

WR-SPECS
(C. Support)

ENFORCE CHILD SUPPORT

- A. CHILD SUPPORT ENFORCEMENT
- B. ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONCUSTODIAL PARENTS

- A. CHILD SUPPORT ENFORCEMENT

MOB: never in state again
Bobs: states compare list names for of/w
10 states haven't reg'd Soc Sec # 1/2

- I. Establish Awards In Every Case .

- 1. Measure of Paternity Establishment

- (a) *Under a new paternity establishment measure, the paternity status of all children born out of wedlock would be reported at the time of birth and the records maintained throughout the child's first 18 years of life, improving significantly each State's ability to determine precisely how long it takes to establish paternity on each case.*
- (b) Each State would be required, as a condition of receipt of federal funding for the child support enforcement program, to calculate a State paternity establishment percentage based on yearly data that record: (1) all out-of-wedlock births in the State for a given year, regardless of the parents' welfare or income status; and (2) all paternities established in the State reported by the age of the child. Thus, each State would have a record of the status of paternity for all births which would be reflected in the State percentage for a given year. (For purposes of the performance standards and performance based incentives, adjustments to the percentage would be prescribed by regulations for adoptions and people leaving or entering the state.)
- (c) Records of cases for which paternity has not been established during the first year would continue to be maintained, enabling States to determine exactly how long it is taking to establish paternity for each child. In addition, the new, more accurate data would provide more flexibility in accounting for State performance. Measurements could not only track the percent of paternities established within the first year of the child's life, but also the percent established in one to two years, two to three years, etc., until the child reaches the age of 18.

- 2. Performance Standards

- (a) Each State must comply with the revised paternity establishment standards. The paternity establishment standard must be:
 - (1) 75 percent, or
 - (2) an increase of 2 percentage points over the previous fiscal year for a State with a paternity rate between 50 and 75 percent, or by 3 percentage points over the previous fiscal year for a State with a paternity rate between 40 and 50 percent, or by 4 percentage points over the previous fiscal year for a State with a paternity rate below 40 percent.
- (b) In order to encourage States to pursue old and more difficult paternity cases with the same effort as is given new cases, States would be allowed to double-count old cases -- cases at least one year old at the date of enactment -- for purposes of meeting both Federal

performance standards and funding incentives. In addition, States must, as a condition for receipt of federal funding, show maintenance of effort in working old paternity cases.

3. Funding and Incentives

- (a) The Federal Financial Participation rate (FFP) for State Child Support Enforcement Services, including all paternity establishment services provided by the IV-D Agency regardless of whether the mother or father signs a IV-D application, would equal 75 percent.
- (b) In addition, Federal funding would be provided at an increased matching rate of 90 percent to support specific program functions including the following:
 - (1) staff training for both caseworkers, and hospital and vital records staff;
 - (2) laboratory testing for establishing paternity; and
 - (3) outreach programs promoting voluntary acknowledgment of paternity including the distribution of written materials at schools, hospitals, and other agencies, upon approval of the Secretary.
- (c) Performance-based incentives would be made to each State in the form of an increased federal financial participation rate (FFP) of 1 to 5 percent. The incentive structure would build on the performance measures so that states that excel would be eligible for incentive payments. The incentive structure would be determined by the Secretary but it must provide that, at a minimum, one-half of the States would receive a performance incentive.
- (d) States would have the option to reimburse hospitals and other providers who are required to provide paternity establishment procedures by providing a fee for each paternity established. Federal reimbursement through FFP would be capped at \$20 per paternity established or for which an acknowledgment is signed.
- (e) At State option, States could also experiment with programs that provide financial incentives for parents to establish paternity, and such programs, upon approval of the Secretary, would be eligible for FFP.

4. Voluntary Acknowledgment of Paternity

- (a) As part of the State's voluntary consent procedures, each State must, either directly or under contract with health care providers:
 - (1) require other health-related facilities (including prenatal clinics, "well-baby" clinics, in-home public health service visitations, and family planning clinics) to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children; this effort should be coordinated with the U.S. Public Health Service and Education program. Medicaid and WIC program information may be made available to identify mothers in need of services;
 - (2) make available procedures within hospitals to provide for taking a blood or other sample at the time of the child's birth, if the parents request the test; and

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- (3) require full participation by birthing hospitals to implement paternity establishment procedures, as designed by the State, as a condition for reimbursement for Medicare and Medicaid.
- (b) In addition, as part of a State's civil procedures for establishment of paternity, each State must:
- (1) have statutes allowing for or requiring the commencement of paternity actions prior to the birth of the child and expedited procedures for ordering genetic tests as soon as the child is born, provided that the putative father has not yet established paternity;
 - (2) provide the putative father multiple opportunities to acknowledge paternity voluntarily;
 - (3) allow all putative fathers standing to initiate their own paternity actions, even if the mother of the child is not cooperating with the State;
 - (4) encourage procedures that allow parties the opportunity to submit voluntarily to genetic testing before the tests are ordered;
 - (5) provide administrative authority to the IV-D agency to order all parties to submit to genetic testing in all cases where either the mother or putative father requests a genetic test, or where the putative father denies the allegation or fails to appear at any scheduled conference to respond to the allegation, without the need for court hearing or approval;
 - (6) advance the costs of genetic tests, subject to recoupment from the putative father if he is determined to be the biological father of the child;
 - (7) provide discretion to the administrative agency or court setting the amount of support to forgive delivery medical expenses or limit arrears owed to the State (but not the mother) in cases where the father cooperates or acknowledges paternity before or after a genetic test is completed;
 - (8) provide administrative authority to the IV-D agency to enter default orders to establish paternity specifically where a party refuses to comply with an order for genetic testing;
 - (9) if the result of the genetic testing is disputed, upon reasonable request of a party, order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting the additional tests; (if the test results are reversed indicating that the previous decision was inaccurate, the individual who requested the tests could recoup the costs of the procedures from the State); and
 - (10) preclude the use of requiring court hearings to ratify acknowledgments of paternity unless collaterally attacked on an appeal from an administrative hearing or if new evidence is discovered.
- (c) Timeframes for establishing paternity through administrative procedures shall be determined by the Secretary.

5. Outreach

- (a) The Department of Health and Human Services, led by the Public Health Service and Education program, would take the lead in developing a comprehensive media campaign designed to reinforce both the importance of paternity establishment and the message that child support is a "two parent" responsibility.
- (b) States would be required to implement outreach programs promoting voluntary acknowledgment of paternity through a variety of means including, but not limited to, the distribution of written materials at schools, hospitals, and other agencies. States are encouraged to establish pre-natal programs to educate expectant couples, either married or unmarried, of their joint rights and responsibilities in paternity. At State option, such programs could be required of all expectant welfare recipients. Programs, upon approval of the Secretary, would be eligible for an enhanced matching rate of 90 percent.
- (c) In addition, States would be required to follow up with all individuals who do not establish paternity in the hospital, providing them information on the benefits and procedures for establishing paternity. The materials and the process for which the information is disseminated is left to the discretion of the States.

