Thus, demonstration programs are expected to provide regular support groups for participants. The purpose of this component is to inform participants about their rights and obligations as noncustodial parents, to encourage positive parental behavior and sexual responsibility, to strengthen participants' commitment to work, and to enhance participants' life skills. The component is built around a curriculum supplied by MDRC. The groups may also include recreation activities, "mentoring" arrangements using successful Parents' Fair Share graduates, or planned parent-child activities.
- **Mediation.** Often disagreements between custodial and noncustodial parents about visitation, household expenditures, lifestyles, child care, and school arrangements—and the roles and actions of other adults in their children's lives—influence child support payment patterns. Thus, demonstration programs must provide opportunities for parents to mediate their differences using services modeled on those now provided through many family courts in divorce cases.

## Policy Background

Parents' Fair Share is designed to address two pressing interrelated issues confronting our society: poverty among children in single-parent families and declining earnings among disadvantaged men. Today, a child born in this country stands a better than 50 percent chance of spending part of his or her life with just one parent, and children living in these families stand an equally great chance of being poor. According to the most recent available data, fewer than half of poor mothers with children by a father living outside the household have a child support order in place, and many of them receive little or no child support. Many of these families receive public assistance through Aid to Families with Dependent Children (AFDC), the nation's largest cash welfare program, which primarily serves single mothers and their children.

In part, the roots of this disturbing situation can be traced to the deteriorating economic condition of young men. The average annual earnings of 20-23 year old males fell by nearly 31 percent between 1973 and 1991. The decline was more than 40 percent for male high school dropouts. Declining earnings leave fewer resources available for child support and, according to some observers, reduce marriage rates.

In 1988, Congress passed the Family Support Act (FSA), a landmark bill aimed at improving the economic well-being of parents and children receiving AFDC. Central to the act is the idea of "mutual obligation." On the one hand, parents—both mothers and fathers—should be the primary supporters of their children. Thus, with two incomes increasingly necessary to support families, parents who receive public assistance have a responsibility to participate in employment services and get jobs, and noncustodial parents have a responsibility to pay child support. On the other hand, government must provide services designed to promote self-sufficiency when individuals are unable to obtain jobs on their own.

To this end, the Family Support Act expands resources and requirements for state programs providing employment and education services to AFDC recipients. Title II of FSA creates the Job Opportunities and Basic Skills Training (JOBS) Program, the keystone of national policy to help welfare recipients help themselves. At the same time, building on several legislative initiatives of the past decade, Title I of FSA increases the federal role in child support enforcement. The objectives are to improve states' performance in establishing paternity for out-of-wedlock births and to establish and enforce adequate child support orders.

FSA enhancements to the child support enforcement system should improve the collection of child support owed, and thus the standard of living of some poor children. However, given the declining real earnings and labor force participation among low-skilled young males, it is likely that some noncustodial parents who do not pay child support have limited labor market prospects and

need employment and training services and other assistance in order to meet their obligations. AFDC children whose noncustodial parents are unable to provide support might remain poor unless additional steps are taken.

Currently, few states are operating programs designed to assist unemployed parents with child support obligations to obtain employment. Although these disadvantaged men may be eligible for programs funded through other sources, such as JTPA, they are usually not AFDC recipients and are therefore not normally eligible for JOBS programs. In addition, mechanisms do not generally exist to link participation and attendance in employment programs to the child support system. Thus, judges and child support enforcement staff have few options at their disposal when dealing with noncustodial parents who are not complying with child support orders because they are unemployed.

Recognizing these facts, the authors of the Family Support Act included a provision that instructs the Secretary of Health and Human Services to allow a group of states to provide services under the JOBS program to "noncustodial parents who are unemployed and unable to meet their child support obligations." In effect, this section of the act attempts to match the obligation of noncustodial parents to pay child support with the opportunity to obtain gainful employment, much the way JOBS does for custodial parents on AFDC. Parents' Fair Share builds on this provision through additional funding, technical assistance, and the addition of other program components that may be critical for the noncustodial parent population. This growing interest in employment and training for disadvantaged noncustodial parents is also consistent with amendments to JTPA which increase targeting of services on clients with special barriers to employment.

### Funding

As mentioned above, the Secretary of Health and Human Services allows Parents' Fair Share states to provide services under the JOBS program to unemployed noncustodial parents whose children receive AFDC. Participating states also receive funding from the demonstration partners and are expected to contribute state or local funding to the project. Funds generated from state sources (as well as those provided by the demonstration funding Consortium) are generally matchable by the federal government. States are encouraged to use other funds as well, including JTPA, Food Stamp Work and Training, and education funds. MDRC's research activities are supported by foundation funds.

### The Research Effort

MDRC is conducting a multifaceted evaluation of programs in the demonstration. The research begins during the pilot phase with a study of the implementation and early operation of the

programs. This analysis focuses on the administrative feasibility of operating these programs, the characteristics of the noncustodial parents they serve, the kinds of services participants receive, and their early labor market experiences and child support payment records.

During the pilot phase, MDRC will also assess the feasibility of extending the demonstration into a full-scale evaluation that will test the effects, or *impacts*, of some or all of the pilot programs. The decision about whether to proceed beyond the pilot phase will depend on the ability of the pilot sites to recruit and retain eligible noncustodial parents, deliver the required services, place clients into stable jobs, and translate their earnings into child support payments. If at least three to five of the pilot sites are able to operate successful programs at the scale required to support an impact test, MDRC will recommend to the Consortium that the project be continued. The second phase would begin in early 1994. If a decision is made to proceed, eligible noncustodial parents will be assigned, at random, to one of two groups: a *program group* that is given access to the program's services or a *control group* that will not receive those services. Members of the control group will be free to participate in other services in their communities on their own initiative. Researchers will compare the labor market and child support payment experiences of these two groups of noncustodial parents—and the associated custodial parents and children—during a follow-up period. Any differences that are measured between the two groups will be attributable to the Parents' Fair Share program.

#### Objectives of the Parents' Fair Share Consortium

The Parents' Fair Share Demonstration is a rare opportunity to advance the nation's social agenda on a number of fronts. The Consortium members have designed a unique vehicle to simultaneously increase our knowledge about effective programs for disadvantaged men, about the impacts that investments in their "human capital" will have on child support payments and the well-being of their children, and about changes that can be made to make the child support enforcement system more responsive to these men's changing economic circumstances. Employment and training and other services for noncustodial parents, coupled with similar services for custodial parents and child support enforcement efforts, could create a multi-pronged strategy to address one of our most challenging social problems: poverty among children in single-parent families.

#### The Parents' Fair Share Consortium

The Pew Charitable Trusts  
Ford Foundation  
AT&T Foundation  
U.S. Department of Health and Human Services  
U.S. Department of Labor  
The McKnight Foundation  
Northwest Area Foundation  
Manpower Demonstration Research Corporation

**Pilot Sites in the Parents' Fair Share Demonstration**

**Mobile County Parents' Fair Share Project**  
Mobile County Department of Human Resources  
Mobile, Alabama

**Duval County Parents' Fair Share Project**  
Department of Health and Rehabilitative Services  
Jacksonville, Florida

**MassJOBS Parents' Fair Share Project**  
Springfield Employment Resource Center, Inc.  
Springfield, Massachusetts

**Kent County Parents' Fair Share Project**  
Kent County Friend of the Court  
Grand Rapids, Michigan

**Minnesota Parents' Fair Share Program  
(Anoka and Dakota counties)**  
Anoka County Job Training Center  
Blaine, Minnesota

**Dakota County Department of Employment  
and Economic Assistance**  
West St. Paul, Minnesota

**FUTURES Connection**  
Kansas City, Missouri

**Operation Fatherhood**  
Union Industrial Home for Children  
Trenton, New Jersey

**Ohio Options for Parental Training and Support  
(Butler and Montgomery counties)**  
Butler County Department of Human Services  
Hamilton, Ohio

**Montgomery County Department of Human Services**  
Dayton, Ohio

**Tennessee Parents' Fair Share Project**  
Youth Service, U.S.A., Inc.  
Memphis, Tennessee



# HOUSE OF REPRESENTATIVES

STATE HOUSE AUGUSTA 04333-0002  
287-1400

*Reply:  
M - excellent idea,  
& we will pursue it.  
Tougher CS enforcement  
is a top priority for  
the Pres.  
M for your help, etc.*

Sean F. Faircloth  
122 Maple Street  
Bangor, Maine 04401  
Legislative Toll Free:  
1-800-423-2900

*File: CS - IDEAS*

July 23, 1993

Bruce Reed, Co-Chair  
Working Group on Welfare Reform  
Old Executive Office Building  
Room 216  
Washington, DC 20500

Dear Mr. Reed:

I understand the Working Group on Welfare Reform will be making recommendations to the President regarding national welfare reform proposals this fall.

I urge you to recommend Maine's new law (enclosed) as a model for the nation. This legislation allows for suspension of professional and driver's licenses of absent parents who disobey child support orders. Recently, Senator Moynihan was asked his top priority regarding welfare reform. His answer: "Make the daddies pay." As you know, delinquent child support is a chief cause of child poverty.

With this legislation, Maine's Office of Fiscal and Program Review projected \$9.7 million in savings for the State of Maine over the biennium which began July 1, and \$2.3 million in savings to the federal government over the same period. Maine only has 1.2 million people. Expansion of this program to a national scale would save billions of dollars.

There has been an odor of chauvinism in federal welfare policy in recent administrations. The woman who cares for her child has been villified. Meanwhile, legions of absent parents (the vast majority of them men) pay not a dime in support with impunity. I served as Assistant Attorney General handling support cases. The problem (particularly with self-employed fathers not subject to wage garnishment) is rampant. The threat of license suspension will persuade many absent parents to obey child support orders.

Let me give you a brief history regarding this legislation. Republican State Senator Philip Harriman introduced a Governor's bill, LD 1514, the so-called "Deadbeat Dads" bill, and presented it to the Judiciary Committee on which I serve. Members of that committee were concerned that an absent parent's due process rights might be violated by the

District 118. Part of Bangor

legislation because the Department of Human Services (DHS) could proceed to a license suspension based upon an administrative hearing rather than a court proceeding.

I was assigned to a Judiciary Subcommittee to consider this issue. Though the due process concerns were legitimate, I thought they could be remedied. I contacted Deputy Attorney General Christopher Leighton, who supervises the Human Services Division in Maine's Office of the Attorney General. His expertise in Human Services issues is well respected. Deputy Leighton designed an amendment to LD 1514 that protects due process rights of absent parents. Most importantly, the amendment provides that a DHS license suspension action will be automatically stayed if an absent parent moves to amend the support order.

It works like this. Assume an absent parent has disobeyed an order of weekly child support for a period in excess of 90 days. DHS serves notice on the absent parent that it shall move administratively to suspend his license. The absent parent may move to amend the support order. If they so move, the DHS administrative action is automatically stayed. The absent parent must then convince a judge that circumstances have changed and he no longer has the ability to obey the court order. If the absent parent fails to meet his burden, the license suspension action may go forward.

I presented the amendment to the Appropriations Committee which incorporated LD 1514 with my amendment into Maine's biennial budget, LD 283.

Some states are considering making license suspension another sanction available in contempt. This method is certainly a step in the right direction, but the Maine version is preferable for two reasons. First, under contempt the burden is on the woman, the child and the taxpayers to prove contempt and secure the license suspension sanction. More justly, the absent parents should be required to explain why they disobey a court order.

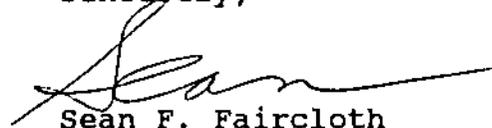
Second, savings from using a contempt version would be much less. Florida estimated savings of \$530,000 for such a program, while Maine (one-tenth Florida's population) estimated far greater savings. States should be free to act administratively on the child's behalf while leaving it to the absent parent to go to court if they so choose.

As you know, President Clinton in *Putting People First: A National Economic Strategy for America*, emphasized that we must "crack down on deadbeat parents" by taking tough measures such as "reporting them to credit agencies, so they can't borrow money for themselves when they're not taking care of their children." The Maine license suspension plan is consistent with the President's vision that we should "take our responsibilities as seriously as our rights."

ADD 2

The Maine plan is designed, not to suspend thousands of licenses, but rather to create a credible sanction that will motivate deadbeat parents to pay up. The Maine license plan on a national scale would: 1) help hundreds of thousands of children; 2) protect the due process rights of absent parents; and 3) save billions of dollars. I urge you to study this plan and take this opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean", with a long horizontal flourish extending to the right.

Sean F. Faircloth  
State Representative

Enclosure

with the Maine Technical College System to develop and deliver job training programs in health care occupations.

#### §2159-B. Administration and funding

The Maine Technical College System is responsible for administering the Health Occupations Training Project. Funding provided under this chapter must be used exclusively for the development and delivery of health care training programs. Funds provided for this purpose may not be used for administration of the Health Occupations Training Project, for tuition to the State's technical colleges, or for the delivery of health care training programs once the initial development and delivery of a program is complete.

#### §2159-C. Selection of grant recipients

The selection and awarding of grants for funding under this chapter must be in accordance with this section.

1. Requests for proposals. The Maine Technical College System shall solicit proposals for health care training projects from the technical colleges by issuing a Request for Proposals.

2. Local partnerships. The State's technical colleges shall seek joint partnerships with local job training providers in order to submit joint proposals. If, however, a local job training provider elects not to participate in a project, the technical college may still submit a proposal.

3. Review committee. The Maine Technical College System shall award grants based on the decision of a review committee comprised of an equal number of representatives from the Department of Labor and the Maine Technical College System.

4. Contracts. Once a training project has been selected for funding by the review committee, the Department of Labor shall issue a contract to the Maine Technical College System prior to the onset of the program year in which the project will be funded. The Maine Technical College System shall then issue grants to the technical colleges selected for funding under this project.

#### §2159-D. Project goals

The Health Occupations Training Project is a training strategy to increase the supply of health care workers by providing Maine citizens with job training opportunities in health care occupations. The project goal is to provide skill training to participants who are either unemployed and want to

enter the health care field or are employed health care workers who want to upgrade their skills. Preference must be given to participants in the state job training system during selection if they have met the minimum criteria for program entry and have met the application deadline as determined in the grant proposal. For purposes of this chapter, the state job training system includes job training programs such as the Job Training Partnership Act, the Maine Training Initiative, the Strategic Training for Accelerated Reemployment Program and the ASPIRE-JOBS program.

#### §2159-E. Annual report

The Maine Technical College System shall report no later than September 15th of each year on the outcome of the job training programs offered through this chapter. This annual report must be submitted to the Department of Labor and to the joint standing committee of the Legislature having jurisdiction over labor matters.

#### §2159-F. Repeal

This chapter is repealed October 1, 1995.

Sec. T-3. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 26, section 1164 or any other provision of law, the State Controller is authorized to transfer \$75,000 by June 30, 1994 and \$100,000 by June 30, 1995 from the Special Administrative Expense Fund to the General Fund as undedicated revenue.

### PART U

Sec. U-1. 12 MRSA §685-B, sub-§2, ¶B, as amended by PL 1991, c. 591, Pt. E, §8, is further amended to read:

B. The fee prescribed by the commission rules, that fee to be a minimum of \$40 \$50 but no greater than 3/10 1/4 of 1% of the total development costs, except that the minimum fee for accessory structures or minor shoreline alterations is \$25 and the fee for subdivision applications is \$100 \$100 per lot. Zoning petitions submitted by other than a state or federal agency range from \$50 to \$500 depending on size and complexity. The fees apply to all amendments except for minor changes to building permits;

### PART V

Sec. V-1. 10 MRSA §§605 and 606 are enacted to read:

**§605. Compliance with support orders; license qualifications and conditions**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 12, section 105.

**§606. Licensees not in compliance with a court order of support; enforcement of parental support obligations**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Board" means any bureau, board or commission listed in section 601 or 601-A, other licensees that are affiliated with or are a part of the department and the Board of Overseers of the Bar.

B. "Compliance with a court order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services or in making periodic payments as set forth in a court order of support and has obtained or maintained health insurance coverage if required by a court order of support.

C. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a court order of support is subject to the requirements of Title 12, section 305.

Sec. V-2. 12 MRSA §§638 and 639 are enacted to read:

**§638. Compliance with support orders; license qualifications and conditions**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 12, section 305, but only if the license is for commercial use.

**§639. Licensees not in compliance with a court order of support; enforcement of parental support obligations**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Compliance with a court order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services or in making periodic payments as set forth in a court order of support and has obtained or maintained health insurance coverage if required by a court order of support.

B. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee regulated by the department under this subtitle who is not in compliance with a court order of support is subject to the requirements of Title 12, section 305, but only if the license is for commercial use.

Sec. V-3. 12 MRSA §§707-A and 707-B are enacted to read:

**§707-A. Compliance with support orders; license qualifications and conditions**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a

license as prescribed by the various acts of the department. Applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19, section 305, but only if the license is for commercial use.

§302-B. Licensees not in compliance with a court order of support; enforcement of parental support obligations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Compliance with a court order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services or in making periodic payments as set forth in a court order of support and has obtained or maintained health insurance coverage if required by a court order of support.

B. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee who is not in compliance with a court order of support is subject to the requirements of Title 19, section 305, but only if the license is for commercial use.

Sec. V-4. 19 MRS §305 to 307 are enacted to read:

§305. Enforcement of support obligations; notice to licensing boards and obligor; judicial review

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Board" means any bureau, board or commission listed in Title 10, section 8001 or 8001-A, other licensor that is affiliated with or is a part of the Department of Professional and Financial Regulation, the Board of Overseers of the Bar and any other state agency or

municipality that issues a license authorizing a person to engage in a business, occupation, profession or industry.

B. "Commissioner" means the Commissioner of Human Services.

C. "Compliance with a court order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services or in making periodic payments as set forth in a court order of support and has obtained or maintained health insurance coverage if required by a court order of support.

D. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

E. "Department" means the Department of Human Services.

F. "License" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry, but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 2-B.

G. "Licensee" means any individual holding a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry except an individual holding a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 2-B.

2. Notice. The department may serve notice upon a support obligor who is not in compliance with a court order of support that informs the obligor of the department's intention to submit the obligor's name to any appropriate board as a licensee who is not in compliance with a court order of support. The notice must inform the obligor that:

A. The obligor may request an administrative hearing to contest the issue of compliance;

under a court of administrative order and whether the obligor is in compliance with a court order of support.