6. Cooperation and Good Cause Exceptions

- (a) As a condition of eligibility for benefits under the AFDC, Medicaid, and Child Support Assurance programs, a mother must cooperate in establishing paternity for her child, provided that she does not meet the good cause exceptions for non-cooperation. At State option, and upon approval of the Secretary, cooperation can also be imposed as a condition of eligibility for public housing assistance and federal and state child-related tax credits or deductions.
- (b) If the determination results in a finding of non-cooperation and the applicant appeals, the applicant could not be denied benefits based on non-cooperation pending the outcome of the appeal. (States can set up appeal procedures through the existing IV-A appeals process or through a IV-D appeals process.)
- (c) IV-D agencies would be subject to penalties if they failed to meet timeframes established by the Secretary for determining cooperation, imposing sanctions on the mother, and determining paternity once cooperation is obtained.
 - (1) Good cause exceptions would be granted for non-cooperation on an individual case basis using strict application of the existing good cause exceptions for the AFDC program.
 - (2) State IV-D workers must inform each applicant of the good cause exceptions available under current law and help the mother determine if she meets the definition.
 - (3) The initial cooperation requirement is met when the mother has provided the State the following information:
 - (a) the name of the putative father;

why good cause exceptions

*Head Start Child Care EITC
not Food Stamps? Housing? DCTC*

YES

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*State match goes up
in coop, non estab.*

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- (b) sufficient information to verify the identity of the person named (such as the present address of the person, the past or present place of employment of the person, the past or present school attended by the person, the name and address of the person's parents, friends or relatives that can provide location information for the person, the telephone number of the person, the date of birth of the person, or other information that, if reasonable efforts were made by the State, could lead to identify a particular person to be served with process);
- (4) Additionally, the continued cooperation requirement is met when the mother provides the State the following information:
- (a) additional relevant information which the mother can reasonably provide, requested by the State at any point;
 - (b) appearance at required interviews, conference hearings or legal proceedings, if notified in advance and an illness or emergency does not prevent attendance; or
 - (c) appearance (along with the child) to submit to genetic tests.
- (d) The new cooperation standards would apply to all applications for assistance for women with children born on or after 10 months following the date of enactment.
- (e) State IV-D agencies would be required, within 10 days of application, to determine whether a mother applying for a program where cooperation is required, has provided sufficient information to locate the putative father and, once a determination of cooperation is made, would inform both the mother and the relevant programs. If the IV-D worker fails to make a determination within the specified timeframe, the applicant could not be denied eligibility for the above benefits based on noncooperation pending the determination.
- (f) States must either co-locate IV-A and IV-D offices, provide a single interview for IV-A and IV-D purposes, or conduct a single screening process.
- (g) Those individuals qualifying for emergency assistance, could begin receiving benefits before a determination is made. Applicants for AFDC who do not meet the definition of cooperation would lose the mother's portion of the AFDC benefits (but the children's benefits would not be affected) and possibly other benefits, as provided above. *same sanction as the non-comp in AFDC*
- (h) If a determination is made that the custodial parent has met the initial cooperation requirement and the IV-D agency later has reason to believe that the information is incorrect or insufficient, the agency shall schedule a fair hearing to determine if the parent is fully cooperating.
- (i) If a mother fails to cooperate and is determined ineligible for benefits, but subsequently chooses to cooperate and takes appropriate action, Federal and State benefits would be immediately reinstated.

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- (j) A mother who cooperates fully with the IV-A and IV-D agencies but has not had her child's paternity established within one year after providing the initial identifying information is still entitled to \$50 increase in AFDC (see next page), paid with 100% State funds without Federal financial participation.

NO

7. Contested Paternity Cases

- (a) In addition, each State must:

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

Model
legislation
approach
prohibits

8. Accreditation of Genetic Testing Laboratories

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

9. Establishment of Child Support Orders in Paternity Cases

- (a) In cases where individuals must assign their support rights to the State due to the receipt of AFDC, States must have in place procedures to collect the information necessary for a determination of support and procedures to establish an order of support within timeframes established by the Secretary.
- (b) All parents who establish paternity, but who are not required to assign their child support rights to the State due to receipt of AFDC, must, at a minimum, be provided subsequently with information on the benefits and procedures for establishing a child support order and an application for child support services.
- (c) New timeframes for the establishment of child support orders shall be determined by the Secretary.

10. Administrative Authority to Establish Orders Based on Guidelines

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

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

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

11. Paternity Establishment Disregard/Bonus

(a) The current \$50 pass-through shall be replaced with a \$50 increase in monthly AFDC benefits provided that paternity has been established for all children covered under the grant or the custodial parent has met the eligibility criteria for a State Child Support Assurance Program, as defined herein (whether or not a State has implemented such a program) States are precluded from counting the \$50 increase in AFDC cases as income for any means-tested program.

*order
in place*

NO

12. Other Provisions

(a) Each State must:

- (1) before paternity is established, and until either parent brings a custody action which is heard by a tribunal, presume that the mother of the child born out of wedlock has custody of the child; any custody action initiated by either parent will be treated as an initial custody determination where the presumption of custody granted to the mother has no bearing on the ultimate custody determination by the State;
- (2) have and use laws that a party whose parentage has been previously determined by law may not plead nonparentage as a defense to a support action;
- (3) eliminate laws that make it a crime to father a child when the father is not married to the mother; and
- (4) allow the legal father to move to vacate or reopen an order of paternity entered voluntarily or by default up to 12 months from the entry of the order, or if it is found to be in the best interests of the child.

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

I. National Commission on Child Support Guidelines

- (a) Congress shall create a twelve-member National Commission on Child Support Guidelines no later than December 1994, for the purpose of studying the desirability of a uniform, national child support guideline. The U.S. House of Representatives and the U.S. Senate shall appoint three members each, and the Secretary shall appoint six members each within six months of enactment. If the Commission determines that a uniform guideline should be adopted, the Commission shall recommend to Congress which guideline is most equitable, taking into account studies of various guideline models, their deficiencies, and any needed improvements.
- (b) In addition, the Commission should study the following:
 - (1) the treatment of multiple families in State guidelines including:
 - (a) whether a remarried parent's spouse's income affects a support obligation;
 - (b) impact of step and half-siblings on support obligations; and
 - (c) the costs of multiple family child raising obligations, other than those children for whom the action was brought;
 - (2) the treatment of child care and healthcare expenses in guidelines including whether guidelines should take into account:
 - (a) current or projected work related or job training related childcare expenses of either parent for the care of children of either parent; and
 - (b) health insurance, related uninsured healthcare expenses, and extraordinary school expenses incurred on behalf of the child of the parents for whom the order is sought;
 - (3) the duration of support by one or both parents, including the sharing of post-secondary or vocational institution costs;
 - (4) the support of a disabled child including children who are unable to support themselves due to a disability that arose during the child's minority;
 - (5) the adoption of uniform terms in all child support orders to facilitate the enforcement of orders by other States;
 - (6) the tax-treatment of child support payments.
- (c) The Commission shall prepare a report not later than two years after the date of appointment to be submitted to Congress. Appointments to the Commission must include at least two child support caseworkers. The Commission terminates upon submission of the report.