4. Decision after hearing. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's court order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

5. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to a board for noncompliance with a court order of support until the department issues a decision after hearing that finds the obligor is not in compliance with a court order of support.

6. Certification of noncompliance. The department may certify in writing to any appropriate board that a support obligor is not in compliance with a court order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 2 and is not in compliance with a court order of support 21 days after service of the notice;

B. The department issues a decision after hearing that finds the obligor is not in compliance with a court order of support; or

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with a court order of support.

The department shall send by regular mail a copy of any certification of noncompliance filed with a board to the obligor at the obligor's most recent address of record.

7. Notice from board. A board shall notify an obligor certified by the department under subsection 6, without undue delay that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked because the obligor's name has been certified by the department as a support obligor who is not in compliance with a court order of support.

B. A request for hearing must be made in writing and must be received by the department within 20 days of service;

C. If the obligor requests a hearing within 20 days of service, the department shall stay action to certify the obligor to any board for noncompliance with a court order of support pending a decision after hearing;

D. If the obligor does not request a hearing within 20 days of service and is not in compliance with a court order of support, the department shall certify the obligor to any appropriate board for noncompliance with a court order of support;

E. If the department certifies the obligor to a board for noncompliance with a court order of support, the board must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the department that states the obligor is in compliance with the obligor's support order. A revocation by an agency or a refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002, and

F. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to any board for noncompliance with a court order of support.

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need to obtain a release from that office as provided in subsection 8. The department shall attach a copy of the obligor's court order of support to the notice. Service of the notice must be made by certified mail, return receipt requested, or by service in hand as specified in the Maine Rules of Civil Procedure. For purposes of this section, authorized representatives of the commissioner may serve the notice.

3. Administrative hearing. An obligor may request an administrative hearing upon service of the notice described in subsection 2. The request for hearing must be made in writing and must be received by the department within 20 days of service. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, chapter 315, subchapter 14. The issues that may be considered at hearing are limited to whether the obligor is required to pay child support

8. Written confirmation of compliance. When an obligor who is served notice under subsection 2 subsequently complies with the court order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order.

9. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

10. Agreements. The department and the various boards shall enter into such agreements as are necessary to carry out the requirements of this section, but only to the extent the department determines it is cost-effective.

11. Motion to modify court order of support; stay. Nothing in this section prohibits a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision. The department shall stay action to certify the obligor to any board for noncompliance with a court order of support if the obligor files a motion to modify support with the court and notifies the department of the motion or requests the department to amend a support obligation established by the department.

12. Reporting. On or before April 1, 1994, or as soon as economically feasible and at least annually thereafter, all boards subject to this section and the Department of Professional and Financial Regulation, Division of Administrative Services shall provide to the department specified information, on magnetic tape or other machine-readable form, according to standards established by the department, about applicants for licensure and all current licensees. The Department of Professional and Financial Regulation, Securities Division shall provide the specified information for only those current licensees that are residents of this State. The information to be provided must include all of the following information about the licensee:

A. Name;

B. Address of record;

C. Federal employer identification number or social security number;

D. Type of license;

E. Effective date of license or renewal;

F. Expiration date of license; and

G. Active or inactive status.

13. Effect of noncompliance. The department, upon receipt of the licensee information referred to in subsection 12, shall identify and notify each board and the Department of Professional and Financial Regulation, Division of Administrative Services, of the names of any of its licensees who are support obligors subject to this section. The notice must include the social security number and address of the support obligor, the name, address and telephone number of the department's designee for implementing this section and a certification by the department that it has verified that the licensee is a support obligor subject to this section. When the department notifies a board under this subsection, the department shall provide adequate notice of its action to the obligor. The notice must inform the obligor of the right to request a hearing on the issue of whether the obligor is in compliance with a court order of support. The board may not issue or renew a license to a person whose name is on the most recent list from the department until the board receives a copy of the release specified in subsection 8.

14. Subsequent reissuance, renewal or other extension of license or certificate. The board may reissue, renew or otherwise extend the license or certificate of authority in accordance with the board's rules after the board receives a copy of the written confirmation of compliance specified in subsection 8. A board may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest.

15. Program review. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the Legislature and the Governor on January 31, 1996:

A. The number of support obligors identified as licensees subject to this section;

B. The number of support obligors identified by the department under this section who are not in compliance with a court order of support; and

C. The number of actions taken by the department under this section and the results of those actions.

\$706. Family financial responsibility

1. Purpose. The legislature finds and declares that child support is a basic legal right of the State's parents and children, that mothers and fathers have a legal obligation to provide financial support for their children and that child support payments can have a substantial impact on child poverty and state welfare expenditures. It is therefore the legislature's intent to encourage payment of child support to decrease overall costs to the State's taxpayers while increasing the amount of financial support collected for the State's children. To this end, the Department of Human Services is authorized to initiate action under this section against individuals who are not in compliance with a court order of support.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commissioner" means the Commissioner of Human Services, a designee or an authorized representative.

B. "Compliance with a court order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services, in making periodic payments as set forth in a court order of support or has obtained or maintained health insurance coverage as required.

C. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

D. "Desertion" means the Department of Human Services.

3. Notice. The commissioner may serve notice upon a support obligor who is not in compliance with a court order of support that informs the obligor of the commissioner's intention to certify the obligor to the Secretary of State as an individual who is not in compliance with a court order of support. The notice must inform the obligor that:

A. The obligor may contest the issue of compliance at an administrative hearing.

B. A request for hearing must be made in writing and must be received by the department within 20 days of service;

C. If the obligor requests a hearing within 20 days of service, the department shall stay action to certify the obligor to the Secretary of State for noncompliance with a court order of support pending a decision after hearing;

D. If the obligor does not timely request a hearing to contest the issue of compliance and does not obtain a release from the department, the commissioner shall certify the obligor to the Secretary of State for noncompliance with a court order of support;

E. If the commissioner certifies the obligor to the Secretary of State, the Secretary of State must suspend any motor vehicle operator's licenses that the obligor holds and the obligor's right to apply for or obtain a motor vehicle operator's license;

F. If the obligor requests a hearing, the obligor shall direct the request to the department's support enforcement office that is responsible for handling the obligor's case; and

G. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to the Secretary of State for noncompliance with a court order of support.

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need for the obligor to obtain a release from that office as provided in subsection B. The department shall attach a copy of the obligor's court order of support to the notice. The notice must be served by certified mail, return receipt requested, by service in hand, or as specified in the Maine Rules of Civil Procedure. For purposes of this section, an authorized representative of the commissioner may serve the notice.

4. Administrative hearing. An obligor may request an administrative hearing within 20 days of service of the notice described in subsection 3. The request for hearing must be in writing and must be received by the department within 20 days. The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues that may be considered at hearing are limited to whether the

obligor is required to pay child support under a court order of support and whether the obligor is in compliance with a court order of support.

5. Decision after hearing. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's court order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

6. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to a board for noncompliance with a court order of support until the department issues a decision after hearing that finds the obligor is not in compliance with a court order of support.

7. Certification. The commissioner may certify in writing to the Secretary of State that a support obligor is not in compliance with a court order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 1 and is not in compliance with a court order of support 21 days after service of the notice;

B. The department issues a decision after hearing that finds the obligor is not in compliance with a court order of support; or

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with a court order of support.

The department shall send by regular mail a copy of any certification of noncompliance filed with the Secretary of State to the obligor at the obligor's most recent address of record.

8. Written confirmation of compliance. When an obligor who is served notice under subsection 3 subsequently complies with the court order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order.

9. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

10. Agreement. The department may enter into an agreement with the Secretary of State to carry out the requirements of this section.

11. Motion to modify court order of support; stay. Nothing in this section prohibits a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision. The department shall stay action to certify the obligor to the Secretary of State for noncompliance with a court order of support if the obligor files a motion to modify support with the court and notifies the department of the motion or requests the department to amend a support obligation established by the department.

12. Program review. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the legislature and the Governor on July 1, 1995:

A. The number of notices served upon support obligors by the department under this section;

B. The number of obligors served notice under this section who request a hearing;

C. The number of hearings held under this section, the results of the hearings and the number of cases settled without a hearing;

D. The number of support obligors certified to the Secretary of State for noncompliance with a court order of support under this section; and

E. The costs incurred in the implementation and enforcement of this section and the department's estimate of the amount of child support collected due to the department's actions under this section.

### §307. Publication of delinquent child support obligors

1. Publication. The Department of Human Services may publish in the State's newspapers the names of delinquent child support obligors who owe unpaid child support. Publication may include the place of residence and the amount of unpaid child support of each obligor.

2. Immunity. Newspapers and their employees are immune from any criminal or civil liability as a result of publication under subsection 1, unless publication is a result of negligent or intentional misconduct.

Sec. V-5. 19 MRSA §448-A, sub-§3, as enacted by PL 1981, c. 657, §2, is amended to read:

3. Fees; Aid to Families with Dependent Children. The department shall by rule establish by rule a schedule of fees for enforcement of support obligations involving recipients of Aid to Families with Dependent Children. In enforcing support obligations, the department shall impose such fees against the obligor as are mandated by federal law and regulations. The department may impose such other reasonable fees and costs against the obligee or obligor as are not prohibited by federal law and regulations. The department shall retain all fees and apply them toward the administration of the location, paternity and support enforcement programs.

Sec. V-6. 19 MRSA §448-A, sub-§4, as enacted by PL 1981, c. 657, §2, is repealed.

Sec. V-7. 19 MRSA §448-A, sub-§4-A is enacted to read:

4-A. Other fees. The department must establish by rule a schedule of fees for enforcement of support obligations not involving recipients of Aid to Families with Dependent Children. The department must enforce this schedule of fees and apply the receipts toward the cost of the Aid to Families with Dependent Children program.

Sec. V-8. 19 MRSA §448-A, sub-§5, as enacted by PL 1981, c. 657, §2, is amended to read:

5. Definitions. As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

A. "Applicant" means an individual, state, political subdivision of a state or instrumentality of a state.

B. "Support obligations" means the amount due an obligee for support under a court order or administrative decision and includes any arrearages of support which have accrued.

Sec. V-9. 19 MRSA §498-B, sub-§4 is enacted to read:

1. Insurers to provide information. Upon request by the department, a nonprofit hospital or medical service organization authorized under Title 24 or an insurer authorized under Title 24-A must provide to the department a list of persons who have health insurance coverage with that organization or insurer. The information shall be transmitted in a manner prescribed by the department to allow electronic identification of responsible parents who have health insurance coverage.

Sec. V-10. 19 MRSA §498-E is enacted to read:

§498-E. Health insurance withholding order

1. Issuance of order. The department on its own behalf, on behalf of a custodial parent who applies for the department's support enforcement services or on behalf of another state's Title IV-D agency, political subdivision or agent may issue a responsible parent's employer or other payor of income a health insurance withholding order to enforce a responsible parent's obligation to obtain or maintain health insurance coverage or other health care services for the responsible parent's dependent child or children. A health insurance withholding order must be accompanied by a sworn statement issued by an authorized representative of the commissioner that states the responsible parent is required by a court order or administrative decision to obtain or maintain health insurance coverage or other health care services for the dependent child or children named in the health insurance withholding order and has failed to provide the department with proof of coverage as required by law.

2. Employer notice. A health insurance withholding order must be accompanied by an employer notice that contains the substance of subsections 3 to 6.

3. Duty to enroll. An employer or other payor of income served with a health insurance withholding order shall enroll the employee's dependent child or children named in the withholding order as covered persons in a group health insurance plan or other similar plan providing health care services or coverage offered by the employer, if the children are eligible for such coverage under the employer's enrollment provisions, and deduct any required premiums from the employee's earnings to pay for the insurance.

4. Choice of plan. If more than one plan is offered by the employer, the employer shall enroll qualified children prospectively in the insurance plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, providing that the plan's services are available where the children reside. If the services of the

employee's plan or the least costly plan are not available where the children reside, the employer shall enroll unaffiliated children prospectively in the least costly plan that is available where the children reside.

5. Answer. An employer shall respond to a health insurance withholding order in writing within 10 days of service. The employer shall advise the department of the plan in which the children are enrolled or if the children are ineligible for any plan through the employer. The department shall include a preprinted answer form for the employer's use and shall include the form and a prepaid, self-addressed envelope with each health insurance withholding order.

6. Mistake of fact; affirmative defenses. A responsible parent may claim a mistake of fact or assert affirmative defenses to contest the issuance of a health insurance withholding order. The department shall establish by rule an administrative process for reviewing claims of mistake and investigating affirmative defenses.

7. Duration of order. A health insurance withholding order remains in force until the employer terminates employment, the employer or other payer of earnings is released from the order in writing by the department or release is ordered by a court of competent jurisdiction.

8. Change of plan. After it is initially determined in response to a health insurance withholding order that a child is eligible for coverage, the employer must make subsequent enrollment changes to include the child if the group health insurance plan is changed and provide notices of any changes in coverage to the department.

9. Fee. The commissioner may establish by rule a fee that an employer may charge an employee for each withholding and for a change of plan.

10. Failure to honor. Failure of an employer or other payer of earnings to comply with the requirements of a health insurance withholding order is a civil violation for which the department may recover up to \$1,000 in a civil action.

11. Priority of order. A health insurance withholding order has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not for the purpose of enforcing or paying a child support obligation.

12. Employer protected. The department shall defend and hold harmless any employer or other payer of earnings who honors a health insurance withholding order.

13. Immunity. The employer may not be held liable for medical expenses incurred on behalf of a dependent child or children because of the employer's failure to enroll the dependent child or children in a health insurance or health care plan after being directed to do so by the department.

14. Employee protected. An employer who discharges, refuses to employ, or takes disciplinary action against a responsible parent or who otherwise discriminates against that parent because of the existence of the order or the obligation the order imposes upon the employer, is subject to a civil penalty of not more than \$5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs.

15. Service. A health insurance withholding order must be served on the responsible parent's employer or other payer of earnings. Service may be by certified mail, return receipt requested, by an authorized representative of the commissioner, or by personal service as permitted by Rule 4 of the Maine Rules of Civil Procedure or as otherwise may be permitted by sections 492-A and 494. The department shall send a copy of the health insurance withholding order to the responsible parent at the responsible parent's most recent address of record.

16. Withholding orders combined. The department may combine a health insurance withholding order with a child support income withholding order issued under section 498-C.

17. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

Sec. V-11. 19 MRSA §502, first ¶, as repealed and replaced by PL 1985, c. 652, §32, is amended to read:

The following exemptions shall apply to weekly earnings. An amount equal to 30 times the federal minimum wage, as prescribed by the United States Code, Title 29, Section 206(a)(1), shall be exempt from an order to withhold and deliver, or garnishment, automatic withholding or any other proceeding under this chapter regarding weekly earnings, except as otherwise provided in this section. Any property otherwise exempt from trustee process, attachment and delivery shall be exempt from an order to withhold and deliver administrative seizure and disposition and lien and foreclosure under this subchapter. The maximum part of

the aggregate disposable earnings of a responsible parent for any workweek which that is subject to garnishment, pursuant to section 504-ex-504-A, to enforce any decision entered pursuant to section 498, 498-A, 500 or 515, shall or income withholding may not exceed:

Sec. V-12. 19 MRSA §777-C is enacted to read:

#### §777-C. Employment information

1. Employment information. Upon notice by the department, and except as provided in subsection 2, an employer doing business in the State shall report to the department the:

A. Hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; and

B. Rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay or terminated from employment.

2. Exceptions. An employer is not required to report the hiring of a person who:

A. Will be employed for less than one month's duration; or

B. Will have gross earnings of less than \$300 in every month.

The Commissioner of Human Services may adopt rules to establish additional exceptions if needed to reduce unnecessary or burdensome reporting.

3. W-4 form. An employer required to report under subsection 1 may report by mailing the employee's copy of the W-4 form, transmitting a facsimile thereof, sending magnetic tape in a compatible format or by other means as mutually agreed to by the employer and the department that will result in timely reporting.

4. Report. An employer shall submit a report within 7 days of the hiring, rehiring or return to work of the employee. The report shall contain:

A. The employee's name, address, social security number and date of birth; and

B. The employer's name, address and employment security reference number or unified business identifier number.

5. Retention of records. The department shall retain the information for a particular employee only if the department is responsible for establishing, enforcing or collecting a support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the department may not create a record regarding the employee and the information contained in the report must be destroyed promptly.

6. Penalties. An employer who knowingly fails to report as required under this section must be given a written warning for the first violation and is subject to a civil penalty of up to \$200 per month for each subsequent violation after the warning has been given. All violations within a single month are considered a single violation for purposes of assessing the penalty.

Sec. V-13. 22 MRSA §2761, sub-§4, as amended by PL 1987, c. 187, is further amended to read:

4. Illegitimate child. Except as otherwise provided in this subsection, in the case of a child conceived and born out of wedlock, the name of the putative father shall may not be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent shall must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent shall must also be acknowledged before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court shall must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent.

Sec. V-14. 19 MRSA §791 is enacted to read:

#### §791. Family financial responsibility

1. Compliance with support orders. In addition to other qualifications and conditions established by this Title, the right of an individual to hold a motor vehicle operator's license or permit issued by the State is subject to the requirements of Title 12, section 306.

2. Certification of noncompliance. Upon receipt of a written certification from the Commissioner of Human Services as

provided for in Title 19, section 306, subsection 7 that a support obligor who owns or operates a motor vehicle is not in compliance with a court order of support, the Secretary of State shall suspend the license and right to operate and obtain the license of the individual so certified. The Secretary of State may not reinstate an operator's license suspended for noncompliance with a court order of support until the Commissioner of Human Services issues a release that states the obligor is in compliance with a court order of support or the court orders reinstatement.

3. Notice of suspension. Upon suspending an individual's license, permit or privilege to operate under subsection 1, the Secretary of State must notify the individual of the suspension. A notice of suspension must specify the reason and statutory grounds for the suspension and the effective date of the suspension and may include any other notices prescribed by the Secretary of State. The notice must inform the individual that in order to apply for reinstatement, the individual must obtain a release from the Department of Human Services. The notice must inform the individual that the individual may file a petition for judicial review of the notice of suspension in Superior Court within 30 days of receipt of the notice. Notwithstanding any other provision of law, Title 5, section 9052, subsection 1 does not apply to a notice of suspension issued under this section.

4. Temporary license. Upon being presented with a conditional release issued by the Commissioner of Human Services and at the request of an individual whose operator's license, permit or privilege to operate has been suspended under this section, the Secretary of State may issue the individual a temporary license valid for a period not to exceed 120 days.

5. Rules. The Secretary of State shall adopt rules to implement and enforce the requirements of this section.

6. Costs. The Department of Human Services shall indemnify the Secretary of State for legal expenses incurred in defending the Secretary of State's actions to comply with the requirements of this section.

7. Agreement. The Secretary of State and the Department of Human Services may enter into an agreement to carry out the requirements of this section.

Sec. V-15. Pilot program for enhanced support enforcement collections. The Commissioner of Human Services is directed to establish a pilot program for enhanced support enforcement collections utilizing a third-party collection agent or agents. A reasonable number of delinquent cases must be selected for

inclusion in this program. The commissioner shall present a report of the results of this program to the Joint Standing Committee on Appropriations and Financial Affairs no later than February 1, 1994. The project is to be funded by an allocation from federal incentive funds.

Sec. V-16. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1993-94 1994-95

#### HUMAN SERVICES, DEPARTMENT OF

##### Aid to Families with Dependent Children

All Other (\$1,206,000) (\$1,588,667)

Provides for the deappropriation of funds due to increased child support collections achieved through new hire reporting.

##### Aid to Families with Dependent Children

All Other (118,869) (118,869)

Provides for the deappropriation of funds due to increased child support collections achieved through automatic withholding of unemployment compensation.

##### Aid to Families with Dependent Children

All Other (471,920) (646,688)

Provides for the deappropriation of funds as a result of increased child support collections due to identification of nonpaying obligors through computer matching with professional and driver's license

registers and the potential to withhold these licenses for nonpayment of child support.

receipts of Aid to Families with Dependent Children.

Medical Care - Payments to Providers

All Other (380,800) (380,800)

Provides for the deappropriation of funds by recouping medical costs from absent parents who have private health insurance.

Medical Care - Payments to Providers

All Other (285,600) (380,800)

Provides for the deappropriation of funds due to health insurance withholding orders in child support cases.

DEPARTMENT OF HUMAN SERVICES

TOTAL (\$4,338,948) (\$5,465,889)

Sec. V-17. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

1993-94 1994-95

HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers

All Other (\$619,200) (\$619,200)

Provides for the deallocation of funds by recouping medical costs from absent parents who have private health insurance.

Medical Care - Payments to Providers

All Other (464,400) (619,200)

Provides for the deallocation of funds due to health

Aid to Families with Dependent Children

All Other (1,375,760) (1,940,065)

Provides for the deappropriation of funds due to additional savings resulting from increased child support collections due to identification of nonpaying obligors through computer matching with professional and driver's license registers and the potential to withhold these licenses for nonpayment of child support.

Aid to Families with Dependent Children

All Other (400,000) (100,000)

Provides for the deappropriation of funds as a result of increased child support collections from delinquent obligors who will pay their child support obligations rather than have their names published in the Rio newspaper.

Aid to Families with Dependent Children

All Other (100,000) (150,000)

Provides for the deappropriation of funds as a result of fees placed on child support enforcement cases that do not involve

*Child Support - Ideas*

## Executive Summary

### Child Support Council Congressional and Federal Update (July, 1993)

by  
Darryll W. Grubbs, JD  
President  
Child Support Council  
Austin, Texas

Through most of the first half of the year, the focus of the 103rd Congress has been on the Clinton Administration's economic stimulus and budget deficit reduction packages. Although separate bills affecting child support continue to be introduced, the only changes to federal child support law that Congress has considered and voted on have been provisions contained in the "Budget Reconciliation Act of 1994" (HR 2264 by Sabo [D-MN]).

**BUDGET RECONCILIATION:** The child support provisions included in the Budget Reconciliation bill relate to parentage establishment, dependent health insurance requirements and credit bureau reporting. Specifically, the changes contained in **HR 2264** include requirements for states to have laws providing for:

- (1) simple civil procedures for voluntarily acknowledging paternity and including "due process" safeguards;
- (2) a rebuttable, or at state option, conclusive presumption of paternity upon genetic testing results indicating a threshold probability of parentage;
- (3) default orders for paternity establishment upon a showing of service of process and compliance with other relevant provisions of state law;
- (4) expedited processes for paternity establishment;
- (5) a requirement that states give "full faith and credit" to determinations of paternity made by other states; and
- (6) procedures under which the state requires parents to furnish their Social Security Numbers (SSN) to assist in identifying the parents of the child.

A change to the 1988 Family Support Act's "paternity establishment percentage" formula for state IV-D agencies also is included in the paternity provisions in the Budget Reconciliation Act. Under the new standard, for a state IV-D program to be found in substantial compliance, the following will have to be met:

- (1) a paternity establishment rate of 75 percent (as measured by the number of cases in the IV-D caseload requiring the establishment of paternity for which paternity has been established); or
- (2) for those states with an establishment rate between 50 and 75 percent, there must be an increase of 3 percentage points over the previous fiscal year, and for those states with a rate below 50 percent, the increase must be 6 percentage points over the previous year.

From the point of view of state IV-D agencies, problems with the new paternity establishment formula are the same as

with the old one. The reasonableness of the rate for a state relates directly to the increase in the number of IV-D cases in which paternity needs to be established, a factor not within the IV-D agency's control. Conversely, setting requirements for the number of paternities to be established using a base year, and against which the IV-D agency's future performance will be compared, may result in inappropriately high or low establishment requirements. The most sensible and realistic approach, and what would have been preferable to the provisions of the 1988 Act, or those in this year's Budget Reconciliation Act, would be to set goals on a state-by-state basis for increases in the actual number of paternities to be established from one year to the next over a period of three to five years.

Provisions in **HR 2264** involving dependent health insurance are patterned after recommendations of the U.S. Commission on Interstate Child Support. They require states to:

- (1) prohibit health insurers from denying enrollment of a child because the child does not live with the parent or was born out of wedlock;
- (2) permit the custodial parent or the IV-D agency to enroll the child in the health insurance policy of the noncustodial parent if he fails to do so or to submit claims directly to the insurer;
- (3) make insurers pay the custodial parent directly on claims submitted on behalf of the child;
- (4) make employers withhold from noncustodial parents' paychecks amounts necessary to pay for dependent health insurance premiums; and
- (5) permit IV-D agencies to garnish wages to reimburse the state for Medicaid coverage for the child.

Finally, the Budget Reconciliation Act amends Title IV-D by mandating that state IV-D agencies periodically report to credit bureaus the name of any obligor who is at least two months late in paying child support.

The Budget Reconciliation Act, having passed both the House and Senate, is in a conference committee to work out differences. A compromise version will be approved and sent to President Clinton for his signature.

**CONGRESSIONAL CHILD SUPPORT LEGISLATION:** One of the most notable child support bills introduced in Congress so far this year is **S. 689** by U.S. Senator **Bill Bradley (D-NJ)**, and **H.R. 1600**, the House companion bill introduced by **Congresswoman Marge Roukema (R-NJ)**. This legislation contains many of the recommendations of the U.S. Commission on Interstate Child Support. For the most part, **S. 689/H.R. 1600** is almost identical in substance to **S. 3291** (and its companion bill **H.R. 6091**) that Senator Bradley and Congresswoman Roukema introduced in the closing days of the 102nd Congress. The differences between the version of the bills from the 102nd and those in the 103rd Congress, are mainly in areas relating to jurisdiction over child support orders. These provisions were removed in **S. 689/H.R. 1600** since they duplicate those in the new Uniform Interstate Family Support Act (UIFSA), which the Bradley-Roukema legislation requires all states to adopt. The only other change from the earlier bills is removal of one section dealing with enforcement actions through liens on titles of motor vehicles of delinquent obligors, and a section creating a Children's Trust Fund.

The major provisions of **S. 689/H.R. 1600**, topically arranged, include the following:

**Locate and Case Tracking:**

- (a) a new national network for the location of parents would be established. This network would enable each state's IV-D agency to have access to federal and state data bases for locate purposes. Federal matching funds at a rate of 90 percent would be available to states to participate in the new network;
- (b) a modified W-4 form will be used to report all new hires and their child support obligations promptly to the state child

support agency. The enforcement agency would check the information against its registry of child support orders, which all states would also be required to maintain, and broadcast the information over the national network to the child support agencies and registries of support orders in all other states;

(c) access to the Federal Parent Locator Service would be made available to both parents for child support and visitation purposes. Private attorneys and pro se obligees would have access to state locator resources, tax refund offsets, and "other public enforcement techniques" for child support enforcement actions. Federal, state and local child support agencies would obtain access to information contained in national law enforcement networks.

#### Establishment:

(a) all states would be required to adopt a uniform long-arm statute to exercise personal jurisdiction over a non-resident defendant. States would treat out-of-state service of process in parentage and child support actions in the same manner as in-state service of process;

(b) an order for parentage and/or child support rendered in one state would be recognized and enforced, without modification, by any other state. Furthermore, the state which established a support order would ordinarily retain continuing, exclusive jurisdiction - including jurisdiction to modify - unless both parents and the child have left that state or both parents agree in writing to the exercise of jurisdiction by another state;

(c) states would be required to have uniform laws and practices respecting the joining of parentage adjudication and child support establishment in a single cause of action;

(d) state child support agencies would have access to information available from a credit reporting agency and could use a national subpoena duces tecum to reach all information regarding private and government employees;

(e) states and state IV-D agencies would be required to make the application of mandatory support guidelines a sufficient reason for modification of the support obligation without the necessity of showing any other change in circumstance. By 1995, when all states must have fully operational automated systems, they must be able to make automatic calculations of the amount of support owed a child on the basis of the support guidelines. In order to study the desirability of national child support guidelines, Congress would create a National Child Support Guideline Commission.

#### Parentage:

(a) for the early acknowledgement of paternity, states must develop simple civil consent procedures;

(b) all states would create paternity acknowledgement programs at hospitals and establish other kinds of paternity outreach programs to increase voluntary acknowledgements of paternity.

#### Enforcement:

(a) businesses in a state must honor income withholding notices or orders issued by a court of any other state;

(b) to simplify both interstate and intrastate wage withholding, the Secretary of Health and Human Services would develop a uniform withholding notice to be used by states in all withholding actions;

(c) state and federal agencies responsible for issuing or renewing occupational, drivers, professional and business licenses, would not be permitted to do so in the case of a delinquent child support obligor;

(d) states must make information about delinquent obligors available, upon request, to credit reporting agencies if more

than one month's worth of support is past due:

- (e) obligors not making timely payments of support would be required to post deposits with the state child support enforcement agency;
- (f) the procedure for states to obtain the use of "full collection" services of the Internal Revenue Service would be simplified;
- (g) all states would have procedures under which criminal non-support penalties may be imposed;
- (h) the Bankruptcy Code would be amended to ensure that a child support action will proceed without interruption in case of a bankruptcy action;
- (i) with respect to the enforcement of health care for dependent children, new procedures would give the obligee the right to choose and enforce the appropriate health care insurance for the children. The custodial parent would act in the place of the insured, including making direct application for insurance and making claims. The obligor's employer must make available to the custodial parent all necessary claim and reimbursement forms and must notify the custodial parent of any termination or change in the insurance coverage for the dependent child(ren);
- (j) as a condition of receiving federal funding for their IV-D programs, states must adopt the Uniform Interstate Family Support Act (UIFSA);
- (k) a study is to be conducted of alternative ways to fund the IV-D program and to change the audit process in order to improve the criteria and methodology for the audit; and
- (l) pilot projects will be established to determine the feasibility and usefulness of "child support assurance."

#### **State Role in the Child Support Enforcement Program:**

- (a) a state IV-D agency will be required to accept applications for services from nonresidents of that state;
- (b) state and local child support enforcement agencies will be required to provide a number of amenities for parents, including convenient hours, locations and office environments conducive to discussion of legal and personal matters in privacy; and
- (c) states are required to develop procedures whereby the designation of the child support payee may be changed without the requirement of a court hearing or order.

In addition to the Bradley-Roukema legislation, another recent bill introduced in Congress, H.R. 1961 by Congresswoman Barbara Kennelly (D-CT), also includes provisions from the Interstate Commission's recommendations.

The Kennelly bill contains the same provisions as in the Bradley and Roukema bills for expanding the resources and uses of the federal and state locate systems. In addition, it requires states to have procedures for obtaining access to the financial records of any entity or individual doing business in the state for the purposes of child support enforcement.

The Kennelly bill contains more of the Commission's interstate jurisdictional recommendations than do the current Bradley and Roukema bills. As filed in the last (102nd) Congress, the Bradley and Roukema bills also held closely to the Commission's recommendations concerning interstate jurisdiction, but inasmuch as those recommendations address matters comprehensively covered by the new Uniform Interstate Family Support Act (UIFSA), the Bradley and Roukema bills filed in this (103rd) Congress did not attempt to replicate UIFSA in such matters.

The Kennelly bill, in a major change in IV-D policy, permits the state IV-D agency to "represent custodial parents in custody cases" and requires a IV-D agency involved in custody cases to refer custodial parents to "appropriate community resources" when there is evidence of a threat of violence against that parent (or the parent's children) for having cooperated with the IV-D agency in establishing custody. Under current IV-D law, of course, issues of custody and access lie outside the IV-D arena, and by the interpretation of the federal Office of Child Support Enforcement (OCSE), state IV-D agencies do not "represent" either parent (or even the child) in a traditional attorney-client relationship in any child support proceeding.

**HR 1961** adds to the long list of enforcement provisions found in the Bradley and Roukema legislation, including some other enforcement measures recommended by the Interstate Commission. Among these are the extension of the IRS tax refund program to cover non-AFDC post-minor children. It also provides for state laws to allow assignment of life insurance benefits to satisfy child support arrearages and authorizes the U.S. Secretary of State to deny issuance of a passport to anyone subject to a state warrant of arrest for past due child support of not less than \$10,000.

The bill contains identical provisions to those found in the Bradley and Roukema bills concerning collection and distribution of child support. In addition, it contains the Interstate Commission recommendation that "it is the sense of Congress that States should encourage all parents to use the state child support agency to process and distribute child support payments in order to establish an official record of such payments."

The bill also provides for the establishment by OCSE of a permanent child support advisory committee composed of federal and state legislators, state child support officials, and representatives of custodial and noncustodial parents. This committee would provide oversight of the implementation of federal IV-D laws and regulations and provide a forum for interested parties to share concerns about the national child support enforcement program.

The Kennelly bill also adds to the recommendations of the Interstate Commission that it be the sense of the Congress that states should establish (1) administrative procedures to process child support cases and (2) state child support councils to review state child support enforcement laws and to make recommendations for changes in those laws.

The Kennelly bill adds a provision not found in the other two bills, but incorporating a recommendation of the Commission, that any government program to provide jobs for noncustodial parents not adversely affect, either directly or through competition for funds, any federal program for custodial parents.

Other child support related bills introduced in the 103rd Congress that deserve mention include the following:

\* **H.R. 915** by Congresswoman Patricia Schroeder (D-CO). Her legislation includes some of the recommendations of the Interstate Commission and is similar to H.R. 5123 which she introduced in the 102nd Congress. Major provisions of H.R. 5123 include requirements that states prohibit issuance of professional licenses to any individual owing past due support, elimination of state statutes of limitation for enforcement of child support arrearages, and elimination of federal IV-D incentives and increasing the federal IV-D match rate to 90 percent.

\* **S. 434** by Senator Dale Bumpers (D-AR). This bill (previously S. 2514 in the 102nd Congress) would permit a bad debt deduction to be taken by the custodial parent on her income tax return for owed, but unpaid child support. The noncustodial parent would be required to include unpaid support as taxable income in the same tax year. If the delinquent support is ever paid, the custodial parent would declare the support as income and the obligated parent would claim the support paid as a deduction.

\* **H.R. 454** by Congressman Barney Frank (D-MA). This bill provides that a state court may not modify an order of another state's court unless the custodial parent resides in the state seeking to modify the order. H.R. 5304 was passed by the U.S. House of Representatives last year, but was not considered by the Senate before the 102nd Congress adjourned.

\* **HR 2396** by Congresswoman Olympia Snowe (R-ME). This legislation contains some of the Interstate Commission's recommendations and also provides that banks and other financial institutions that cooperate with state child support enforcement agencies will not be liable for releasing financial information about the financial assets of noncustodial parents. The bill also provides that states develop guidelines for the inclusion of health care coverage in every new or modified child support order. The Health and Human Services Secretary will develop procedures by which state child support enforcement agencies would receive federal incentive payments for medical support enforcement. With respect to wage withholding for child support, HR 2396 provides that states must require employers to remit the withheld amounts to the appropriate state agency within 10 days after the payment of the wages. Employers who fail to remit to the state child support agency would be subject to a fine. Other provisions require the Secretary to report annually to Congress on states' compliance with performance standards articulated in the Family Support Act of 1988. Finally, the federal Office of Child Support Enforcement would be required to develop a national parent locate network, incorporating state child support enforcement systems, to allow direct access by one state to another state's locator system, as well as to federal locator sources.

\* **HR 2241** by Congressman Jim McDermott (D-WA). Requires the Secretary of Health and Human Services to form a committee--the "Child Support Audit Advisory Committee"--with the mandate to develop new criteria for the triennial audit of state IV-D programs. The new audit criteria are to measure outcomes, as well as compliance with federal regulations. The committee will also be responsible for recommending to Congress legislation with respect to the funding of the IV-D program which will enhance the effectiveness of the triennial audit and the associated penalty process.

\* **S.663** by Senator Jay Rockefeller (D-WV). Known as the "Family Income Security Act of 1993," this bill is identical in its provisions to S. 2237 that Senator Rockefeller filed in the 102nd Congress. Senator Rockefeller's bill reflects the work of the National Commission on Children, a bipartisan study that he chaired, and that submitted its findings to the President and Congress in 1991.

\* **HR 1995** by Congressman Harold Volkmer (D-MO). This bill deserves mention partly because of the problems it would create for IV-D agencies and the IRS. H.R. 1995 amends the Internal Revenue Code to allow a noncustodial parent to claim a child as a dependent for federal income tax purposes if the custodial parent does not contribute to the support of the child and if the noncustodial parent provides over half of the support of the child during the taxable year. Clearly, this bill would create major new problems in adjudicating support and tax disputes for both child support and IRS auditors.

Finally, an update on the "federalization" of child support enforcement. A bill to move child support enforcement to the IRS was introduced by Congressman Henry Hyde (R-IL) on February 2, 1993 and on May 13 by Senator Richard Shelby (D-AL). This bill, H.R. 773/S.967, would essentially take all IV-D enforcement responsibilities from state and local IV-D agencies and place them under the Internal Revenue Service. State and local IV-D agencies would retain responsibility for establishment of parentage and support orders and modifications of orders.