2. Modifications of Child Support Orders

- (a) States shall have and use laws that require the review and adjustment of all child support orders included in the State Central Registry once every three years. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances. States may set a minimum timeframe that runs from the date of the last review that bars a subsequent review before a certain period of time elapses, absent other changed circumstances. Individuals may request modifications more often than once every three years if either parent's income changes by more than 20 percent. States are not precluded from conducting the process at the local or county level. Telephonic hearings and video conferencing are encouraged.
- (b) To ensure that all reviews can be conducted within the specified timeframe, States must have and use laws which:
- (1) provide the child support agency administrative power to modify all child support orders and medical support orders, including those orders entered by a court;
 - (2) require all reviews and modifications of existing orders included in the registry to be conducted through the State or local child support agency;
 - (3) provide full faith and credit for all orders of support modified through an administrative process;
 - (4) require the child support agency to automate the review and modification process to the extent possible;
 - (5) ensure that interstate modification cases follow UIFSA and any amending Federal jurisdictional legislation for determining which state has jurisdiction to modify an order;
 - (6) ensure that downward modifications as well as upward modifications are made if a review indicates a modification is warranted;
 - (7) simplify notice and due process procedures for modifications in order to expedite the processing of modifications (Federal statutory changes also); and
 - (8) provide administrative subpoena power for all relevant income information.

3. Distribution of Child Support Payments

- (a) States shall distribute payments of all child support collected, with the exception of moneys collected through a tax refund offset, in the following priority:
- (1) to a current month's child support obligation;

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

4. Federal Income Tax Refund Offset

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

- (1) child support or alimony owed to a family (non-AFDC arrearages);
- (2) federal tax debts;
- (3) child support owed to a State or local government (AFDC arrearages); and
- (4) remaining debts delineated in their order under Section 634 of the Internal Revenue Code.

- (b) All states must calculate and collect interest on arrearages. The interest shall be charged and collected in the same manner as it is charged to a revolving credit account. There will be a national uniform interest rate to be determined annually by the Secretary, which reflects the Federal District Court's interest rate on judgments.

5. Treatment of Child Support for AFDC Families - State Option

- (a) At State option, States may provide that all current child support payments made on behalf of any family receiving AFDC must be paid directly to the family (counting the child support payments as income). All arrears assigned to the State would only be satisfied after all arrears owed to the family were satisfied.
- (b) The Secretary shall promulgate regulations to ensure that States choosing this option have available an AFDC budgeting system that minimizes irregular monthly payments to recipients.

III. COLLECT AWARDS THAT ARE OWED

A. STATE ROLE

1. Central State Registry and Clearinghouse

- (a) As a condition of receipt of federal funding for the child support enforcement program, each State must establish an automated central state registry of child support orders. The registry must maintain a current record of the following:
- (1) all present IV-D orders established, modified or enforced in the State;
 - (2) all new and modified orders of child support established or under the jurisdiction of the State (including the amount of support ordered and the record of payment for each case);
 - (3) existing child support cases not included in the IV-D system at the date of enactment at either parent's request;
 - (4) all out-of-wedlock births in the State (if automated elsewhere, automated access); and
 - (5) all cases for which paternity has been established but an award has not been secured.
- (b) The State, in operating the child support registry, must:
- (1) maintain and update the registry at all times;
 - (2) meet specified timeframes for submission of local court or administrative orders to the registry, as determined by the Secretary;
 - (3) receive out-of-state orders to be registered for enforcement and/or modification;
 - (4) record the amount of support ordered and the record of payment for each case that is collected and disbursed through the central registry;
 - (5) conform to a standardized support abstract format, as determined by the Secretary, for the extraction of case information to the National Registry and for matches against other data bases on a regular basis;
 - (6) program the statewide automated system to extract weekly updates automatically of all case records included in the registry;
 - (7) provide a central point of access to the Federal new-hire reporting directory and other Federal data bases, statewide data bases, and interstate case activity;
 - (8) use a national identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;

- (9) preclude the child support agency from charging a fee to any custodial or noncustodial parent for inclusion in the registry;
- (10) maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);
- (11) use technology and automated procedures in operating the registry wherever feasible and cost-effective; and
- (12) ensure that the interest charged can be automatically calculated.

2. Monitoring of Cases by State Staff

- (a) As a condition of State plan approval, the State must have sufficient State staff, State authority and automated procedures to monitor cases and impose those enforcement measures that can be handled on a mass or group basis using computer automation technology. (Where States have local staff, this supplements, but does not necessarily replace, local staff.) Specifically the State shall:
 - (1) monitor all cases within the registry on a regular basis, determining on at least a monthly basis whether the child support payment has been made;
 - (2) maintain automation capability whereby a disruption in payments triggers automatic enforcement mechanisms;
 - (3) administratively impose the following enforcement measures without need for a separate court order:
 - (a) order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;
 - (b) attach financial institution accounts without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);
 - (c) intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;
 - (d) attach public and private retirement funds in appropriate cases, as determined by the Secretary;
 - (e) attach unemployment compensation, workman's compensation and other State benefits;

- (f) increase payments to cover arrearages;
 - (g) intercept State tax refunds; and
 - (h) submit cases for Federal tax offset.
- (b) "State staff" are staff that are employed by and directly accountable to the State IV-D agency.

3. Option for Unified State Registry

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

4. Central State Clearinghouse

- (a) States must also use the order registry as a clearinghouse for the centralized collection and disbursement of child support payments, enabling the functions to be carried out at one location within the State and simplifying the withholding process for employers. (States would not be precluded from authorizing a separate State collection agency or private entity to carry out the collection and distribution functions.) Through a fully automated process, the State clearinghouse must:
- (1) serve as the central payment center for all employers remitting child support withheld from wages; and
 - (2) serve as the central payment center for all non-wage withholding payments through the use of payment coupons or stubs or electronic means, unless the parties meet specified opt-out requirements. States, at their option, may allow cash payments at local offices or financial institutions only if the payments are remitted to the State clearinghouse for payment processing by electronic funds transfer within 24 hours of receipt.
- (b) In fulfilling these obligations, the clearinghouse must:
- (1) accept all payments through any means of transfer determined acceptable by the State including the use of credit card payments and Electronic Funds Transfer (EFT) systems;
 - (2) generate bills which provide for accurate payment identification, such as return stubs or coupons, for cases not covered under wage withholding;
 - (3) identify all payments made to the clearinghouse and match the payment to the correct child support case record;

- (4) distribute all collections in accordance with priorities as set forth under the proposal;
 - (5) disburse the child support payments to the custodial parents through a transmission process acceptable to the State, including direct deposit if the custodial parent requests;
 - (6) provide that each child support payment made by the noncustodial parent is processed and sent to the custodial parent within 24 hours from when it was initially received;
 - (7) maintain records of transactions and the status of all accounts including arrears, and monitor all payments of support;
 - (8) develop automatic monitoring procedures for all cases where a disruption in payments triggers automatic enforcement mechanisms;
 - (9) accept and transmit interstate collections to other States using electronic funds transfer (EFT) technology; and
 - (10) provide that in child support cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, with notice to both parties.
- (c) In order to facilitate the quick processing and disbursement of payments to custodial parents, States are encouraged to use Electronic Funds Transfer (EFT) systems wherever possible.
- (d) States must also be able to provide parents up-to-date information on current payment records, arrearages, and general information on child support services available. Use of automated Voice Response Units (VRU) to respond to client needs and questions, the use of high-speed check-processing equipment, the use of high-performance, fully-automated mail and postal procedures and fully automated billing and statement processing is encouraged; the Federal Office of Child Support Enforcement (OCSE) will facilitate private businesses in providing such technical assistance to the States.
- (e) States may form regional cooperative agreements to provide the collection and disbursement function for two or more States through one "drop box" location with computer linkage to the individual State registries.