Neither bill has yet to be considered by the House Ways and Means Committee or the Senate Finance Committee. Additionally, most observers do not believe President Clinton is going to call for the complete transfer of child support enforcement responsibilities from the state to the federal government. Instead, his recommendations may focus on ways in which greater use by the states can be made of IRS data to locate absent parents and obtain financial information on delinquent obligors. The Clinton plan might also include easing requirements for submitting cases to the IRS for "full collection" as is proposed in the Bradley-Roukema legislation.

**CONGRESSIONAL HEARINGS:** Hearings on Senator Bradley's S. 689 and other Senate child support legislation will probably be held sometime later in the Summer or early Fall by the Senate Finance Committee in conjunction with the President's welfare reform proposals.

The U.S. House Ways and Means' Subcommittee on Human Resources has already held several hearings since January relating to child support. A March 18 hearing focused on President Clinton's economic stimulus and budget plan

that included several provisions for strengthening child support enforcement.

Another hearing was held by the Subcommittee on June 10 that focused on several alternatives for improving child support enforcement. These included retaining the current state and federal program and implementing the recommendations of the Interstate Commission, moving towards federalization of the program by moving enforcement to the IRS and providing child support assurance to custodial parents, and increasing the role of the private sector and other non-IV-D entities in supplementing efforts by state and local IV-D agencies.

**LOOKING AHEAD:** A welfare reform task force will be spending much of the Summer preparing proposals, including those relating to child support, for consideration by the President and Congress. With the diverse views that exist on how to improve child support enforcement, the task facing the President and Congress will be challenging.

CHILD SUPPORT COUNCIL  
 CONGRESSIONAL BILL TRACKING CHART  
 As of July 1, 1993

BILL #	SPONSOR	INTRO DATE	DESCRIPTION	STATUS
S. 253	Craig R-IL	1/28/93	Federal pay can be garnished same way as non-federal.	To S. Comm. on Gov't Affairs. 1/28/93
S. 434 & HR 2355	Bumpers D-AR Cox R-CA	2/2/93 6/9/93	Unpaid CS can be deducted on Fed. income tax as bad debt.	To S. Finance 2/2/93 To H. Ways & Means 6/9/93
HR 454	Frank D-MA	1/6/93	Prohibits a state from modifying child support order of another state without consent.	Amended by H. Judiciary. 3/11/93
S. 922	Moseley- Braun D-IL	5/6/93		To Senate Judiciary 5/6/93
HR 529	Panetta D-CA	1/21/93	First \$50 of CS doesn't count for food stamp eligibility.	Incorporated into HR 2264. In conference committee. 7/1/93
S. 532	Domenici R-NM	3/3/93	States must recognize CS orders of other states.	To Judiciary Committee. 3/9/93
S. 540	Heflin D-AL	3/10/93	Reforms bankruptcy law regarding CS enforcement.	To Judiciary Committee. 3/10/93
HR 555	Woolsey D-CA	1/21/93	Credit bureaus must include state-provided info on delinquent CS.	To H. Ways & Means and H. Banking, Finance, and Urban Affairs. 1/21/93
HR 619	McCandless R-CA	1/26/93	Credit bureaus must record overdue CS info when it is provided by gov't agency.	To H. Banking, Finance, and Urban Affairs. 1/26/93
HR 773 & S.967	Hyde R-IL Shelby D-AL	2/3/93 5/13/93	Moves IV-D enforcement to IRS. States establish paternity orders and modifications.	To H. Ways & Means. 2/2/93 To S. Finance 5/13/93

BILL #	SPONSOR	INTRO DATE	DESCRIPTION	STATUS
HR 892	Franks R-CT	2/16/93	States must meet "parental identity standards" to keep IV-A funding.	To H. Ways & Means 2/16/93
HR 915	Schroeder D-CO	2/6/93	Changes IV-D funding; requires states to suspend licenses, prevent recording of property for non-pay of child support.	To H. Ways & Means & Judiciary. 2/16/93
HR 1007	Shays R-CT	2/18/93	Allows IRS to levy wages for CS more than 2 months overdue.	To H. Ways & Means and H. Energy & Commerce. 2/18/93
S.619	Riegle D-MI	3/18/93	IV-D programs to provide bilingual information.	To S.Finance 3/18/93.
S.663	Rockefeller D-WV	3/26/93	Provides for tax credits for children and child support assurance demonstrations.	To S. Finance Committee. 3/26/93
S.689 & HR 1600	Bradley D-NJ Roukema R-NJ	4/1/93 4/1/93	Interstate Child Support Enforcement Act. Enacts recommendations of US Commission on Interstate Child Support.	To S. Finance 4/1/93 To H. Armed Services and Banking, Finance, & Urban Affairs and Judiciary and Ways & Means 4/1/93
HR 1961	Kennelly D-CN	5/4/93	Relates to interstate child support enforcement and parentage establishment.	Ref'd to various committees. 5/4/93
HR 1995	Volkmer D-MO	5/5/93	Authorizes tax exemption for NCP who pays over half of support for child.	To Ways & Means. 5/5/93
HR 2241	McDermot D-WA	5/24/93	Establishes child support audit committee in HHS.	To Ways & Means. 5/24/93
HR 2264 & S.1134	Sabo D-MN Sasser D-TN	5/25/93	Budget Reconciliation Act, includes paternity, health insurance, and credit bureau reporting.	Passed both houses. In conf.comm.as of 7/1/93.

BILL #	SPONSOR	INTRO DATE	DESCRIPTION	STATUS
HR 2346	Wootsy D-CA	6/8/93	IV-D agencies to report overdue child support greater than \$1000 to credit bureaus. Replaces HR 555.	To H. Ways & Means 6/8/93
HR 2396	Snowe R-ME	6/10/93	Increases access by IV-D agencies to financial records.	To Ways & Means, Banking, Finance, and Urban Affairs. 6/10/93

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## Congressional and Federal Update

July, 1993



Most of the work of the 103rd Congress during the first half of 1993 has been focused upon the President's economic stimulus and deficit reduction programs. This has meant that the movement of legislation affecting other pressing matters on the Administration's domestic affairs agenda, including welfare reform and improvement of child support enforcement, has been sluggish. Most of the bills that have been introduced relating to child support have not had committee hearings, and none has moved out of committee with the exception of **The Budget Reconciliation Bill ( H.R. 2264 )** that contains several child support provisions.

Another commonly heard complaint on Capitol Hill is that congressional committees are unable to act decisively on a great range of legislative proposals because many of the key appointive positions in federal agencies have not yet been filled, including the Director of the Office of Child Support Enforcement in the U.S. Department of Health and Human Services. As a result, congressional committees feel that although they may call upon agency senior civil servants for facts and figures, they lack a clear sense of Administration policy direction.

There hasn't been a total absence of congressional committee activity with respect to child support enforcement, however. The **House Ways and Means Subcommittee on Human Resources** has held several hearings on child support enforcement. On March 18, the Subcommittee conducted hearings to consider the provisions of the President's economic benefits package for strengthening child support enforcement. At the March hearings, testimony was presented by several organizations, including the

Children's Defense Fund, the National Council of State Legislatures, the National Association of Counties, the American Bar Association, and the **Child Support Council**. Testimony focused on such issues as the creation of state child support registries for locating absent parents, voluntary paternity acknowledgement and outreach programs, and the greater use of the Internal Revenue Service for "full collection" services in difficult child support cases.

Another hearing by the Subcommittee was held on June 10. This oversight hearing was to obtain testimony about other proposals for the improvement of the national child support enforcement program. Alternatives offered by witnesses and discussed by Subcommittee members focused on three different approaches for changing the child support enforcement system. The first alternative was to retain the current IV-D structure, but include the reforms recommended by the U.S. Commission on Interstate Child Support. The second alternative was the possible "federalization" of the program, with the IRS taking on the role of enforcing all child support orders, coupled with federally funded "child support assurance" provided to all custodial parents. The third alternative was a dramatically increased role by the private sector and local government entities in supplementing efforts of IV-D agencies. Among those who gave testimony were representatives of the National Child Support Enforcement Association, the American Bar Association, the Center for Law and Social Policy, and the **Child Support Council**. In addition, the Subcommittee heard from three members of Congress who have introduced bills in the 103rd Congress to strengthen child support enforcement--Congresswomen Barbara B. Kennelly (D-CT), Patricia Schroeder (D-

CO), and Senator Bill Bradley (D-NJ)--and also from David Ellwood, a Harvard professor known for his work on "child support insurance" who has been appointed Assistant Secretary for Planning and Evaluation in the Department of Health and Human Services.

Although Mr. Ellwood did not lay out any specific Administration plan for improving the national child support enforcement program, he did identify the need for early paternity acknowledgement programs, the limitations of the process mandated by the Family Support Act of 1988 for the periodic review and adjustment of support awards, the importance of strengthening enforcement against "deadbeat dads", the need to examine the best way for states to invest staff and financial resources in the child support enforcement effort, and, finally, the value of coupling support enforcement with some form of child support "insurance" (or "assurance").

#### 1. Draft Legislation.

In addition to the issues identified by Mr. Ellwood, the Clinton Administration and HHS officials are beginning to consider other legislative options for child support that may be included in welfare reform efforts. Among provisions being considered are the establishment of both state and national registries of child support orders. The state registry would contain not just orders being enforced under the Title IV-D program, but all orders issued in a state. This registry would be responsible for receiving, recording, and disbursing child support payments in all cases. Employers would be required, using a modified W-4 form, to report new hirings or rehiring, together with other information useful in the enforcement of child support obligations, to the state registry.

Also under consideration by the Administration, and reflecting some recommendations of the U.S. Commission on Interstate Child Support, is the expansion of the Federal Parent Locator System in order to create a national automated network. As envisaged by the Interstate Commission, the proposed network would enable each state to have access to the registries of orders in other states, as well as to the locate sources of other states and to federal locate sources. This proposed network appears to be

patterned after the Child Support Enforcement Network (CSENET), that is being developed by the federal Office of Child Support Enforcement (OCSE). However, partly as a result of concerns with CSENET raised by the General Accounting Office, some states would prefer a single central data base that they would collectively administer. Every state's child support enforcement agency would have access to this single database containing locate information and abstracts of child support orders from all states. Both of these "national network" alternatives are still being studied and considered by the Administration and potential legislative sponsors.

A major change from the current use of state and federal locate systems - and in the character of child support enforcement activities - is embodied in a proposal that these locate systems be available not just for the establishment of paternity and support obligations and the enforcement of those obligations, but also for the enforcement of visitation. This proposal, too, reflects a recommendation of the Interstate Commission. It could, however, have many and significant ramifications for the child support enforcement enterprise and needs to be considered very carefully before being carried forward.

In another idea under consideration, states would be required, as a condition for receiving funding under Title IV-D, to use national child support guidelines which would be developed and issued by a special commission no later than 24 months after the enactment of enabling legislation. Seven of the fifteen members of this new guidelines commission would be appointed by the Secretary of Health and Human Services and the remaining eight members by the leadership of the U.S. House and Senate. The commission's membership would be drawn from individuals with judicial or administrative experience in child support enforcement, as well as representatives of advocacy groups for custodial and noncustodial parents. In undertaking its task, the commission would consider key factors affecting the determination of appropriate child support amounts.

One area in which the Administration has decided to move forward -- and that is contained in the Budget Reconciliation Bill -- is requiring states to develop simple procedures for the voluntary acknowledgement of paternity and, where paternity is contested, administrative processes for determining parentage.

Although it had initially appeared the Administration was giving serious consideration to a new structure of financing state Title IV-D child support enforcement programs, in which the current scheme of incentive payments would be eliminated in favor of a higher rate of federal financial participation, it appears that this idea is no longer favored.

Other areas of imperative concern to state IV-D programs that are among proposals being considered by the Administration include reforms to the federal audit process of state IV-D programs, the extension of enhanced funding for completion of automated systems, and some modification to the mandates of the Family Support Act of 1988 for periodic review and adjustment of support orders.

Finally, the Clinton Administration is almost certain to support legislation for federal grants to some states for the operation of child support assurance demonstration projects.

In addition to child support ideas under consideration by the Clinton Administration and HHS officials, members of Congress continue introducing legislation intended to improve the effectiveness of the Title IV-D program. Among the main recurring provisions contained in these legislative proposals are: the use of a modified W-4 form for reporting child support obligations of employees; the creation of state and national registries of child support orders; more comprehensive and stronger medical support enforcement for dependent children; the greater use of consumer credit bureau reporting of support obligations and past-due support payments; the development of national child support guidelines; more effective civil processes for establishing parentage, including voluntary paternity declaration; a new funding structure for the state/federal child support enforcement program; "child support assurance" projects; and the mandatory adoption by states of the new Uniform Interstate Family Support Act (UIFSA) to replace the Uniform Reciprocal Enforcement of Support Act (URESA). These and other ways to improve the national child support program occupied the attention of the U.S. Commission on Interstate Child Support and were dealt with in recommendations contained in the Commission's report to Congress in August, 1992.

## II. Recommendations of the U.S. Commission on Interstate Child Support.

1. Senator Bill Bradley (D-NJ) and Congresswoman Marge Roukema (R-NJ), both of whom served as members of the U.S. Commission on Interstate Child Support, had originally filed legislation (S. 3291 and H.R. 6091) in the closing days of the 102nd Congress incorporating many of the Interstate Commission's recommendations. On April 1, 1993, Senator Bill Bradley filed S. 689 (Congresswoman Roukema's companion bill is H.R. 1600), which is very similar to his original legislation. The most notable changes in S. 689 from the earlier legislation include the removal of some of the jurisdictional provisions, including requirements for states to enact long-arm statutes, which are already contained in the new Uniform Interstate Family Support Act (UIFSA) and which S. 689 requires states to "adopt without material change by January 1, 1996." Because UIFSA also addresses interstate evidentiary issues, some of the related provisions in the original Bradley-Roukema legislation have been removed in S. 689. An enforcement provision from the earlier legislation that is not contained in S. 689 is the requirement that states have a law to impose liens on the titles of motor vehicles of delinquent obligors. Another proposal that has been removed in S. 689 is the creation of a Children's Trust Fund, funded by voluntary taxpayer contributions in the same way as the current presidential election fund.

The following provisions were contained in the Bradley-Roukema legislation from the 102nd Congress and are now in S. 689.

A. **Locate and Case Tracking:** A new national network for the location of parents would be established by the Department of Health and Human Services through the federal Office of Child Support Enforcement (OCSE), building upon the Federal Parent Locator System and the automated data retrieval and processing systems which all states must have fully operational by October, 1995. This network would enable each state's IV-D agency to have direct, automated on-line or batch access, not only to federal data bases for locate purposes, but also to the data bases of all other states. State data bases would include all sources of information concerning residential addresses, employers and employer addresses, income and assets, and medical insurance benefits of absent parents - e.g., state revenue or taxation departments, state motor vehicle registration departments, state crime information systems, state

No HC for  
parents if  
no HC for  
kids

professional/recreational/occupational licensing departments, credit reporting agencies located in the state, and publicly regulated utility companies. Federal matching funds at a rate of 90 percent would be available to states to develop the capacity to participate in the new network.

Perhaps the most important of the state data bases for locate purposes is the state employment security department. To make the most effective use of this source of information, the Commission recommended - and the legislation provides - that a modified W-4 form be used to report information on all new hires in a state, as well as the child support obligations of all new employees, promptly to the state child support agency. A new employee would be required to identify on the W-4 form any support obligation owed, the payee of that obligation, and if the employee has health insurance available. If a support amount was owed, the employer would begin immediate wage withholding and remit the amount to the designated payee and report the total amount of withheld support on the W-2 form. The employer would also promptly send the W-4 form to the state child support enforcement agency within 10 calendar days of the date of employment. The enforcement agency would check the information against a state registry of child support orders, which each state would be required to maintain, and broadcast the information over the national network to the child support agencies and registries of support orders in all the other states. The state registry would contain copies of all child support orders which parties subject to such orders elected to have included in the registry and all other child support orders which the state chose to include (e.g., those enforced under Title IV-D).

The information on the W-4 form could, thus, be verified: whether a new employee did or did not owe a support obligation anywhere in the country and whether the amount of any support obligation declared on the form was correctly stated. Where an employee gave incorrect or incomplete information, the state child support agency would immediately notify the employer. The designated payee would be promptly notified when a match had been made between information on a W-4 form and an order in a state child support registry. Monetary penalties would be imposed on any employee who wilfully failed to report a support obligation on the W-4 form at the time of employment, as well as upon any employer who failed to forward a W-4 form to the state child support

enforcement agency within 10 calendar days of the date of employment or who failed to withhold an appropriate amount from wages for the child support obligation and to disburse that amount to the named payee within 10 calendar days of the date of payroll.

Access to the Federal Parent Locator Service would be made available to both parents (not just, as currently, to the custodial parent) for both child support and visitation enforcement, subject to appropriate safeguards for the proper use of locate information. Moreover, private attorneys and pro se obligees would have access to state locator resources, tax refund offsets, and "other public enforcement techniques" for child support and visitation enforcement actions. Federal, state and local child support agencies would be able to access information contained in the systems of the National Criminal Information Center, the National Law Enforcement Telecommunications Network and any other similar national or regional system. Information on failure-to-appear warrants, capias, and bench warrants issued by courts in parentage and child support cases would be broadcast over state crime information systems.

**B. Establishment:** Perhaps the most challenging of the tasks undertaken by the Interstate Commission was the attempt to resolve the complex issues of jurisdiction in interstate enforcement. The Commission's proposals on jurisdiction - incorporated in the legislation - adhere to the principle that only one support order be effective at any one time in order to avoid the sorts of confusion which currently attend the establishment and enforcement of interstate support. (The Commission's proposals on jurisdiction accord with provisions of the new Uniform Interstate Family Support Act ( UIFSA ).