5. Eligibility for Services

- (a) All cases included in the State's central registry shall receive child support services without regard to whether the parent signs an application for services. Current child support cases not covered through the IV-D system at the time of enactment could also request services through the State child support agency.
- (b) Parents with child support orders included in the central registry can choose to opt-out of payment through the centralized collection and disbursement system only if they are not otherwise subject to a wage withholding order (current provisions for exceptions to wage withholding are preserved) and if they meet certain conditions:
 - (1) the noncustodial parent has a regular source of income; and

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- (2) a noncustodial parent who is self-employed agrees to post a bond with the child support agency sufficient to cover one year of the noncustodial parent's child support obligation;
- (c) Parents who opt out must file a written form with the agency indicating that both individuals agree with the arrangement.
- (d) If the parents choose to opt-out of wage withholding, the noncustodial parent fails to pay support, and the custodial parent notifies the agency the case would be entered automatically in the central registry and clearinghouse and thereafter monitored by the State.
- (e) In addition, in no circumstances may a State:
 - (1) deny any person access to State child support services based solely on the person's nonresidency in that State; or
 - (2) require the payment of any fees by the custodial parent for inclusion in the central registry/clearinghouse;
- (f) At the option of the State, the State may:
 - (1) assess the noncustodial parent a reasonable fee for child support services (such fees are to be collected only after the current and past due support and interest charges, if any, are collected); and provided that fees are not assessed to noncustodial parents who regularly pay the full amount of support.

6. **Funding**

- (a) The Federal government will pay 75 percent of State program costs for all administrative costs and mandated services. All cases included in the State's Central Registry would be eligible for federal funding.
- (b) A new performance-based incentive payment system would be created centered on desired program outcomes. States would be eligible for incentive payments in the following areas:
 - (1) paternity establishment -- earning a 1 to 5 percent increase in FFP for high paternity establishment rates, as determined by the Secretary; and
 - (2) overall performance -- earning a 1 to 10 percent increase in FFP for strong overall performance which factors in:
 - (a) the number of orders established;
 - (b) the number of overall cases in paying status;
 - (c) the number of interstate cases in paying status;
 - (d) the number of cases updated; and

- (e) the number of cases with orders of medical support in effect.
- (c) All based on a formula to be determined by the Secretary.
- (d) All incentive payments made to the States must be reinvested back into the State child support program.

7. Unified State System FFP Enhancement

- (a) If a State has a unified state program, the Federal government will pay an additional five percent for a total FFP of 80%.
- (b) A unified state program is one which includes:
 - (1) all authority, accountability and responsibility for operation of a statewide program centered at the State level in a unified State agency;
 - (2) a single organizational unit with the duty of administering the child support enforcement program, including locate services, paternity establishment, medical support enforcement and securing and enforcing child support;
 - (3) all financing decisions at the State (not local) level;
 - (4) Non-Federal funding appropriated at the State (not local) level;
 - (5) personnel and contracting decision-making at the State level (personnel would be State employees who report to State officials, contracts would be between a State as principal and a contractor);
 - (6) single agency control over case management, enforcement and update;
 - (7) statewide uniformity of case-processing procedures and forms;
 - (8) central policy-making affecting all cases;
 - (9) uniform hearing and appeal process;

8. Registry and Clearinghouse Start-up Enhanced FFP

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

9. State/Federal Maintenance of Effort

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

10. Revolving Loan Fund

- (a) The Federal government through OCSE shall provide a source of funds appropriated up to \$100 million to be made available to States and their subdivisions to be used solely for short-term, high-payoff operational improvements to the State child support program. Projects demonstrating a potential for increases in child support collections would be submitted to the Secretary on a competitive basis. Criteria for determining which projects to fund shall be specified by the Secretary based on whether adequate alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States shall have maximum flexibility in deciding which projects to fund.
- (b) Funding would be limited to no more than \$5 million per State or \$1 million per project, except for limited circumstances under which a large State undertakes a statewide project, in which case the maximum for that State shall be \$5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.
- (c) Funding would be available for a maximum of three years based on a plan established with the Secretary. OCSE must expeditiously review and, as appropriate, fund the approved plan. At the end of the project period, recipients must pay funds back to the Revolving Fund out of increased performance incentives. Beginning with the next Federal fiscal year after the project ends, the Federal government shall offset half of the increase in the State's performance incentives every year until the funds are fully repaid. If the State fails to raise collections that result in a performance incentive increase at the projected attributable level, the funds would be recouped by offsetting the FFP due to a State by a sum equal to one-twelfth of the project's Federal funding, plus interest, over the first twelve quarters beginning with the next fiscal year following the project's completion.

11. Staffing

- (a) The Secretary of Health and Human Services or a disinterested nonprofit contractor shall conduct staffing studies of each State's child support enforcement program. Such studies shall include a review of the automated case processing system and central registry/central clearinghouse requirements and include adjustments to future staffing if these changes reduce staffing needs. The Federal government and the individual State shall develop standards for each State based on the study of that State's program needs. State standards shall include sufficient staff to monitor all cases and to impose those enforcement measures required to be provided through the central registry and clearinghouse. As a condition for receipt of FFP, States must provide staff at the level recommended for the individual State in the study for the programmatic and geographic areas described in the study at least at the rate of a 10% increase in FTEs until the study's staffing goals are met. Once the goal is met, a specific state staffing review shall be completed once every 7 years from the date of the last review.

In the interim, if there are significant Federal statutory or regulatory changes that impose a significant increase or decrease in staffing needs, as determined by Congress or the Secretary, the Secretary shall promptly estimate the impact and within two years of the final rule governing the implementation of the change, States will have to adjust their staff accordingly. The estimated impact and required staffing increase may be adjusted in an individual State based on a ongoing or subsequent state-specific staffing review and if approved by the Secretary.

12. Location of State Child Support Program

- (a) States are encouraged to locate the child support agency in the state's department of revenue, or if not in the revenue department, States are encouraged to provide that the agency must report directly to the Governor or a Cabinet-level official. States are also encouraged in AFDC cases to co-locate IV-A and IV-D offices to produce a "one-stop shop."

13. Training

- (a) Additional funds appropriated to the Office of Child Support Enforcement (OCSE) through their annual administrative budget shall be earmarked solely for training. The OCSE shall provide both a Federally developed core curriculum to all States to be used in the development of State-specific training guides. The OCSE shall also develop a national training program for all State IV-D directors.
- (b) States must also have minimum standards in their State plans for training, based on the newly developed state-specific training guide, that include initial and ongoing training for all persons involved in the child support program under Title IV-D. The program shall include annual training for all line workers and special training for all staff when laws, policies or procedures change.
- (c) In addition, funds under Title IV-D of the Social Security Act shall be made available to States for the development and conduct of training of IV-A and IV-E caseworkers, private attorneys, judges and clerks who need a knowledge of child support to perform their duties but for whom a cooperative agreement does not exist for ongoing child support activities. Funding appropriated for training shall not be used for other purposes.

14. Outreach

- (a) To better inform parents about the availability of child support services, States shall develop outreach plans that increase parental access to information and encourage the use of State services. Assistance would be provided to States through OCSE.
- (b) In order to broaden access to child support services, each State agency must:
 - (1) provide office hours that give parents sufficient flexibility to attend appointments without taking time off of work;

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- (2) conduct surveys to identify underserved populations potentially eligible for child support and target outreach efforts to serve these populations and encourage improved participation; and
 - (3) make substantial efforts to increase the amount of information available on the child support programs.
 - (4) develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.
- (c) To aid State outreach efforts, the OCSE must:
- (1) develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;
 - (2) develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services; and
 - (3) develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs.
 - (4) focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.

15. Other

- (a) An individual receiving IV-D services shall have timely access to a State fair hearing or a formal, internal complaint-review process similar to a State fair hearing, according to regulations established by the Secretary, provided that there is no stay of enforcement as a result of the pending fair hearing request.
- (b) Individual citizens shall have a private right of action to sue the State for a failure to provide mandated child support services provided that the individual can (1) show entitlement to services and (2) that the individual is the intended beneficiary of those services. For determinations of whether an individual is an intended beneficiary, it is the intent of Congress that the express purpose of Title IV-D is to assist children and their families in collecting child support owed to them.

B. FEDERAL ROLE

1. Clearinghouse

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

2. National Child Support Registry

- (a) The Federal government would establish a National Child Support Registry that maintains a current record of all child support orders and cases for locate based on information from each State's Central Registry.
- (b) The National Registry must:
- (1) contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent and the case identification number;
 - (2) establish interfaces between State Central Registries and the National Registry for the automatic transmission of daily case updates;
 - (3) match the data against other Federal databases;
 - (4) match the data against other State databases at the request of a State on a timely basis, as determined by the Secretary;
 - (5) point all matches back to the relevant State in a timely manner; and
 - (6) interface and match with National Directory of New Hires.

3. National Directory of New Hires

- (a) The Secretary of Health and Human Services with the cooperation of the Secretary of the Treasury through the Internal Revenue Service (IRS) shall operate a new National Directory of New Hires which maintains a current database of all new employees in the United States as they are hired. The Secretary of the Treasury shall revise the Federal W-4 form to include statements regarding:
- (1) whether the employee has a child support obligation;
 - (2) if there exists an obligation, the amount of the support obligation, the name of the obligee, and the State for the income withholding order to be sent; and
 - (3) if the employee has health insurance available.
- (b) States shall have and use laws that:

- (1) require all employers to provide all new employees, at the time of hire, a copy of the Federal W-4 form to complete;
 - (2) require all employees at the time of hire to complete the revised W-4 form and to self-disclose the required information;
 - (3) require all employers to report information based on every new employee's revised W-4 form within one week of hire to the IRS;
 - (a) employers may use a variety of filing methods to accommodate their needs and limitations, including the use of POS devices, touch tone telephones, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions [limited use of paper submissions];
 - (b) information submitted must include, in addition to the relevant child support information, the employee's name, Social Security Number, date of birth, and the employer's identification number (EIN);
 - (4) require all employers to begin immediate wage withholding based on information provided by the obligor on the W-4, or upon a standard income withholding order/notice if provided, until notified differently; if withholding should begin based on W-4 information, the employer shall place the withheld sums in a trust or separate financial account until a confirming withholding order/notice is received by the employer, who must then immediately remit the withheld amount up to the amount ordered to the payee designated on the order/notice.
 - (5) allow a multi-State employer who receives a withholding order in one State to forward the order to the employer's central payroll in another State;
 - (6) provide for fines for noncustodial parents who fail to report child support obligations on the W-4 form at the time of employment;
 - (7) provide for fines for employers who intentionally fail to: comply with the reporting requirements; withhold child support as required; or disburse it to the payee of record within five calendar days of the date of the payroll (unless escrowed before the confirming order/notice was received).
- (c) The IRS shall provide all new hire information to the National Directory of New Hires in a form and timely manner acceptable to the Secretary of HHS.
- (d) The National Directory of New Hires shall:
- (1) match the database against several national databases on a weekly basis including:
 - (a) the Social Security Administration's Employer Verification System (EVS) to verify that the social security number given by the employee is correct and to correct any transpositions;
 - (b) the National Child Support Registry; and

- (c) the Federal Parent Locate Service (FPLS) database;
 - (2) at the State's request, match the database against State data bases for location cases not identified through the Federal data match;
 - (3) notify the relevant State agency of inaccurate reporting of child support obligations on the W-4 form so that States can modify the withholding order or initiate automatic wage withholding for all cases where wages are not being withheld currently;
 - (3) notify the State Registry of any new matches including the individual's place of employment so further actions can ensue; and
 - (4) retain data for a designated time period, to be determined by the Secretary.
- (e) A feasibility study shall be undertaken to determine if the registry should ultimately be part of the Simplified Tax and Wage Reporting System, or the Social Security Administration's or the Health Security Act-created databases.

4. Locate and Case Tracking

- (a) The OCSE shall expand the scope of State and Federal locate efforts by:
 - (1) allowing States to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:
 - (a) the records of other State CSE agencies and locate sources;
 - (b) federal sources of locate information in the same fashion; and
 - (c) other appropriate data bases.
 - (2) requiring the child support agency to provide both on-line and batch processing of locate requests, with on-line access restricted to cases in which the information is needed immediately (such as with court appearances) and batch processing used to troll databases to locate persons or update information periodically;
 - (3) providing for a maximum 48 hours turnaround from the time the request is broadcast to the time the information is returned;
 - (4) allowing the National Locate Registry access to information from quarterly estimated taxes filed by individuals;
 - (5) allowing all data bases accessible by a State IV-D agency to be accessible by the Child Support Enforcement Network (CSENet); and
 - (6) defining parent location to include the residential address, employer name and address, and parents' income and assets.

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- (b) In addition, States shall have and use laws that require unions and their hiring halls to cooperate with IV-D agencies by providing information on the residential address, employer, employer's address, wages, and medical insurance benefits of members;
- (c) The Secretary shall authorize two studies: (1) a study to address the issue of whether access to the National Locate Registry should be extended to noncustodial parents and whether, if it were, custodial parents fearful of domestic violence could be adequately protected and shall make recommendations to Congress; and (2) a study to address the feasibility and costs of contracting with the largest credit reporting agencies to have an electronic data interchange with FPLS, accessible by States, for credit information useful for the enforcement of orders, and if the Fair Credit Reporting Act is amended, for establishment and adjustment of orders.
- (d) The Secretary shall authorize demonstration grants to States to improve automated matches with a State's Department of Motor Vehicles. (State DMVs would have to use SSNs for identification purposes and develop automated procedures for matching.)