Whereas the Bradley/Roukema legislation introduced in the 102nd Congress required all states to adopt an uniform long-arm statute - with eight specific bases identified in the legislation - to exercise personal jurisdiction over a non-resident defendant, S. 689 deletes this provision. However, such a long-arm statute requirement is contained in UIFSA, which S. 689 requires all states to adopt "without material change by January 1, 1996". The refiled bill does retain a provision that Congress find and declare that a state in which a child resides could exercise personal jurisdiction over a nonresident parent, regardless of that parent's contacts with the forum state. Moreover,

states must treat out-of-state service of process in parentage and child support actions in the same manner as in-state service of process, and, furthermore, they must provide for service by personal delivery, mail, or publication in manner reasonably calculated to give actual notice and to provide sufficient time for response. Furthermore, states must require parties subject to an order to file their residential and employment addresses and telephone numbers, driver's license numbers, and social security numbers with the court or administrative agency issuing the order. In any action, other than an initial action to establish paternity and support, the last residential address which a party is required to give to a court or agency is presumed to be the correct address for providing sufficient notice of an action. All information concerning the location of a parent or a child would not be released to the other parent if there is a court order for physical protection of a parent or child.

Under a bill provision which amends the full faith and credit section of the U.S. Code (Chapter 115, Title 28) an order for parentage and/or child support rendered in one state would be recognized and enforced, without modification, by any other state. Furthermore, the state which established a support order would ordinarily retain continuing, exclusive jurisdiction - including jurisdiction to modify - unless both parents and the child have left that state or both parents agree in writing to the exercise of jurisdiction by another state. Another provision of the bill requires the state IV-D agency to notify custodial parents owed child support of any hearings in which the support obligation might be established, modified, or enforced, so as to be given the opportunity to appear and present evidence. In addition, custodial parents must be provided with a copy of any order that establishes, modifies, or enforces a support obligation within 14 days of the date of the issuance of the order.

States would be required to have uniform laws and practices respecting: the joining of parentage adjudication and child support establishment in a single cause of action; venue for parentage adjudication in the county of the child's residence; the continuing jurisdiction within the state of the court which originally entered a parentage or child support order; the transfer of cases to the city, county, or district where the child resides, for the purpose of modification or enforcement, without the need for refiling by the plaintiff or re-serving the defendant; the statewide jurisdiction of any child support agency or state court

that hears child support claims and the statewide effect of any order issued by that agency or court; and the separation of support and visitation claims, so that visitation denial is not a defense to child support enforcement and the defense of nonsupport is not available when visitation is at issue.

State child support agencies would have access to information available from a credit reporting agency relevant to the setting of a support amount, without the need, as currently, of obtaining a court order to authorize access. Moreover, state and local support agencies would have available for their use a national subpoena duces tecum to reach all information regarding private, federal, state, and local government employees, and state IV-D agencies, by state law, would be empowered to issue intrastate subpoenas to compel personal appearance of parties and the production and delivery of documents in support actions.

With respect to the setting of child support amounts, states would be required to make the application of the mandatory support guidelines a sufficient reason for modification of the support obligation without the necessity of showing any other change in circumstance. A custodial parent, not receiving AFDC, who requests a review of a support order for the purpose of modifying the amount of the award would have the right not to pursue modification if the recalculated amount, based on the review, were not acceptable to that parent. Moreover, the state guidelines would have to take into account work-related or job-training related child care expenses of either parent, health insurance and related uninsured health care expenses, the remarried parent's spouse's income and school expenses incurred on behalf of the child. State law would have to provide for a continuing support obligation until the child's eighteenth birthday or until the child is no longer enrolled in secondary school or its equivalent, whichever is later. State law would also have to give courts discretionary power to extend the obligation of support up to the age of 22 for an adult child who is enrolled in post-secondary education and who is a student in good standing. Finally, in order to study the desirability of national child support guidelines, Congress would create, by no later than January 15, 1994, a National Child Support Guideline Commission which, if it found such national guidelines desirable, would develop them and, in any case, report to the President and Congress no later than one year after the appointment of the Commission.

States would use a uniform abstract of a child support order, in a form developed by the Secretary of the Department of Health and Human Services in conjunction with state executive and judicial organizations, to record the facts of a child support order in the state registries of support orders. These abstracts would be used in various interstate actions where information about the child support order is required.

Finally, by state law, social security numbers of parents would be recorded on marriage licenses and child support orders.

**C. Parentage:** In the light of some successful state programs to promote early, voluntary acknowledgement of paternity, the Commission recommended - and the legislation requires - that all states develop and distribute materials through health departments and other agencies describing the benefits and responsibilities of paternity establishment and establish other kinds of paternity outreach programs (e.g., through prenatal clinics and parent training programs) in order to achieve voluntary acknowledgement of paternity. For these activities states would receive federal matching funds at a rate of 90 percent.

Along with educational programs designed to promote the early acknowledgement of paternity, states must develop simple civil consent procedures for the voluntary acknowledgement of paternity, including the use of affidavits attesting to parentage which would be signed by the unmarried parents in hospitals and other birthing facilities as part of the birth certificate process. However, any individual who voluntarily consents to paternity would have the right to request genetic tests within one year of a voluntary acknowledgement. Also, states would be required to use civil, instead of criminal, procedures for parentage action, without joinder of the named child in the action, using a preponderance of the evidence standard. In using genetic testing, states must establish threshold standards of probability of paternity or exclusion in order to create a rebuttable presumption of paternity. Where a party refuses to submit to a court order for parentage testing, state law must provide for the resolution of parentage against that party. Temporary support orders must be entered if genetic testing results in a presumption of parentage or if the individual from

whom support is sought has signed a verified statement of paternity or if there is other clear and convincing evidence of paternity. Finally, states must have procedures by which a default order in parentage cases may be entered against the defendant upon a showing of evidence and service of process on the defendant, without requiring the personal presence of the petitioner.

**D. Enforcement:** Among the many provisions affecting the enforcement of child support obligations are several concerning wage withholding which has proved to be a valuable enforcement tool but which in interstate cases is not always easily or effectively applied. The legislation provides that any individual or entity doing business in a state must honor income withholding notices or orders issued by a court of any other state, regardless of the location of the employee's work place. Such notices or orders may be served directly or by first class mail upon the employer, without the requirement of registration with the child support agency in the employer's state, and copies of the notices must be given by the employer to the affected employees. Employers must maintain records of payroll deductions and make these records available to any entity or individual enforcing the wage withholding order. If a contest arises concerning the correctness of a notice or if there is a refusal to honor it, the state requesting withholding must then send an "informational copy" of the notice or order to the registry of support orders in the state in which the employee is employed or the employer is located.

If the employee contests the order on the basis of error of fact, a hearing must be held in the employee's or employer's state, with that state providing any necessary enforcement services to ensure that the interests of the payee are adequately represented. To simplify both interstate and intrastate wage withholding, the Secretary of Health and Human Services is to develop a uniform withholding notice to be used by states in all withholding actions. Finally, the definition of income subject to withholding is to be expanded to include workers' compensation benefits, and the priority of withholding of wages shall be first to current support obligations, next to payments of premiums on health insurance for dependent children, and then to past due support and unreimbursed health-care expenses. Where there are multiple withholding orders for the same employee, payments from

withholding shall be made to each child on a pro rata basis.

Another set of provisions relating to enforcement and taken from the Commission's recommendations has to do with the issuance or renewal of occupational, professional, and business licenses where an individual is delinquent in child support payments. State and federal agencies responsible for issuing or renewing such licenses may not do so in the case of a delinquent obligor until the obligee, the obligee's attorney, or a state prosecutor releases the hold on the license or an expedited review is conducted, during which time the obligor may have a temporary 60-day license. Also, state agencies must deny licenses to any noncustodial parent whose name appears on the state's crime information system because of outstanding failure to appear warrants, capias, and bench warrants related to a child support proceeding, until the parent's name is removed from the system. Similar restraints apply to issuing and renewing driver's licenses, except that if the state licensing agency receives notice that someone already holding a driver's license is the subject of a warrant related to a child support proceeding, that agency may issue a show cause order asking why the license ought not to be suspended until the state issuing the warrant withdraws it.

Mindful that one of every five obligors does not receive regular wages from which an amount for child support can be withheld, the Commission recommended that there be stronger enforcement tools to reach the assets of the self-employed and others for whom wage withholding is not possible. Reflecting the Commission's recommendations, the legislation requires states to have procedures by which bank accounts of delinquent obligors can be subject to post-judgment seizure without the need to obtain a separate court order for the attachment. Winnings from lotteries, insurance settlements, awards and judgments from lawsuits, and proceeds from property seized and forfeited because of criminal conviction must all be directly available to the state child support agency for the enforcement of a support obligation. Public and private retirement funds would be subject to attachment by individuals owed child support, even if the distribution would cause a penalty or tax to the obligor for early withdrawal. States would have to make information about delinquent obligors available, upon request, to credit reporting agencies if more than one month's worth of support is past due. Obligor not

making timely payments of support would be required to post cash bonds, security deposits, or personal undertaking with the state child support enforcement agency, with refund of funds only after regular payments have been resumed for a specified period of time. Finally, the legislation calls for a simplified procedure for the use of full collection services of the Internal Revenue Service (where child support arrearage is treated as though it were federal income tax indebtedness, against which all enforcement tools of the IRS may be used) and conveys the sense of the Congress that the IRS should give high priority to full collection activities in support cases.

Other provisions for enforcement of child support include the requirement that states have procedures under which criminal nonsupport penalties may be imposed. There are also several amendments to the Bankruptcy Code to ensure that a child support action - including the establishment of paternity and of a support obligation, as well as the enforcement of an obligation - will proceed without interruption in case of a bankruptcy action. Furthermore, the legislation provides that state child support enforcement agencies assess and collect interest on all child support judgments, in addition to any late payment fees, and that state laws permit the enforcement of any child support obligation until at least the child's 30th birthday.

With respect to the enforcement of health care for dependent children, the legislation, following Commission recommendations, requires state IV-D agencies to adopt a number of new procedures. First, it must be a rebuttable presumption that the obligee has the right to choose the appropriate health insurance for the children, on the assumption that the custodial parent would have a better sense of the health care needs of the dependent child(ren). The cost of the insurance premium, however, and any unreimbursed medical costs must be shared proportionately between the parents, according to a formula in the state child support guidelines and any insurance premium or sum-certain health care expenses to be paid by the noncustodial parent must be included in the support order.

In order to ensure that the custodial parent receive the medical insurance coverage needed for the child(ren), the custodial parent must, by state law, be able to act in the place of the insured, including making direct application for insurance and making claims and

signing claim forms. If the obligated parent secures the medical insurance coverage, that parent must provide the custodial parent proof of coverage within 30 days of the time the insurance coverage has been obtained or an application for insurance made. The employer or union offering an employee benefit plan in the state must provide the child support agency or the obligee, upon request, information on the insurance coverage. The employer or union must, also, make available to the custodial parent all necessary claim and reimbursement forms and must notify the custodial parent of any termination or change in the insurance coverage for the dependent child(ren).

The legislation also provides several measures to facilitate the enforcement of child support obligations against members of the armed forces and other persons entitled to payments by the federal government - an area of enforcement that currently presents a number of impediments to effective action by state child support agencies.

Finally, again following the Commission's recommendations, the bills require that, as a condition of receiving federal funding for their IV-D programs, all states enact the Uniform Interstate Family Support Act (UIFSA) adopted by the National Conference of Commissioners on Uniform State Laws on August 5, 1992. This requirement would void the current Uniform Reciprocal Enforcement of Support Act (and its revisions and state versions) and would ensure that states adhere to the jurisdictional principles laid out in the legislation, inasmuch as these conform to the jurisdictional principles of UIFSA. By January 1, 1996 states must have adopted UIFSA "without material change."

#### **E. Collection and Distribution of Support.**

The Commission recommended a significant change in the way collected support is distributed so that, in post-AFDC cases, states would no longer have the option of directing amounts in excess of the current month's support obligation to either debts owed the family or to the state and federal governments as recovery of public assistance already paid to the family. Under the Commission's recommendation - incorporated in the legislation - the second tier of distribution, after the current month's support obligation, would be to the family for any post-AFDC support arrearage owed the family. Then there would

be reimbursement to state and federal governments for any assistance payments made the family.

The Comptroller General of the United States would be authorized to analyze the existing child support distribution system and authorize pilot projects for a distribution scheme in which collections in excess of current support obligations would be applied to all support debts owed the family and, after that, to reimburse state and federal governments for any public assistance already paid the family.

Other provisions would disregard the first \$50 of support collected in a month in determining eligibility for all federal means tested programs and would permit the Secretary of Health and Human Services to grant waivers to states to use "fill-the-gap" policies.

#### **F. Federal Role in the Child Support Enforcement Program.**

In an attempt to respond to the various concerns voiced by state IV-D agencies about the placement of the federal Office of Child Support Enforcement (OCSE) within the Department of Health and Human Services and about the deficiencies in the leadership role exercised by OCSE, the Commission made several proposals to make needed changes, all of which are contained as provisions of the bills. First, OCSE would be restructured so that it is headed by an assistant secretary appointed by the President and confirmed by the Senate who would report directly to the Secretary of Health and Human Services. This would provide the Office with the separate and distinct status intended for it in the founding legislation of the IV-D program. Moreover, OCSE would have its own legal counsel, which it currently lacks. Also, in figuring the costs of operating the IV-D program, OCSE would consider the factor of "cost-avoidance" - i.e., the savings realized for the taxpayer in helping families avoid having to turn to public assistance because of the successful enforcement of support obligations.

In addition to providing states with technical assistance in their IV-D programs, OCSE would be required to provide state IV-D agencies with assistance in establishing and operating training programs for their personnel. The Department of Health and Human

Services would be required to report annually to Congress on training activities. Also, the Secretary must study the staffing needs of state IV-D agencies and report the results of the study to Congress and the states.

Other matters of imperative concern to state IV-D agencies are the federal funding formula for the IV-D program and the federal audit of state programs. The Commission recommended - and the legislation provides - that a study be conducted of alternative ways to fund the program, including the provision of incentives tied to performance criteria which are not solely based upon "cost-effectiveness" criteria. As for the audit, the Secretary would be required to commission a study of the audit process to improve the criteria and methodology for the audit process and to report to Congress the results of the study. This study would also seek to redefine the penalty process so that a state failing to comply substantially with the audit criteria would not be penalized, as now, in its AFDC program, but that the penalty would involve the escrow of funds to be used by the states in a federally approved program of improvement.

Finally, the Secretary would oversee the establishment of not less than six pilot projects to determine the feasibility and usefulness of "child support assurance" as a way to assure a minimum level of child support whether or not an obligated parent is able or willing to meet an ordered support obligation. These projects would run for not fewer than three, or more than five, consecutive fiscal years, commencing not later than fiscal year 1994.

#### **G. State Role in the Child Support Enforcement Program.**

The legislation incorporates several Commission recommendations affecting the operation of state IV-D programs. Perhaps the most radical of these is that a state IV-D agency must accept applications for services from nonresidents of that state, a requirement which seems inimical to the purposes of UIFSA and the existence of a state-based national IV-D program as originally intended by Congress.

Other provisions seek to clarify the mission of the state IV-D agencies to promote the economic security of children and the duty of the state agencies to serve the concerns of custodial parents, although

OCSE has asserted that non-custodial parents in non-public assistance cases may also apply for IV-D services and that the state agency does not stand in a traditional attorney-client relationship. State enforcement agencies must provide written information on their services and provide custodial parents with written quarterly reports on case status. Also, state and local child support enforcement agencies would be required to provide a number of amenities for parents, including convenient hours and locations for parents and office environments conducive to discussion of legal and personal matters in privacy, e.g., individual interview rooms and child care facilities. Finally, states would have to develop procedures whereby the designation of the child support payee may be changed without the requirement of a court hearing or order.

2. Although not a companion bill to S. 689 by Senator Bradley, H.R. 1961 filed by Congresswoman Barbara Kennelly (D-Ct) on May 4, 1993, also incorporates recommendations of the U.S. Commission on Interstate Child Support, of which Congresswoman Kennelly was a member, along with Senator Bradley and Congresswoman Roukema. The Kennelly bill includes a few more of the Commission's recommendations than does the Bradley-Roukema legislation.

A. **Locate and Case Tracking:** The Kennelly bill contains the same provisions as in the Bradley and Roukema bills for expanding the resources and uses of the federal and state locate systems. In addition, however, it requires states to have procedures for obtaining access to the financial records of any entity or individual doing business in the state for the purposes of child support enforcement.

B. **Establishment:** The Kennelly bill contains more of the Commission's interstate jurisdictional recommendations than do the current Bradley and Roukema bills. As filed in the last (102nd) Congress, the Bradley and Roukema bills also held closely to the Commission's recommendations concerning interstate jurisdiction, but inasmuch as those recommendations address matters comprehensively covered by the new Uniform Interstate Family Support Act (UIFSA), the Bradley and Roukema bills filed in this (103rd) Congress appropriately did not attempt to replicate UIFSA in such matters. Perhaps as the Kennelly bill is considered in committee, its

jurisdictional provisions will be deleted in favor of UIFSA that it requires states to adopt.

The Kennelly bill also contains an important recommendation of the Commission not included as provisions of the earlier or current Bradley or Roukema bills. This recommendation has to do with the establishment and enforcement of child support orders among "Indian tribes." Specifically it calls for reciprocal recognition, with full faith and credit, of child support proceedings in Indian tribes and those in the states and territories of the United States.

Finally, the Kennelly bill provides for state surveys of populations underserved with respect to child support enforcement and for the establishment of outreach programs to those populations. Also, in a major change in IV-D policy, it permits the state IV-D agency to "represent custodial parents in custody cases" and requires a IV-D agency involved in custody cases to refer custodial parents to "appropriate community resources" where there is evidence of a threat of violence against that parent (or the parent's children) for having cooperated with the IV-D agency in establishing custody. Under current IV-D law, of course, issues of custody and access lie outside the IV-D arena, and by the interpretation of the federal Office of Child Support Enforcement (OCSE), state IV-D agencies do not "represent" either parent (or even the child) in a traditional attorney-client relationship in any child support proceeding.

**C. Parentage:** Like the Bradley and Roukema bills, the Kennelly bill provides for the establishment under state law of simple civil procedures for paternity establishment, as well as of paternity establishment outreach programs, procedures for early voluntary establishment of parentage, and the creation of a rebuttable presumption of paternity by genetic test findings.

**D. Enforcement:** The Kennelly bill adds to the long list of enforcement provisions found in the Bradley and Roukema bills some other enforcement measures recommended by the Interstate Commission. Among these are the extension of the IRS tax refund program to cover non-AFDC post-minor children. It also provides for state laws to allow assignment of life insurance benefits to satisfy child support arrearages and authorizes the U.S. Secretary of State to deny issuance of a passport to anyone subject to a state

warrant of arrest for past due child support, where the amount of support is not less than \$10,000.

Finally, the Kennelly bill calls for congressional ratification of the United Nations Convention of 1956 (which, in part, addresses international enforcement of child support obligations) and for the treatment of international child support cases as interstate cases under Title IV-D. In the 102nd Congress, Congresswoman Kennelly introduced a bill--H. R. 3248--providing for Congress to consent to the entry by states into unilateral or multilateral agreements with foreign countries or their political subdivisions for the recognition and enforcement of spousal and child support orders. It also called upon the Secretary of State to examine the several international conventions --including the 1956 United Nations Convention on the Recovery Abroad of Maintenance, the 1958 Hague Convention Concerning the Recognition and Enforcement of Decisions Concerning Maintenance Towards Children, the 1973 Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations, and the 1989 Inter-American Convention on Support Obligation--upon which some 57 other nations have established frameworks to ensure the international enforcement of spousal and child support obligations. Finally, it called upon the President to submit to the Senate for consent to ratification of any of the international conventions the President determines appropriate for ratification.

**E. Collection and Distribution:** The Kennelly bill contains identical provisions to those found in the Bradley and Roukema bills concerning collection and distribution of child support. In addition, it contains the Interstate Commission recommendation that "it is the sense of Congress that States should encourage all parents to use the state child support agency to process and distribute child support payments in order to establish an official record of such payments." Although there is great sense to having support payments go through a registry of some sort (local court registry or some central state registry) in order to create a record of payments, it should be coupled with a mechanism for automated monitoring for delinquency and immediate enforcement action. The registry recommendation of the Commission, like many other recommendations of the Interstate Commission and included in the various legislative proposals, avoids the issue of funding for the

proposed increased activity of the state IV-D agency. Presumably what is intended in the registry proposal is not that non-IV-D cases will become IV-D cases by application for services and payment of an application fee, but only that, somehow, the state IV-D agency will function in these instances for the sole purpose of recording and distributing child support payments. In any volume, this would be no small undertaking--without appropriate funding--for already under-staffed\* and over-worked state IV-D agencies.

**F. Federal Role:** In addition to the provisions found in the Bradley and Roukema bills, the Kennelly bill calls for the creation of a "Children's Trust Fund" which the Commission recommended. This Fund would be established and maintained by voluntary taxpayer contributions (like current voluntary contributions to the presidential election fund) and would function to support programs regarding child support enforcement and specific matters addressed in the "Interstate Child Support Act of 1993" (i.e., the Kennelly bill).

The bill also provides for the establishment by OCSE of a permanent child support advisory committee composed of federal and state legislators, state child support officials, and representatives of custodial and noncustodial parents. This committee would provide oversight of the implementation of federal IV-D laws and regulations and provide a forum for interested parties to share concerns about the national child support enforcement program and problems experienced by state programs, courts, the private bar, and parents and to recommend solutions to OCSE and Congress. Creation of such a commission would be highly desirable; it should function independent of, but advisory to, OCSE.

**G. State Role:** The Kennelly bill adds to the provisions found in the Bradley and Roukema bills the recommendations of the Commission that it be the sense of the Congress that states should establish (1) administrative procedures to process child support cases and (2) state child support councils to review state child support enforcement laws and to make recommendations for changes in those laws and to serve as a public forum for child support enforcement issues.

**H. Jobs for Unemployed Noncustodial Parents:** The Kennelly bill adds a provision not found

in the other two bills, but incorporates a recommendation of the Interstate Commission, that any government program to provide jobs for noncustodial parents not adversely affect, either directly or through competition for funds, any federal program for custodial parents. This provision, like the Commission's recommendation, reflects a bias for the interests of custodial parents found throughout the Commission's final report to Congress.

3. On February 16, 1993, Congresswoman Patricia Schroeder (D-CO) introduced H.R. 915 (originally filed in the 102nd Congress as H.R. 5123) which contains several provisions to implement certain recommendations of the Interstate Commission.

The first title of the bill contains fourteen sections with provisions amending Title IV-D law, while the provisions of the bill's second title amends federal bankruptcy law with respect to spousal and child support. Among the provisions of the first title are requirements:

- that states have uniform statewide child support enforcement programs;
- that the state IV-D agency have automated on-line access to all appropriate state data bases;
- that enforcement of a child support order continue until the child attains the age of 18 or completes (or abandons) secondary school education or, if disabled, until the child marries or is emancipated by a court of competent jurisdiction;
- that all income, of whatever kind or from whatever source (including lottery winnings, settlements of insurance claims, and sales of property), be subject to withholding for child support obligations;
- that states prohibit the issuance of professional licenses to any individual owing past-due child support exceeding \$1,000;
- that overdue child support in an amount exceeding the monthly obligation be reported to consumer credit bureaus and that, upon request and the payment of a fee, information be furnished a credit bureau

- regarding any overdue support owed by an individual residing the state;
- that there be no state time limits to the period during which a child support order may be enforced;
- that social security numbers appear on all marriage licenses and child support orders;
- that issues of visitation be kept separate from any adjudication of child support, and vice versa;
- that there be federally mandated time frames for responses to interstate locate requests;
- and that there be federal standards and procedures for processing interstate cases.

Unlike the Interstate Commission's recommendations and the Bradley and Roukema bills' provisions for a study of possible changes to the federal funding scheme for the IV-D program, the Schroeder bill proposes a new funding structure whereby federal incentive payments to states for the performance of their IV-D programs would be eliminated, but federal financial participation (FFP) would be increased from the current 66 percent to 90 percent. While this type of funding scheme - eliminating incentive payments while increasing FFP - appears attractive, and had been under consideration by the Clinton Administration, there should be a careful study of the real impact upon state IV-D programs of such funding before any change occurs. Those states which greatly employ local and country entities in their IV-D programs may find the elimination of incentive payments detrimental to their programs. While the current incentive structure is badly flawed - narrowly focused, as it is, upon collections and "cost-effectiveness" ratios and imposing a "cap" on incentives for non-AFDC collections - it may be possible to recast the incentive structure to include other key areas of IV-D activity (including paternity establishment, interstate and medical support).

As recommended by the Interstate Commission, the bill calls for penalties for audited noncompliance with federal IV-D requirements to fall upon the state IV-D program and not, as now, upon the IV-A (AFDC) program. Moreover, like the Bradley and Roukema bills it also provides that all states be required to adopt the proposed Uniform Interstate Family Support Act. The Schroeder bill prescribes that states must, at the risk of losing federal funding for

their IV-D program, adopt UIFSA not later than the effective date of this provision - i.e., the first day of the 12th calendar quarter beginning after the enactment of the Act. Finally, the bill provides, as do the other two bills, that Congress establish a commission on child support guidelines to devise recommendations for national guidelines for child support. This commission would be made up of individuals with administrative and judicial experience in child support enforcement, together with representatives of organizations representing custodial and noncustodial parents, and would be charged with responsibility to report to Congress, no later than 18 months after the enactment of the Act, with recommendations for national child support guidelines.

The second part of the Schroeder bill contains amendments to bankruptcy law - of the sort recommended by the Commission and found in the Bradley and Roukema bills - to preserve and protect the support rights of spouses (and ex-spouses) and dependent children during bankruptcy proceedings. Among other matters, the bill provides for: (1) exemption from the automatic stay of the commencement or continuation of proceedings to establish paternity and child or spousal support obligations; (2) the exception to discharge of spousal and child support obligations and any liability under the terms of a property settlement connected to a separation agreement or divorce decree; (3) a delay in the confirmation of a plan under Chapters 12 and 13 until the debtor has satisfied all claims arising after an order for relief for spousal and child support; and (4) exemption of any representatives of child support creditors from local court rule requirements for attorney appearances. These and the other provisions in this part of the bill affecting bankruptcy law offer important changes which Congress ought to enact promptly. A further amendment of the bankruptcy code might be an exemption of child support enforcement agencies from fees for electronic access to the records of bankruptcy courts - important sources of information for establishing and enforcing support obligations.

4. While not all of its provisions directly incorporate recommendations of the U.S. Commission on Interstate Child Support, H.R. 2396 filed by Congresswoman Olympia Snowe (R-ME) on June 10, 1993 reflects several of the concerns considered by the Commission.

The bill provides that banks and other financial institutions which cooperate with state child support enforcement agencies will not be liable for releasing financial information about the financial assets of noncustodial parents. To safeguard the confidentiality and limited use of such information by the child support enforcement agency, the bill calls for civil damages for unauthorized disclosure by any state officer or employee. In addition to the records of financial institutions, the child support enforcement agency would be entitled (without the need of a court order) to obtain a consumer credit report in order to establish, modify, or enforce a support obligation, as long as the consumer concerned is notified in writing that the agency intends to obtain the report and the paternity of the child to which the support obligation relates has been established or acknowledged.

In addition, the bill provides that, as a condition of federal IV-D funding, and in accordance with regulations to be promulgated by the Secretary, states develop guidelines for the inclusion of health care coverage in every new or modified child support order. These guidelines must clearly identify the nature and extent of medical care coverage, the extent to which medical care is to be covered through health insurance, the manner in which insurance premiums are to be paid, the circumstances under which an insurer may or may not deny coverage to a dependent child, and the penalties to be imposed on insurers who fail to comply with state requirements. Finally, the Secretary must develop procedures by which state child support enforcement agencies would receive federal incentive payments for medical support enforcement.

With respect to wage withholding for child support, states must require employers to remit the withheld amounts to the appropriate state agency within 10 days after the payment of the wages. Employers who fail to remit to the state child support agency within 10 days wages garnished for child support would be subject to a \$1,000 fine, which penalty must be reinvested by the state in its child support enforcement program.

Other provisions of H.R. 2396 require the Secretary to report annually to Congress on states' compliance with performance standards articulated in the Family Support Act of 1988.

Finally, the federal Office of Child Support Enforcement would be required to develop a national parent locate network, incorporating state child support

enforcement systems, to allow direct access by one state to another state's locator system, as well as to federal locator sources. This particular provision follows closely the recommendations of the Interstate Commission.

### **III. Child Support Enforcement Provisions in the Budget Reconciliation Bill.**

The Clinton Administration's "Budget Reconciliation Act of 1994" - H.R. 2264 filed by Congressman Martin Sabo (D-MN) on May 25, 1993 - contains provisions directly affecting the national child support enforcement program. These provisions were developed within the House Ways and Means Subcommittee on Human Resources and reported out of the Subcommittee on April 27. H.R. 2264 passed the House on May 27, 1993 and the Senate on June 25, 1993 (in a version which substituted the text of S. 1134 by Senator James Sasser (D-TN) filed on June 22, 1993 for the original House bill). The bill is in conference committee where differences in the House and Senate versions will be resolved before being finally passed by Congress and sent to the President for his signature.

The specific child support enforcement provisions of H.R. 2264 deal with (1) paternity establishment, (2) health insurance and medical support, and (3) reporting of child support payment delinquencies to consumer credit reporting bureaus.

**A. Paternity establishment:** States must have procedures for simple civil process for the voluntary acknowledgement of paternity which creates (at the option of the state) either a rebuttable or conclusive presumption of paternity and which constitutes the basis for seeking a support order. Also, states must have procedures which create either a rebuttable or conclusive presumption of paternity upon genetic testing results showing a threshold probability of parentage, with any objection to such testing results being made in writing within a specified number of days prior to the results' being admitted into evidence; absent such objection, the results must be admitted without need for any proof of authenticity or accuracy. Parents must supply their Social Security numbers for the issuance or amendment of a birth certificate, and while these numbers would not appear on the certificate, they must be provided to the state IV-D

agency. Moreover, states must have procedures for entering a default order in a paternity case upon a showing that service of process had been executed. Finally, states must give full faith and credit to a determination of paternity made by another state, whether by voluntary declaration or by administrative or judicial process. (The Congressional Budget Office estimates that such procedures could save the federal government \$210 million in AFDC over five years.)

A new standard for paternity establishment would be set for state IV-D programs, replacing the one (the "paternity establishment percentage") mandated under provisions of the Family Support Act of 1988. Under the new standard, in order for a state IV-D program to be found in substantial compliance, the program will have had to meet a paternity establishment rate of 75 percent (as measured by the number of cases in the IV-D caseload requiring the establishment of paternity for which paternity has been established). For those states with an establishment rate between 50 and 75 percent, there must be an increase of 3 percentage points over the previous fiscal year, and for those states with a rate below 50 percent, the increase must be 6 percentage points over the previous year.

On its face, this appears to be a more reasonable measurement of improvement in paternity establishment than the "paternity establishment percentage" standards laid out in the 1988 Act. By those standards, states must meet one of three levels: (1) the national average percentage of paternity establishment; (2) a state rate of 50 percent or higher of paternity establishment; or (3) improvement of at least 3 percentage points a year over the baseline as of December 31, 1988.

The problem with a "national average" standard is that the average - based upon whatever more or less trustworthy statistical data may be reported - is always calculated long after any year in which a state must have met the standard. It is, in other words, not a measurement for forward-planning since it is out of date by the time it is known.

The 50 percent standard may or may not be reasonable, depending on how rapidly the universe of births-out-of-wedlock is growing in a state. In more populous states, with rapidly increasing AFDC caseloads (in which, typically, the overwhelming majority of cases come to the IV-D agency, not only

without support orders, but also without paternity establishment), 50 percent may be a receding target, even though the IV-D agency increases its year-to-year paternity establishments by impressive percentages. The basic problem is that both the denominator and the numerator in the ratio are cumulative numbers which change as the caseload changes. The rate of AFDC referrals, in particular, affect the denominator, while the numerator is affected by case closure and attrition. Moreover, within the denominator, the IV-D agency is held responsible for establishing paternity in cases in which there is no reasonable chance of ever establishing paternity because the identity or location of the biological father is unknown and unknowable.

For states with growing AFDC caseloads, the third standard set by the 1988 Act is impossible to meet. The December 31, 1988 baseline establishes an always moving target. If, for example, a state had 150,000 cases needing paternity establishment at the end of 1988, but the number of such cases had doubled by the end of 1993, and if the state had established 6,500 paternities during 1988 and had established 26,000 paternities during 1993 - a 300 percent improvement in five years - it still would have failed the standard of a 3 percentage points a year improvement over the December 31, 1988 baseline. By the end of 1993 its "paternity establishment percentage" should have increased by 15 percentage points (to a 19.3 paternity establishment percentage) above the 4.3 percent fixed at the end of 1988, whereas it would have only doubled to 8.6 percent. (Nationwide the number of paternities established from 1988 to 1992 increased by 68 percent, but the "paternity establishment percentage" calculated under the 1988 standard does not measure this dramatic improvement.)

The 75 percent and 50 percent establishment standards proposed in H.R. 2264 are - certainly with respect to states with growing AFDC caseloads - still unrealistic; so, also, is the standard of either a 3 or a 6 percentage point year-to-year increase in the paternity establishment rate. If a state has 300,000 IV-D cases needing paternity establishment in 1993 and establishes paternity in 26,000 - or 8.66 percent - of those cases and if the number of cases requiring paternity establishment remains about the same the next year, the state IV-D agency will have to establish 43,980 paternities in 1994 - a 69 percent increase in the number of paternity establishments - in order to realize a 6 percent increase in its establishment rate. Instead

of these standards, what would be reasonable and realistic is a standard simply measuring year to-year increases in the number of paternities established by each state IV-D agency.

#### **B. Enforcement of Health Insurance**

**Support:** The second set of provisions in H.R. 2264 reflects recommendations of the U.S. Commission on Interstate Child Support respecting health insurance coverage in conjunction with child support orders. Among these provisions are the prohibition of the imposition of restrictions by insurers on the enrollment of a child not residing with the insured parent or of a child born out-of-wedlock. Also, insurers must allow the enrollment of a child for whom there is a support order in any available family coverage, whether requested by either parent or by the state Title IV-D or Title XIX agency. Moreover, insurance claims may be filed by the custodial parent or the Title XIX agency without the approval of the noncustodial parent and payment of claims must be made directly to the custodial parent or the agency. Disenrollment of a child may take place only upon receipt by the insurer of written evidence that the support order is no longer in effect or that the child will be enrolled in an alternative plan. Employers must withhold an appropriate sum for insurance premiums for the enrolled child and forward this sum to the insurer. The state must be able to garnish income or withhold amounts from tax refunds to reimburse the Title XIX agency for any Medicaid expenditures where a person has received third party payment for costs of medical care given an individual for whom that person is legally responsible to provide coverage of medical costs and that person has not reimbursed either the individual or the provider of the medical care. (By Congressional Budget Office estimates, the federal government could save \$80 million in Medicaid costs over a five-year period.)

#### **C. Credit Bureau Reporting of Child**

**Support Delinquency:** Current law would be amended to require state IV-D agencies to report periodically the names of obligated parents who are at least two months delinquent in payment of child support, as well as the amount of delinquent support, to consumer reporting agencies. Unlike current law, consumer credit bureaus would not have to request such information or pay a fee for receiving it from the IV-D agency. A state IV-D agency would not have to report the information to any credit bureau which it determines is unable to

make accurate and timely use of the information or to any entity which it believes has not furnished satisfactory evidence of being a consumer reporting agency. The amount of the delinquency would have to be at least \$1,000 as under current law.

**D. Other Related Provisions:** A general concern addressed by the Subcommittee on Human Resources in H.R. 2264 was the effect of a recent Supreme Court decision (in Suter v. Artist M.) which could be construed as bestowing a private right of action by individuals who allege that they have been injured by a State's failure to comply with federal mandates of state plan titles under the Social Security Act. While not seeking directly to overturn or reject the decision in Suter, the Subcommittee did limit the ability of individuals to seek redress in federal courts to the extent they were able to do so prior to Suter--a limitation which voids any effect the Suter decision might have had upon state plan title programs, including, of course, Title IV-D. H.R.2264 contains a provision to this effect.

On May 13, 1993 provisions of **H.R. 529**, the "Mickey Leland Childhood Hunger Relief Act," introduced on January 21, 1993 by, then, **Congressman Leon Panetta** were included in the budget reconciliation recommendations reported by the House Agriculture Committee and made part of H.R. 2264. Among the provisions of H.R. 529 are two related to child support. One provision exempts the \$50 "disregard" of child support payable to an AFDC family in a month from any consideration of eligibility for receipt of food stamps. The other excludes from the income of a household, in determining eligibility for food stamps, the amount of child support paid to, or for, a person outside the household if a member of the household was legally obligated to pay such child support. Both these provisions are worthy amendments to the eligibility requirements for food stamps.