5. IRS Data

- (a) The Secretary of the Treasury shall institute procedures whereby States can readily obtain direct and frequent access to IRS data (including 1099 data) for the purposes of identifying obligors' income and assets. Safeguards must be in place to protect the confidentiality of the information.
- (b) The disparities between AFDC and nonAFDC cases regarding the availability of the Federal income tax refund offset shall be eliminated, the arrearage requirement shall be reduced to one month's worth of current support, and offsets shall be provided regardless of the age of the child for whom an offset is sought.
- (c) To improve enforcement mechanisms through the IRS Full Collection process, the Secretary of the Treasury shall:
 - (1) simplify the IRS full collection process and reduce the amount of arrearages needed before one may apply for full collection; and
 - (2) set uniform standards for full collection to ensure that the process is expeditious and implemented effectively.
 - (3) study the feasibility and cost of designing, procuring, and implementing a supplemental electronic system that would allow IRS to use its automated tax collection techniques in child support full collection cases. The system would interface with the National Locate Registry so that case submitting and subsequent activity logging can be processed using automation and retrieved by either IRS or HHS (without permitting FPLS access to other cases). States would also be able to access FPLS for information about their cases (without accessing other State's cases), with appropriate safeguards.
 - (4) IRS's fees for use of full collection shall be added to the amount owing and be collected from the noncustodial parent at the end of the collection process. The IRS will not charge an extra submission fee if a State updates the arrears on an open case.

- (5) the Taxpayer Bill of Rights, hardship exceptions, and ombudsperson activity that may result in a delay because of the noncustodial parent's claim of inability to pay shall not be available in child support full collection cases.

6. Audit and Technical Assistance to States

(a) The OCSE shall provide technical assistance to States by:

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

(b) Audit procedures by the Secretary shall include:

- (1) eliminating or simplifying audit regulatory requirements that result in Federal micromanagement of process rather than encouragement of meeting program goals;
- (2) requiring States to establish formal grievance procedures, the State procedures may include an ombudsperson office, advisory committees; and any other process that allows a neutral review of State performance (reports of grievances and dispositions shall also be reported to the Secretary);
- (3) developing automated quality assurance control systems to ensure State accuracy in their data reports and to make simpler review of State performance outcomes and financial management.
- (4) relying primarily on State self-review process once a State's automated system is capable of producing the data that the Federal government needs to ensure that:
 - (a) State plan requirements are met;
 - (b) Federal funds are expended appropriately;
 - (c) States are focusing staff and financial resources on program goals.
- (5) The Federal audit function would be reduced to audits of States auditing when:
 - (a) the State review process is found to be less rigorous than needed or more inaccurate than acceptable;
 - (b) a random audit (about 5 States per year) regardless of any indication that there are audit problems;

(c) a State has failed the previous audit; and

(d) The Secretary's review of grievances indicates substantial and material noncompliance with program requirements.

(6) The Secretary shall promulgate regulations to revise the penalty process for failures to meet State plan requirements. Penalties shall be imposed more quickly but one-half of the penalties shall be escrowed for a period of up to two years to be returned to the State if the State passes the audit in the two-year time period. Penalties escrowed can be used by the State to contract for technical assistance at the discretion of the Secretary.

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

7. Funding for OCSE

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

C. OTHER ENFORCEMENT

1. Interstate Enforcement

(a) To facilitate interstate enforcement efforts, each State must have and use laws that:

- (1) provide for long-arm jurisdiction over a nonresident individual in a child support or parentage case under certain conditions;
- (2) empower child support agencies to issue administrative subpoenas requiring defendants in paternity and child support actions to produce and deliver documents to or to appear at a court or administrative agency on a certain date;
- (3) sanction individuals who fail to obey a subpoena's command;
- (4) require Social Security Numbers of all persons applying for a marriage license or divorce to be listed on the supporting license or decree;
- (5) require Social Security Numbers of both parents to be listed on all child support orders and birth certificates;
- (6) adopt verbatim the Uniform Reciprocal Enforcement of Support Act (URESA) drafting committee's final version of the Uniform Interstate Family Support Act (UIFSA), to become effective in all States no later than October 1, 1995, or within 12 months of passage, but in no event later than January 1, 1996;
- (7) give full faith and credit to all terms of any child support order (whether for past-due, currently owed, or prospectively owed support) issued by a court or through an administrative process;

- (8) a certified copy of a recordation of a child support lien administratively or judicially imposed in one State may be imposed in another State through summary recordation in another State's central clearinghouse or other designated registry and is to be given full faith and credit, and the lien shall encumber the nonexempt real and personal property of the noncustodial parent for the same amount as it encumbers in the original State, including any unpaid arrearages accruing after the lien's initial imposition.
- (9) promulgate procedures to ensure that out-of-State service of process in parentage and child support actions be accepted in the same manner as are in-State service of process methods and proof of service;
- (10) provide for service of process outside a State by:
 - (a) personal delivery according to the law relating to in-state service of process;
 - (b) personal delivery according to the law relating to the law of the State in which the service is made;
 - (c) by mail, subject to the Rules of Civil Procedure of the State serving process;
 - (d) other means of notification which are consistent with State rules of civil procedure;
- (11) require the filing of the noncustodial parent's and the custodial parent's residential address, mailing address, home telephone number, driver's license number, Social Security Number, name of employer, address of place of employment and work telephone number with the appropriate court or administrative agency on or before the date the final order is issued; in addition:
 - (a) presume for the purpose of providing sufficient notice in any support related action, other than the initial notice in an action to adjudicate parentage or establish or modify a support order that the last residential address of the party given to the appropriate agency or court is the current address of the party, unless the obligee in good faith provides a more accurate address, which then becomes the presumed address of the obligor;
 - (b) prohibit the release of information concerning the whereabouts of a parent or child to the other parent if there is a court order for the physical protection of one parent or child entered against the other parent;
- (12) require State agencies to notify custodial parents in a timely manner of all hearings or conferences in which child support obligations might be established or modified;
- (13) require State child support agencies to provide custodial parents with a copy of any order that establishes or modifies a child support obligation within 2 days of the issuance of such order;

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- (14) provide for transfers of cases to the city, county, or district where the child resides for purposes of enforcement and modification, without the need for refiling by the plaintiff or re-serving the defendant;
 - (15) require the State child support agency or State courts that hear child support claims to exert statewide jurisdiction over the parties and allow the child support orders and liens to have statewide effect for enforcement purposes; and
 - (16) make clear that visitation denial is not a defense to child support enforcement and the defense of nonsupport is not available as a defense when visitation is at issue.
- (b) In addition, the Federal government shall:
- (1) make a Congressional finding that child-state jurisdiction is consistent with the Due Process clause of the Fifth and Fourteenth Amendments, Section 5 of the Fourteenth Amendment, the Commerce Clause, the General Welfare Clause, and the Full Faith and Credit Clause of the United States Constitution, so that due process is satisfied when the State where a child is domiciled asserts jurisdiction over a nonresident party, provided that party is the parent or presumed parent of the child in a parentage or child support action;
 - (a) test the constitutionality of this assertion of child-state jurisdiction by providing for an expedited appeal to the U.S. Supreme Court directly from a Federal court;
 - (2) provide that a State that has asserted jurisdiction properly retains continuing, exclusive jurisdiction over the parties as long as the child or either party resides in that State;
 - (a) when actions are pending in different States, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing and exclusive jurisdiction, if the action in the home State was filed before the time expired in the other State for filing a responsive pleading and a responsive pleading contesting jurisdiction is filed in that other State;
 - (3) provide that a State loses its continuing, exclusive jurisdiction to modify its order regarding child support if all the parties no longer reside in that State or if all the parties consent to another State asserting jurisdiction;
 - (a) if a State loses its continuing, exclusive jurisdiction to modify, that State retains jurisdiction to enforce the terms of its original order and to enforce the new order upon request under the direction of the State that has subsequently acquired continuing, exclusive jurisdiction;
 - (b) if a State no longer has continuing jurisdiction, then any other State that can claim jurisdiction may assert it;
 - (c) when actions to modify are pending in different States, and the State that last had continuing, exclusive jurisdiction no longer has jurisdiction, the last State