#### **IV. Restructuring the National Child Support Enforcement Program.**

On February 3, 1993 Congressman Henry Hyde (R-IL) introduced **H.R. 773**, the "Uniform Child Support Enforcement Act of 1993." On May 13, Senator Richard Shelby (D-AL) introduced, **S. 967**, the companion bill to Congressman Hyde's H.R. 773.

Congressman Hyde was primarily responsible for the drafting of one of the two pieces of child support enforcement legislation enacted during the 102nd Congress. The "Child Support Recovery Act of 1992," signed into law by President Bush on October 25, 1992, imposes a federal penalty upon a parent who fails to pay support due a child residing in another state when the support has remained unpaid for longer than 6 months or the amount of unpaid support is \$2,500 or more.

H.R. 773 is based upon a proposal for radically changing the whole structure of child support enforcement in the country which Congressman Hyde and former Congressman Thomas Downey (D-NY) advanced during the 102nd Congress. The "Downey/Hyde Proposal for Child Support Enforcement and Child Support Assurance" called for the abolition of the current IV-D program and for the enforcement of child support obligations by the Internal Revenue Service, leaving to the states responsibility for paternity and support obligation establishment.

The Hyde bill retains the IV-D program but redesignates it a "child support program," not a "child support enforcement program." Actual enforcement of support obligations would fall to the Internal Revenue Service. Copies of all support orders rendered or modified in a state (both those already existing and those issued or modified subsequent to the enactment of the bill) would be sent by the state court or administrative agency to the Internal Revenue Service. It would be presumed that unless an obligee affirmatively elected to retain support rights, those rights were assigned to the IRS (although an election to retain support rights could be instated or withdrawn at any time). Child support assigned to the IRS would be treated, for collection purposes, as federal income tax and would be collected through wage withholding and quarterly payments of estimated taxes. Unless the full amount of support owing for a calendar were paid by the following April 15, the obligor would be subject to the imposition of interest and penalties (including upon property), the same as for federal taxes, although an assessment for child support would have priority over one for unpaid taxes.

The IRS would be responsible for the distribution of collected support in non-AFDC cases directly to the obligee and in AFDC cases to the state (the state share, after the payment of the \$50 "disregard" to the family). The state IV-D program

would be responsible for locating absent parents and for establishing paternity and support obligations. Because the IV-D agency would not be involved in the enforcement of the obligations or distribution of collected support, sections of current statute respecting, for example, the interception of federal tax refunds for child support arrearage or the distribution of support or the reduction in state AFDC funding for an audit failure of the state IV-D agency would all be repealed. The state IV-D agency would continue to review and adjust support awards periodically and establish, but not enforce, wage withholding. For its activities, the state IV-D program would continue to receive federal financial participation (FFP) at the current rate of 66 percent, with a rate of 90 percent available for paternity testing costs, but all current federal incentive payments would be eliminated.

The simplicity of the Hyde scheme for restructuring child support enforcement is bound to have some appeal to a Congress eager to curb public assistance costs (AFDC, Medicaid, and Food Stamps). Stronger child support enforcement is clearly one way to help families get off, and stay off, welfare and avoid having to turn to public assistance in the first place. Moreover treating child support obligations in the same manner and with the same gravity as federal income tax obligations seems to make for sound public policy, since welfare dependency taxes the public fisc, and parents have at least as much a duty to support their dependent children as they have to pay their rightful share of the costs of operating government. Furthermore, as advocates of "federalizing" child support enforcement argue, no government agency has greater knowledge of the income of citizens - and hence their ability to pay support obligations - and no government agency has more effective tools to enforce those obligations than the agency responsible for enforcing federal income tax obligations - the Internal Revenue Service. The nationwide authority and enforcement power of the Internal Revenue Service would also diminish the difficulties of interstate enforcement, some advocates claim. In addition, the Internal Revenue Service would be able to reach to the financial resources and income not just of wage earners, but also the great numbers of unsalaried and self-employed in the country. Finally, those who support the proposal to move enforcement to the IRS believe the child support program responsibilities delegated to the states under H.R. 773 and S. 967 - the establishment of paternity and support obligations and the periodic review and adjustment of support amounts

- are matters properly left to the realm of state domestic relations law. All in all, advocates claim, there is a convincing rationale to the proposed division of labor in the Hyde bill.

Not only Congress, but also state legislatures may find the Hyde solution to the growing problem of nonsupport attractive. Struggling with mounting state deficits, of which public assistance costs account for a large share, state legislatures may welcome the federal government's taking on the enforcement task, relieving state governments of their share of the administrative costs of operating full-blown child support enforcement programs, while providing them with increased recovery of public assistance funds and the decreased dependency of their citizens upon public assistance.

On the other hand, critics of the Hyde bill perceive its simplicity as superficial and question whether a complex, central federal bureaucracy like the IRS can do a more effective job, or even as effective a job, as state child support enforcement agencies. Moreover, having a federal agency enforce support obligations doesn't eliminate administrative costs - and the eventual burden upon the taxpayer of supporting enforcement activities. It simply shifts the full cost of enforcement to the federal government. Also, as those opposed to the Hyde-Shelby bill point out, the performance of the IRS in collecting delinquent taxes has not been considered stellar in recent years and collecting child support may be harder than collecting federal taxes, since there are many collateral issues which inescapably enter into the enforcement of child support obligations and which can only be litigated or resolved within the context of state domestic relations law and legal processes.

Whichever way the debate over the Hyde-Shelby bill goes - and there likely will be lively debate as the bill ripens in the legislative process - it is apparent that the bill has a good amount of bipartisan support in Congress. It has gained the cosponsorship of 43 members of the House and Senate from both political parties (slightly more Republicans than Democrats). President Clinton has, on occasion, alluded to making the Internal Revenue Service responsible for enforcing obligations against "dead beat dads," although it is not clear how the President sees the role of the Internal Revenue Service in the child support enforcement enterprise, although it seems unlikely that he will, at least initially, support efforts to move all jurisdiction for IV-D enforcement to the IRS.

## V. Consumer Credit Bureau Reporting of Child Support Obligations.

On January 21, 1993 Congresswoman Lynn Woolsey (D-CA) introduced a bill, H.R. 555, "to ensure that consumer credit reports include information on any overdue child support obligations of the consumer." This bill contains two major provisions. The first amends the Fair Credit Reporting Act to require a consumer credit reporting agency to include any information provided by a state child support enforcement agency or verified by another government entity on the failure of a consumer to pay overdue support. (This provision is nearly identical to the major provision of the "Ted Weiss Child Support Enforcement Act of 1992," one of the two pieces of child support enforcement legislation enacted during the 102nd Congress. The Woolsey bill, however, as noted below, differs in modifying the meaning of "overdue support" as defined in Part IV of Title D of the Social Security Act.)

The second major provision of this bill requires state IV-D agencies to report the amount of overdue support owed by an absent parent without waiting (as currently specified in statute [42 U.S.C. 666(a)(7)]) for a request from a consumer reporting agency and without the payment of a fee by the consumer reporting agency for any information provided by the enforcement agency when the amount of the overdue support is \$1,000 or more. It also modifies the meaning of "overdue support" [42 U.S.C. 666(e)] by striking the word "minor" in referring to the child for whom support is owed and concomitantly removing as an option of the state the inclusion in "overdue support" the amount of delinquency owed to or on behalf of a child who is not a minor.

The first provision of the bill is unnecessary, given the existence of the "Ted Weiss Child Support Enforcement Act of 1992." The second provision is similar to a provision in the original pieces of legislation filed (also by Democrats from California, Levine and Torres) in the 102nd Congress from which the Weiss Act was derived. The earlier legislation, however, did not modify the meaning of "overdue support" as does the Woolsey bill, a useful change in light of the fact that, under state laws, support awards can be made to adult disabled children.

On June 8, 1993 Congresswoman Woolsey introduced H.R. 2346 which effectively replaces H.R. 555. H.R. 2346 deletes the provisions already enacted during the 102nd Congress in the "Ted Weiss Child Support Enforcement Act of 1992" which requires consumer credit bureaus to include child support payment delinquencies on consumer credit reports. The new bill now simply requires state IV-D agencies to report child support delinquencies in amounts of \$1,000 or more to consumer credit bureaus without waiting for a request or charging a fee for such information. Also, it changes the definition of "overdue support" (42 U.S.C. 666(e)) to delete "minor" in "minor child" so that overdue support refers to amounts owed to or on behalf of any child, whether or not legally a minor.

2. H.R. 619 introduced on January 26, 1992 by Congressman Al McCandless (R-CA), comprehensively amends the Fair Credit Reporting Act "to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement . . ." In its contents it is nearly identical to the legislation introduced in the 102nd Congress by Congressman Torres, except that it contains a provision allowing the preemption by this legislation of any similar state law (which, in fact, may have stricter standards than this legislation provides). Because such a provision was attached to the Torres bill as a Republican amendment, Torres himself withdrew his bill from floor consideration in the House during the 102nd Congress and had it returned to committee.

The McCandless bill also contains a provision identical to the requirements of the Weiss Act with respect to the inclusion in credit reports of information provided by a child support enforcement agency or verified by another government entity on the failure of a consumer to pay overdue support. With respect to its child support enforcement provisions, the McCandless bill requires much less than H.R. 555 by Congresswoman Woolsey and achieves nothing more than that accomplished by the enactment in the 102nd Congress of the "Ted Weiss Child Support Enforcement Act of 1992."

## VI. Garnishment of Federal Employees' Pay.

On January 28, 1993 Senator Larry Craig (R-ID) introduced S. 253, the "Garnishment Equalization Act of 1993," which authorizes the garnishment of federal wages for, among other purposes, the payment of child support obligations. Specifically, what the bill provides, with respect to garnishment for child support, is that whenever any federal agency is served with more than one legal process for garnishment, a process for the enforcement of a child support obligation shall have priority. Also, administrative costs may be included in the garnishment. Thus, federal pay will be treated in the same manner as non-federal pay with respect to garnishment. This new - and welcomed - provision in 5 U.S.C. §5520(b) complements existing Title IV-D provisions (42 U.S.C. §§ 659, 661, and 662) affecting the enforcement of child support obligations against an employee of the federal government.

## VII. Child Support Enforcement and Bankruptcy Law.

On March 10, 1993 Senator Howell Heflin (D-AL) introduced S. 540, the "Bankruptcy Amendments of 1993" - a comprehensive reform of current federal bankruptcy law. Among the provisions of the bill are several affecting the enforcement of child support obligations. Perhaps the most important of these is relief from the automatic stay of the commencement or continuation of an action to establish paternity or to establish or modify an order for alimony or child support or to collect such support from property that is not property of the estate. However, to make this exemption from the automated stay fully effective in a Chapter 13 proceeding a further amendment is needed to provide that income of the debtor necessary to meet child support obligations does not constitute property of the estate.

Other provisions address the priority of claims under a Title 11 action, assigning to child support and alimony an eighth ranking priority, taking preference over tax liabilities, except, however, to the extent that alimony or child support debts are assigned, voluntarily or by operation of law, to another entity. This exception would nullify the effect of the provision in those cases where child support rights have been assigned pursuant to the requirements of the federal, state, and local child support enforcement programs. It is important, therefore, that there be language such

as that provided in Section 523 of Title 11 that a discharge in bankruptcy does not affect debts owed for child support and assigned to the federal, state or local government.

The same sort of difficulty arises in another provision of the bill which protects a judicial lien for alimony or child support. Again, the exception from this protection of a lien secured for a child support debt assigned to another entity, voluntarily or by operation of law, would make a lien for child support assigned to the state for child support enforcement purposes unprotected. This problem also appears in a provision which protects against trustee avoidance the transfer of an interest of the debtor in property to the extent that the transfer was a bona fide debt for alimony or child support. Again, clarifying language is needed.

Finally, with respect to the enforcement of child support obligations, the bill provides that a child support creditor or its representative may appear in a bankruptcy proceeding and intervene without charge and without meeting any special local court rule requirement, if a statement describing the child support debt has been filed with the court.

#### **VIII. Full Faith and Credit for Child Support Orders.**

1. S. 532 introduced on March 9, 1993 by Senator Pete Domenici (R-NM) amends Section 1738A of Title 28, United States Code, to require that states accord full faith and credit to one another's child support orders, as well as child custody orders, and that a state not modify a child support order rendered by a court of another state unless the state has jurisdiction to make a child support determination and the court of the rendering state has lost, or otherwise relinquished, jurisdiction. The Interstate Commission had recommended that there be such an amendment, and the Bradley/Roukema bills contained a provision to create a new Section 1738B, specifically to accord full faith and credit to child support orders.

If, as the Interstate Commission recommended and the Bradley-Roukema and Schroeder bills provide, all states adopt the new Uniform Interstate Family Support Act, an amendment of the full faith and credit provisions of the Code would not be necessary to achieve the intended purpose of this bill. In itself, the

Domenici bill is a useful piece of legislation, although, perhaps, not absolutely essential inasmuch as the current faith and credit requirements of the Code, contained in Section 1738, have general applicability.

2. On January 6, 1993 Congressman Barney Frank (D-MA) introduced H.R. 454, identical to H.R. 5304 which he introduced in the 102nd Congress. On May 6, 1993 Senator Carol Moseley-Braun (D-IL) introduced S. 922, "Full Faith and Credit for Child Support Orders Act," as the companion bill to H.R. 454.

As originally introduced in the 102nd Congress, H.R. 5304, the "Full Faith and Credit for Child Support Orders Act," provided that a state court may not modify an order for child support which has been rendered by a court of competent jurisdiction of another state unless the party to whom the support is due resides in the state in which the modification is being sought or expressly consents to seeking the modification in the other state.

On August 12, 1992 hearings on H.R. 5304 in the 102nd Congress were held before the Subcommittee on Administrative Law and Governmental Relations of the House Committee on the Judiciary. On September 30, 1992, the full Committee considered the bill and accepted an amendment in the nature of a substitute which was offered by Congressman A. Mazzoli (D-KY). The substitute significantly changed the character of the legislation to add a new Section 1738B to Title 28, United States Code, to provide for full faith and credit to be given child support orders so that one state shall not modify a child support order of another state unless: (1) it has jurisdiction to make such a support order; and (2) the court of the other state no longer has continuing exclusive jurisdiction of the order because the other state is no longer the residence of the child or of any party to the order or because all parties have filed written consent for the second state to modify the order and assume continuing, exclusive jurisdiction of the order.

On October 2, 1992 the amended bill was reported to the House and on October 3, 1992 passed in the House. On October 8, 1992 it was sent to the Senate Committee on the Judiciary, but it was not considered by the Senate.

The bill in its original, pre-amended form seemed to favor the concerns of custodial parents in interstate enforcement of support orders. The amended bill reflects the jurisdictional principles of the U.S. Commission on Interstate Child Support, and were provided for in the Bradley and Roukema bills filed in the 102nd Congress. These principles accord, as well, with the provisions of the new Uniform Interstate Family Support Act (UIFSA) which seek to eliminate the possibility (as is currently the case in interstate enforcement) of the prospective modification of a child support order rendered by a court in one state by a court in a state in which that order has been registered for enforcement. UIFSA strives to establish a "one-order" system for child support, after the model of the Uniform Child Custody Jurisdiction Act for custody determination. Full faith and credit would, thus, be extended to an out-of-state support order in spite of its lack of "finality."

The Frank/Moseley-Braun legislation, in its fundamental purpose, replicates the intent and effect of the Domenici bill, S. 532, discussed above. Again, if UIFSA is adopted verbatim - or in a form similar to that approved in August, 1992 by the National Conference of Commissioners on Uniform Interstate Laws - the issue of jurisdiction in interstate modification and enforcement of child support orders will be fairly well resolved.

#### **IX. Child Support Enforcement and Child Support "Insurance."**

On March 26, 1993 Senator John Rockefeller (D-WV) introduced S. 663 - the "Family Income Security Act of 1993" - which is identical in its provisions to S. 2237 which the Senator filed in the 102nd Congress.

Senator Rockefeller's bill reflects the work of the National Commission on Children, a bipartisan study which he chaired, and which submitted to the President and Congress its findings in 1991. Established by Public Law 100-203 in 1989, the 34-member Commission was "to serve as a forum on behalf of the children of the nation." Among the many recommendations put forth by the Commission at the end of more than two years of hearings, site visits, and forums were some which found their way into Senator Rockefeller's bill.

The major components of the bill are: a \$1,000 refundable tax credit for all children, regardless of family income, to replace the personal exemption for dependent children; simplification of the Earned Income Credit for federal income taxes and further adjustments for family size; and child support "insurance" demonstration grants for four to six states, selected on the basis of their records of performance in child support enforcement, particularly paternity establishment.

"Insurance" in this context is fundamentally the same as child support "assurance." While the government would continue to enforce support obligations, it would make up any difference between the amount of support collected and a predetermined minimum benefit level. Thus, the custodial parent would receive an established amount of child support, regardless of the absent parent's ability or willingness to pay. It is intended that such an assured or insured amount of support would save a family from financial disruption resulting from the obligor's loss of income due to, for example, job loss, illness, or periods of unemployment. Unlike welfare, the insured benefit would be universal, without means-testing eligibility, and would not be reduced by any earnings of the custodial parent. The only condition of eligibility for receipt of the benefit would be paternity and order establishment. The premise is that with stable and consistent payments of support, custodial parents would be able to pursue gainful employment in order to raise the standard of living of their children and to avoid having to turn to welfare.

The level of support insurance or assurance provided for in the Rockefeller bill is \$1,500 for the first child, \$1,000 for the second and \$500 for all subsequent children. In AFDC cases, the amount of child support insurance received would reduce by some percentage (as determined by the Secretary) the amount of AFDC paid a family, except that if the family as a whole becomes ineligible for AFDC because of insurance benefits, the caretaker may continue AFDC eligibility. Non-AFDC custodial parents would be required to apply for IV-D services to qualify for the insurance program.

To study child support "insurance", the Secretary would select states of which at least 2 provide intensive integrated social services for low-income participants, 2 plan to cooperate in integrated interstate enforcement activities, 2 contain large urban

areas, and I contains large rural areas. Each state would make interim and final evaluations of the effectiveness of the project with respect to several, specified factors, and the Secretary would make interim and final reports on the projects to Congress. The participating states would provide not less than 20 percent of the costs of the child support insurance projects, unless they met performance goals in their IV-D programs, in which case they would provide not less than 10 percent of the costs. Finally, the bill provides for the creation of community employment demonstration projects in economically depressed communities to create employment opportunities for parents receiving welfare assistance.

In another related bill filed by Senator Rockefeller on May 26, 1993, S. 596, Senator Rockefeller has laid out a comprehensive plan for welfare reform, again based upon recommendations of the National Commission on Children. The bill's provisions focus on child welfare services to strengthen and preserve families and on programs for substance abuse prevention and treatment. It also addresses a range of issues related to foster care, including health care plans for foster children and regulations for the training of agency staff and foster and adoptive parents.

## X. Child Support and Federal Income Tax Deductions.

1. On May 5, 1993, Congressman Harold Volkmer (D-MO) introduced H.R. 1995 which amends the Internal Revenue Code (26 U.S.C. §152(e)) to allow a noncustodial parent to claim a child as a dependent for federal income tax purposes if the custodial parent does not contribute to the support of the child and refuses to sign a written declaration that the custodial parent will not claim the child as a dependent during the taxable year and if the noncustodial parent does provide over half of the support of the child during the taxable year.

The effect of this provision is to add an exception to the Code which ordinarily accords dependent credit to the custodial parent if the child receives over half of his/her support during the calendar year from the two parents. What the bill does not address is how the noncustodial parent will certify that he/she has contributed over half of the child's support or that the custodial parent has not contributed

to the child's support at all. Perhaps what is intended is that documented payment by the noncustodial parent of at least half of any ordered child support during the calendar year is presumed to have satisfied the requirements of this exception. If so, it is unlikely in most support cases that ordered child support--even if fully paid--covers the real financial needs of a child. Also, the bill removes a protection the custodial parent currently has in refusing to agree to release claim of the child as a dependent. Even if the custodial parent refuses to release claim, the noncustodial parent may claim the child, as long as the noncustodial parent has paid over half of the support for the child, however, that may be proved.

2. Although not directly tied into the IV-D child support enforcement program, S. 434 (S. 2514 in the 102nd Congress, although with some modifications), introduced by Senator Dale Bumpers (D-AR) on February 24, 1993, is intended to provide some degree of tax relief to custodial parents to whom child support is owed but not paid. (On June 9, 1993, Congressman C. Christopher Cox (R-CA) introduced H.R. 2355 as the companion bill to S. 434.)

Specifically, the Bumpers bill - the "Child Support Tax Equity Act of 1993" - amends the Internal Revenue Code of 1986 to allow a bad debt deduction, in certain cases, for owed, but unpaid, child support payments and to require the delinquent obligor to include the unpaid support amounts as taxable income on their federal income tax returns in the year the payments were due but not paid. In addition to a standard or itemized deduction, a custodial parent owed \$500 or more in child support at the close of the taxable year, and with an adjusted gross income of \$50,000 or less, would be able to claim up to \$50,000 in unpaid support as a personal bad debt, if less than half of the required payments of ordered, periodic child support (including amounts for medical support or educational expenses) had been paid during the taxable year. The obligated parent would be informed that the custodial parent had claimed the bad debt deduction and that the obligated parent was required to treat the amount of the deduction (the unpaid child support) as taxable income. If and when, however, the custodial parent is paid the past due support, that amount would have to be declared as taxable income by the custodial parent, and the obligated parent would then be able to claim the same amount as a deduction in the year in which it was paid.

Senator Bumpers' bill underscores the seriousness of delinquency in the payment of child support, especially for those custodial parents to whom the regular payment of the full amount of ordered child support can spell the difference between some degree of financial independence and poverty or welfare-dependence. It does, however, contain some potential problems. For example, there is the adjudication of arrearage, particularly when there is disagreement between the obligated parent and the custodial parent about what support has, or has not, been paid. Also, upon payment of overdue support and its declaration as taxable income, the custodial parent might be pushed into a higher tax bracket and be faced with an unmanageable tax burden. Although the legislation may provide an effective way not only to remind obligated parents of their support obligations, but also to keep them current in their payments, careful consideration needs to be given to the bill's total impact and its complete ramifications.

#### **XI. Bilingual Personnel and Materials for State IV-D Programs.**

On March 18, 1993 Senator Donald Riegle (D-MI) introduced S. 619 to amend the Social Security Act to provide improved services to beneficiaries under the Act. Among its provisions for the improved delivery of services, the bill requires state agencies administering programs under titles of the Act, including Title IV-D, to provide bilingual personnel and materials in those political subdivisions of the state "in which a substantial number of members of households speak a language other than English." Presumably this requirement would have special relevance for those states with significant Spanish-speaking populations.

#### **XII. Federal Penalties for Criminal Non-Support.**

Three bills, S. 8 - the "Crime Control Act of 1993" - introduced on January 21, 1993 by Senator Orrin Hatch, S. 6 introduced on January 21, 1993 by Senator Robert Dole (R-KS), and H.R. 688 - the "Sexual Assault Prevention Act of 1993" - introduced on January 27, 1993 by Congresswoman Susan Molinari, all contain identical provisions with respect to the failure of an obligated parent to pay support one

year past due, and in an amount greater than \$5,000, for a child living in another state. The absence of such parent from the child's domiciliary state for an aggregate period of 6 months without payment of the past due support, when the parent has the means to pay such support, creates the presumption of an intent to avoid payment of the obligation. Conviction of a first offense carries a penalty of a fine and up to 6 months imprisonment, and a second or further conviction carries a penalty of a fine and up to 2 years imprisonment.

These provisions are similar to those introduced in legislation in the 102nd Congress by Congressman Henry Hyde (R-IL) and Senator Richard Shelby (D-AL) and which were enacted into law as the "Child Support Recovery Act of 1992." This new federal law imposes a federal criminal penalty for failure to pay past due support under the same circumstances as described in the Hatch, Dole, and Molinari bills.

#### **XIII. Reduction of Federal Funding for State IV-D Programs.**

On February 12, 1993 Congressman Timothy Penny (D-MN) introduced H.R. 998 designed to achieve a balanced federal budget by fiscal year 1998 and each year thereafter. To meet that target the bill provides for a process of annual budget review to accomplish any necessary deficit reduction and balance requirements. Included in the bill is a provision for the reduction of federal financial participation (FFP) for the administrative costs of state IV-D programs as needed to achieve a balanced budget. No specific rates of FFP are identified because whatever lower rate is needed for helping to achieve a balanced budget is the one which, by law, would be imposed. What the bill does consider is the potentially very damaging effect any reduction in the FFP rate would have upon the nation's child support enforcement program and, thereby, upon AFDC and other welfare expenditures. It is unlikely that the sponsor introduced this legislation with the expectation that it would pass, rather, its purpose was to offer a contrasting budget program to the President's, and one that emphasized budget cuts rather than any tax increases as the only way to deal with deficit reduction.

#### **XIV. Reform of the IV-D Audit Process.**

On May 24, 1993 Congressman Jim McDermott (D-WA) introduced H.R. 2241 requiring the Secretary of Health and Human Services to constitute a committee--the "Child Support Audit Advisory Committee"--with the mandate to develop new criteria for the triennial audit of state IV-D programs.

Specifically the new audit criteria are to measure outcomes, as well as compliance with federal regulations. The committee is to set a new standard of "substantial compliance," different in character from the fairly mechanistic standard now used in the federal audit, and to determine the period of time after the publication of interim or final rules regarding the new audit after which states will be audited for substantial compliance with respect to the new criteria. Moreover, the committee will be responsible for recommending to Congress legislation with respect to the funding of the IV-D program which will enhance the effectiveness of the triennial audit and the associated penalty process.

According to the bill's provisions, the committee is to include at least one state IV-D director, one state commissioner of human services, individuals with expertise in developing quantitative and qualitative measures for performance-based audits, and at least 2 individuals who have received IV-D services. The committee must be formed within 60 days of the enactment of the legislation and must report its recommendations to the Secretary within 180 days of enactment. The Secretary must then propose new audit regulations within 270 days of the legislation's enactment and, following at least 45 days for comment, publish final audit rules not later than the first day of the 12th calendar month after enactment of the Act.

This bill is clearly responding to the often voiced, and widely shared, concern of state IV-D programs and enforcement professionals that the current IV-D audit system is faulty in that, among other failings, it measures technical compliance with procedures and not real program productivity and growth.

#### **XV. Reform of the Welfare Program.**

There will probably be a large number of legislative proposals during the 103rd Congress to reform public assistance programs, and many of these will likely have an impact, to some extent, upon the IV-D program. Thus far two welfare reform bills which have been filed have clear relationships with child support enforcement.

1. On February 18, 1993 Congressman Christopher Shays (R-CT) introduced H.R. 1007 (with original co-sponsor Congressman Kweisi Mfume, (D-MD)) to amend Title IV-A in various particulars - e.g., the continuation of Medicaid benefits to families for up to 3 years after their becoming ineligible for IV-A benefits and increasing the family resource limits for AFDC eligibility from the current \$1,000 to \$10,000, including net profits from micro-enterprises (which AFDC recipients are encouraged to develop as a route to self sufficiency).

The provision which, in particular, has an impact upon the IV-D program is one which allows the Internal Revenue Service (IRS) to levy upon the wages and salary payable to, or received by, a child support obligor who has become delinquent in support payments by 2 or more months. The IV-D agency would be required to notify the IRS of the delinquency, and the IRS would collect on the overdue support and remit the collection to the IV-D agency.

The provision affecting the collection of delinquent child support by the Internal Revenue Service is similar to a provision in Congressman Hyde's bill (H.R. 773), although not nearly as far-reaching as Hyde's total legislative proposal in using the IRS for child support enforcement purposes. It is also similar to the full collection services of the IRS already available by federal law. As provided for in this legislation, the role of the IRS in collecting past-due support could prove to be helpful to state IV-D programs.

2. On February 16, 1993 Congressman Gary Franks (R-CT) introduced H.R. 892, the "Parental Responsibility Act" which provides a scale of reductions (ranging from 5 to 20 percent) in federal funding for state IV-A programs to the degree the biological fathers of children receiving AFDC have not been identified.

States will begin to experience a reduction in federal IV-A funding at the point their "parental identity percentage" - the percentage of children receiving AFDC for whom a biological father has not been identified - falls below 70 percent. This may mean that the IV-A agency has the task of securing the identity of biological fathers, or at least obtaining usable information concerning the identity of such fathers, prior to granting AFDC to dependent children with absent parents. On the other hand, it may mean that the state's IV-D program will be responsible for ensuring that paternity has been established for at least 70 percent of the children receiving AFDC from the state.

Whichever way the intention of this provision is understood, the states are being given another considerable task. It is characteristic of AFDC cases that, more often than not, they lack the identity of a biological father at the time they are opened by the IV-A agency and referred for enforcement to the IV-D agency. Paternity establishment, which is, perhaps, the most intractable of all enforcement activities, is particularly difficult in AFDC cases, given the high percentage of unmarried, never married mothers. The legislation offered here by Congressman Franks seems more a punitive, than a reform, measure for state IV-A programs.

#### Looking Ahead.

Later this Summer, an "interagency" welfare reform task force will begin formulating a specific legislative proposal for welfare reform, including changes to the child support enforcement program. With the concern of the Clinton Administration and Congress about deficit reduction, and the containment of the costs of entitlement programs, it is likely that any proposals changing the child support program that require significant new increases in funding will be greeted with considerable skepticism. However, advocates of sweeping reforms, including a number of child welfare organizations, will be lobbying hard for the Administration and Congress to drastically change the present child support enforcement program that they consider to be hopelessly ineffective. Finding a middle ground will be the challenge facing the 103rd Congress. All in all, the work of the 103rd Congress may introduce some of the most dramatic changes in child welfare and child support enforcement yet to be seen in this country.

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Child Support Council  
Austin, Texas



HOUSE OF REPRESENTATIVES  
WASHINGTON, D. C. 20515

LARRY LAROCCO  
FIRST DISTRICT  
IDAHO

7/12/93

Bruce -

I saw your comment in  
the 7/10 CQ regarding child  
support.

I wanted you to be aware of  
my 5/20 memo on this subject  
and my legislation - PL 102-537.

Nobody acknowledged my memo.

If everything goes according to  
schedule we should be attending the  
Ryle Ronell performance in San Francisco on 8/12. I was in CQ last week. Advice fine.



CONGRESSMAN LARRY LAROCCO  
1ST DISTRICT IDAHO

File:  
CS - Ideas

TO: The President

ATTENTION: Carol Rasco

FROM: Larry LaRocco

DATE: May 20, 1993

**RE: ADMINISTRATION INITIATIVES ON CHILD SUPPORT -  
LAROCCO LEGISLATION (PL 102-537)**

- Last year, the late Ted Weiss and I amended the Consumer Credit Reporting Act to require credit bureaus to include information about delinquent child support in credit reports.

That bill (HR 6022/PL102-537) requires that information about unpaid child support of at least \$1,000 be included in the credit report of an individual whose support payments are delinquent. Such information on unpaid support will remain on the individual's credit report for seven years.

Although not required by law, more than 20 States now have mechanisms to report the delinquencies to the credit bureaus.

- Later this year, I expect to hold a forum with the Associated Credit Bureaus to determine how this new law is working.
- Because of my deep interest in this issue, please consider me for any task force or working group the Administration might establish on child support.

CS - Ideas

**September 1992, Child Support Council  
Legislation**

**HR 1241 Hyde (R-IL)/S.1002 Shelby (D-AL):**

- \* makes a **crime** for an obligated parent to fail to pay past due support for a child residing in another state;
- \* authorize the Director of the Bureau of Justice Assistance to **make grant** to develop child support enforcement programs;

**HR 3151 and HR 3677 Snowe (R-ME):**

- \* require employers **remit withheld wages** from obligated parents within 10 days after payment of wages;
- \* **protects banks** from releasing financial information on noncustodial parents to state child support enforcement agencies;
- \* requires states to have procedures requiring absent parents, within 30 days of a new or modified support order, to provide **medical insurance** coverage for dependent children;
- \* **insurers** of noncustodial parent would be required to make **payments directly** to custodial parent;
- \* state child support enforcement agencies would receive **federal incentive** payments for **medical** support enforcement;

**H.R. 124 by Kanjorski (D-PA):**

- \* permits collections of past-due child support by federal income tax refund offset **beyond reaching majority age**

**H.R. 3986 by Levine (D-CA):**

- \* require consumer agencies to include **credit report** information on child support delinquencies in Title IV-D cases;

**S. 2514 Bumpers (D-AR):**

- \* custodial parent can claim **tax deduction** on unpaid support payments;
- \* noncustodial parent must include a **taxable income** unpaid support payments;

**H.R. 3248 Kennelly (D-CT):**

- \* allows states entry into unilateral or multilateral agreement with **foreign countries** for enforcement of child support orders;

**H.R. 5114 McCollum (R-FL):**

- \* permits **deduction** of 5% of ordered child support payments paid to a taxpayer;

- \* provides for increase of 10% in **federal income tax liability** of owed, but unpaid, child support;

#### **H.R. 5304 Frank (D-MA):**

- \* a state court may not **modify a child support order** rendered in another state;

#### **H.R. 5123 Schroeder (D-CO):**

- \* states have **uniform** statewide child support enforcement;
- \* state IV-D agency have **automated access** to appropriate state data bases;
- \* enforcement of child support order continue until the child attains age 18;
- \* all income be subject to **withholding**;
- \* states prohibit issuance of professional **licenses** to individual owing past-due support exceeding \$1000;
- \* **no time limit** on enforcement period;
- \* **social security** numbers appear on all marriage licenses;
- \* visitation/custody issues kept separate from child support;
- \* federally mandated time frames for interstate locate requests;
- \* federal standards for processing cases;
- \* amendments to **bankruptcy laws**;
- \* federal incentives for performance of IV-D programs eliminated but federal financial participation (FFP) be increased from 66% to 90%

#### **S. 1411 Dodd (D-CT):**

- \* establish 6 child support assurance **demonstration** projects;

#### **S. 2343 Dodd (D-CT) [same provisions contained in S. 2677 Cranston]:**

- \* guidelines for child support assurance demonstration projects;
- \* assured **minimum support** = \$3000/year first child and \$1,000/year for second and subsequent;
- \* assurance available to any for whom order has been "sought" or obtained "good cause" exception;
- \* in AFDC cases, one half of assured benefit would be disregarded until total amount equalled federal poverty level;

#### **S. 2237 Rockefeller (D-WVA):**

- \* \$1000 refundable tax credit for all children;
- \* simplification of EITC;
- \* child support "**insurance**" demonstration grants;
- \* levels of assurance -- \$1,500 for first child; \$1,000 for second; \$500 for subsequent;

#### **Downey/Hyde Child Support Enforcement and Assurance Project:**

- \* abolishes Title IV-D program and replaces with new enforcement program, housing in both IRS and Social Security Administration (SSA);
- \* states would receive 70 to 90% (of what?) for "aggressive pursuit" of establishing paternity;
- \* collection and distribution handled by **IRS**;
- \* failed payment would be prosecuted as if failure in **paying federal taxes**

C.S. -  
Ideas

## STATES PROPOSALS FOR CHILD SUPPORT

### OHIO:

Provides a one-time paternity bonus for each child in the family when paternity is established;  
Provides a supplement to the base grant for each child covered within an order of child support.

### VIRGINIA:

Child support waiver that increases the probability that child support is paid in cases considered likely to be leaving AFDC due to earnings. Those cases that are likely to leave AFDC have priority for enforcing child support.

### MICHIGAN:

Under the "To Strengthen Michigan Families" Demonstration:

- \* Require child support agencies to use mechanism to identify persons with access to health insurance coverage, and aggressively enforce health insurance orders;
- \* Require non-custodial parents to disclose child support obligations to employers for mandatory withholding;
- \* Require hospitals to accept/record paternity acknowledgments as part of birth registration; ✓
- \* Require Friend of the Court to report child support obligations to consumer reporting agencies at time the order is established; ✓
- \* Streamline establishment of child support orders;
- \* Allow denial or revocation of professional business/trade licenses for persons who have child support arrearages; ✓
- \* Include Social Security numbers on application and renewal of Michigan driver's licenses and license plate tabs;
- \* Through Michigan Department of Treasury powers, collect child support arrearages owed to AFDC recipients.

*File:  
Child Support -  
Ideas*

*Bruce Reed /  
Kathi Way*



**CONGRESSMAN LARRY LAROCCO  
1ST DISTRICT IDAHO**

*Pls. do follow up  
- a courtesy  
Call on phone  
at minimum,  
perhaps  
followed by  
short note  
from Pres.*

TO: The President

ATTENTION: Carol Rasco

FROM: Larry LaRocco

DATE: May 20, 1993

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