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where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing, exclusive jurisdiction, if:

- (1) a responsive pleading contesting jurisdictional control is filed in a timely basis in the nonhome State, and
 - (2) an action in the home State is filed before the time has expired in the nonhome State for filing a responsive pleading;
- (4) provide that the law of the forum State applies in child support cases, unless the forum State must interpret an order rendered in another State, so that the rendering State's law governs interpretation of the order;
- (a) in cases in which a statute of limitations may preclude collection of any outstanding child support arrearages, the longer of the forum or rendering State's statute of limitations shall apply;
- (5) require the OCSE to draft and distribute to State child support agencies a national subpoena *duces tecum* with nationwide reach for use in child support cases at the local and State level to reach individual income information pertaining to all private, Federal, State and local government employees, and to all other persons who are entitled to receive income; and provide that:
- (a) the scope of the subpoena is limited to the prior 12 months of income;
 - (b) payors may honor the subpoena by timely mailing the information to a supplied address on the subpoena; and
 - (c) information provided pursuant to the subpoena is admitted once offered to prove the truth of the matter asserted.
- (6) under authority of the Secretary, establish a standard allocation formula for use in multiple order cases. All States must use the standard allocation formula.

2. Enforcement

- (a) State child support agencies must monitor the payments of all child support obligations and must initiate enforcement actions immediately and automatically when a noncustodial parent fails to fulfill the support obligation.
- (b) In order to enforce orders of support more effectively, States must have and use laws that provide the IV-D agency administrative power to carry out the following enforcement functions without the necessity of court approval:
 - (1) impose automatically administrative liens on all nonexempt real and titled personal property if arrearages equal two months' worth of support (less than two months' worth at State option); the liens shall cover all current and future support arrearages and shall have priority over all other creditors' liens imposed after the child support

lien's imposition; in appropriate cases the agency shall have the power to freeze, seize, sell and distribute encumbered or attached property.

- (2) order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;
 - (3) attach financial institution accounts without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);
 - (4) intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;
 - (5) attach public and private retirement funds in appropriate cases, as determined by the Secretary;
 - (6) attach unemployment compensation, workman's compensation and other State benefits;
 - (7) increase payments to cover arrearages; and
 - (8) intercept State tax refunds.
- (c) In addition, the State must have and use laws that:
- (1) require the State agency to initiate immediate wage withholding action for all cases for which a noncustodial parent has been located and wage withholding is not currently in effect, without the need for advance notice to the obligor prior to the implementation of the withholding order;
 - (2) all employers to be served directly with a withholding order by any child support agency, regardless of the State issuing the order;
 - (3) provide, at a minimum, that the following records of state agencies are available to the State child support agency through automated or nonautomated means:
 - (a) recreational licenses of residents, or of nonresidents who apply for such licenses, if the State maintains records in a readily accessible form;
 - (b) real and personal property including transfers of property;
 - (c) State and local tax departments including information on the residence address, employer, income and assets of residents;
 - (d) publicly regulated utility companies and cable television operators; and
 - (e) marriages, births, and divorces of residents;

- (4) provide for the child support agency's automated on-line or batch access to various State data bases including the tax department, motor vehicle department, employment security department, crime information system, bureau of corrections, occupational/professional licensing department, secretary of state's office, bureau of vital statistics, agencies administering public assistance, and any private credit reporting agencies that have automated links to State child support agencies.
- (5) provide for access to financial institution records based on a specific case's location or enforcement need through tape match or other automated or nonautomated means, with appropriate safeguards to ensure that the information is used for its intended purpose only and is kept confidential; a bank or other financial institution will not be liable for any consequences arising from providing the access, unless the harm arising from institution's conduct was intentional.
- (6) provide indicia or badges of fraud that create a prima facie case that an obligor transferred income or property to avoid a child support creditor; once a prima facie case is made, the State must take steps to avoid the fraudulent transfer unless settlement is reached;
- (7) require reports to credit bureaus of all child support obligations when the arrearages reach an amount equal to one month's payment of child support;
- (8) require the withholding or suspension of professional or occupational licenses from noncustodial parents who owe past-due child support or are the subject of outstanding failure to appear warrants, capiases, and bench warrants related to a parentage or child support proceeding; withhold licenses until approved for release by the pro se obligee, the obligee's attorney, the State prosecutor, the IV-D agency in assigned cases or the tribunal enforcing the child support order;
 - (a) The State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.
- (9) require that States must suspend driver's licenses of noncustodial parents who owe past-due child support; and
 - (a) the suspension shall be determined by the IV-D agency, which shall administratively suspend licenses. The State shall determine the due process rights to be accorded the obligor, including, but not limited to, the right to a hearing stay of the order under appropriate circumstances, and the circumstances under which the suspension may be lifted;
- (10) require that any person or entity engaged in commerce, as a condition of doing business in that State, honor income withholding orders and notices issued by a child support tribunal of any State, territory or the District of Columbia, and that income withholding terms and procedures and the definition of income for withholding purposes be uniform to ensure interstate withholding efficiency and fairness, based on regulations promulgated by the Secretary;

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- (11) provide that courts and enforcement officials treat an administrative order the same as a court order, and that courts cannot overrule an administrative order unless the administrative order is explicitly intended to be in effect temporarily until a court order is issued, the administrative order is properly appealed to a court, or due process was not accorded when the administrative order was entered.
 - (12) extend the statute of limitations for collection of child support arrearages until the child for whom the support is ordered is at least 30 years of age.
 - (13) if a contest to or a refusal to comply with the withholding order arises, require the State seeking withholding to send an informational copy of the withholding order immediately to the child support registry in the State in which the income source was served;
 - (14) require that an individual or entity who complies with such a wage withholding order may not be held liable for wrongful withholding;
 - (15) if the obligor requests a hearing to contest the withholding based on a mistake of fact, provide that the hearing will be held in the State where the income source was served and make a determination within 30 days of the mailing of the withholding order to the income source;
 - (16) provide the same services to an interstate obligee and child as the State would an intrastate obligee to ensure that the interests of the obligee are represented;
- (d) In addition, Congress shall:
- (1) amend the Fair Credit Reporting Act to allow State agency access to and use of credit reports for the location of noncustodial parents and their assets and for establishing and modifying orders to the same extent that the State agency may currently use credit reports for enforcing orders;
 - (2) amend the Bankruptcy Code to allow parentage and child support establishment, modification and enforcement proceedings to continue without interruption after the filing of a bankruptcy petition; preclude the bankruptcy stay from barring or affecting any part of any action pertaining to support as defined in section 523 of Title 11;
 - (a) amend the Bankruptcy Code to state that the debt owed to a child support creditor is treated as a debt outside the Chapter 11, 12, or 13 Plan unless the child support creditor acts affirmatively to opt in as a creditor whose debt is part of the Plan; estate assets may be reached while in the trustee's control to satisfy the child support debt;
 - (b) allow child support creditors to make a limited appearance and intervene without charge or having to meet special local court rule requirements for attorney appearances in a bankruptcy case or district court anywhere in the United States by filing a form that includes information detailing the child support creditor's representation, and the child support debt, its status, and other characteristics; and

- (c) amend the Bankruptcy Code to clarify that State public debts and assigned child support based on the provision of Title IV-A and IV-E expenditures are to be treated as child support for the purpose of dischargeability under 11 U.S.C. section 523; and
- (3) amend and streamline Sections 459, 461, and 462 of the Social Security Act and companion laws to allow the garnishment of all veteran's benefits, and to mirror the terms and procedures of the IV-D withholding statute (466(b) of the Social Security Act);
- (4) amend laws and procedures to ensure that the Department of Veterans Affairs shall provide a simple administrative process for apportionment of benefits without the need for a veteran's approval, and shall publicize its availability to a the nonveteran parent whenever a veteran applies for a benefit and indicates, under penalty, that he or she is not residing with his or her dependents.
- (5) amend laws and procedures to ensure that passports, and visas for persons attempting to leave the country, are not issued if they owe more than \$5,000 in child support arrearages. The State Department may match its list of applicants against an FPLS abstract from the Locate Registry of noncustodial parents with orders who owe more than \$5,000.

3. Healthcare coverage

(a) The Federal government must:

- (1) require interlocking insurance plan agreements so that each plan honors a healthcare order's terms, regardless of the State in which the order was rendered or the services sought;
- (2) require the Secretary of the Treasury to amend the Federal W-4 form to require all new employees who owe child support to report whether the individual has health insurance available through employment;
- (3) define healthcare support to include health insurance available at reasonable cost, unreimbursed healthcare expenses, and payment of premiums for an insurance policy carried by the parent ordered to provide coverage; and
- (4) allow OCSE/FPLS access to the Medicaid/Medicare data bank for purposes of third party liability recovery.

(b) In addition, States shall have and use laws that:

- (1) require the covered parent securing the insurance to provide within 30 days of the order written proof to the noncovered parent and/or the State child support agency that insurance has been obtained or an application has been made for insurance, and the date the insurance coverage is to take effect;

- (2) provide that tribunals must quantify "reasonable cost" regarding healthcare support in each child support case, pursuant to State guidelines;
- (3) provide for a rebuttable presumption that the choice made by the obligee regarding health care insurance for the children is appropriate; and

4. Tax Deduction Coordination

- (a) No noncustodial parent who has a support arrearage shall be allowed to claim the children, for whom support is in arrears, as a dependent for Federal income tax purposes.
- (b) No noncustodial parent may claim a child as a dependent for Federal income tax purposes if that child received any AFDC during the tax year.

5. Effective Date

- (a) Unless otherwise stated in Appendix 2, the amendments made by this Act shall take effect on October 1, 1994.

IV. GUARANTEEING SOME LEVEL OF SUPPORT – CHILD SUPPORT ASSURANCE

A. DEMONSTRATIONS

1. Demonstrations

- (a) Congress would authorize and appropriate funds for 6 to 10 CSA State demonstration programs in year one, and additional programs in year four.
- (1) Each demonstration would last five years. An interim report would be due three years after approval of the demonstration grant.
 - (2) The Secretary may determine from the interim reports whether the programs should be extended beyond five years and whether additional State demonstrations should be added, based on various factors that include the economic impact of CSA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSA has been received by the custodial parent, the impact of CSA on work-force participation and AFDC participation, effectiveness in interstate cases, effect on paternity establishment rates, and any other factor the Secretary may cite. An additional six to ten 5-year State demonstration programs may be authorized by the Secretary 36 months after the first demonstration grants are awarded, based on prior authorization in the enabling legislation, and funds specifically appropriated for additional demonstration projects.
 - (3) The demonstration projects are based on a 90%/10% federal/state match rate.
 - (4) The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.
 - (5) The demonstrations shall be implemented statewide in six or more of the initial demonstration projects.
 - (6) The Secretary shall evaluate the final reports based on the factors listed in (2) and recommend to Congress and the President whether a national child support assurance program is in the nation's interest, and if so, how it should be designed and implemented.
- (b) The child support assurance criteria for the State demonstration programs would require that:
- (1) the CSA program be administered by the state IV-D agency, or at state option, its department of revenue; in order to be eligible to participate in the CSA program, states must ensure that their automated systems that include child support cases are fully able to meet the CSA program's processing demands, timely distribute the CSA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSA cases.

- (2) At least one State shall use each of three benefit scales. The three scales are:

# of children	Scale #1	Scale #2	Scale #3
1	\$1,500	\$2,500	\$3,500
2	\$2,100	\$3,000	\$4,000
3	\$2,700	\$3,500	\$4,500
4 or more	\$3,300	\$4,000	\$5,000

- (3) the CSA basic benefit amounts be indexed to the adjusted Consumer Price Index.
- (4) if a State chooses it may supplement the CSA basic benefit amount by paying the FMAP contribution of any supplement up to \$25, and all of any supplement over \$25.
- (5) the CSA benefit be counted as private child support for the purpose of eligibility for other government programs;
- (6) the CSA benefit be deducted dollar for dollar from an AFDC grant.
- (7) CSA eligibility be limited to children who have paternity and support established. Initial eligibility decisions are to be made by the agency, or ideally, by an independent referee. Eligibility decisions may be appealed to a hearing.
- (8) waivers may be granted:
- (a) in cases in which more than one year has passed since the parent applied for the program, the parent has fully complied with all phases of the requirements, but paternity has not been established or a support award has not been set due to circumstances beyond the control of the parent; or
 - (b) in cases of rape, incest or danger of physical abuse.
- (9) an applicant for the program be defined as someone who has filed a verified written application with the agency requesting that paternity be established and a support award set.
- (10) in order for the applicant to fully comply with all phases of the requirements, he or she must:
- (a) provide the name of the alleged father;
 - (b) provide sufficient information to verify the identity of the person named, including the named person's: present address, past or present place of employment; past or present school attended, names and addresses of parents, other relatives or friends who can provide location information for the named person; telephone number, social security number, or other information that, if reasonable efforts were made by the agency, could lead to the named person being served with process;

- (c) continue to provide all other relevant information that the applicant has that may be requested by the agency;
 - (d) appear at required interviews, conference hearings or legal proceedings, provided the person is notified in advance and illness/emergency does not prevent attendance; and (e) submit self and child to genetic tests.
- (11) circumstances beyond the control of the parent be defined to include:
- (a) failure of the agency to make reasonable and timely efforts to locate the person;
 - (b) instances in which the person cannot be located despite the agency's reasonable efforts because the person has disappeared or moved out of the country;
 - (c) instances in which the person has been located but the agency has failed to serve him with the legal papers;
 - (d) cases in which the agency or courts have failed to complete the legal process to establish paternity or set an award; or
 - (e) other cases in which the agency's or court's action or inaction has resulted in the failure to establish paternity or set an award.
- (12) the CSA or that portion of a CSA affecting a particular child be provided to that child as long as he or she is under 18 years old, or if the child is still enrolled in high school, as long as he or she is under 19 years old.
- (13) the CSA be treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the state would send each CSA recipient a statement of the amount of CSA provided and private child support paid during the calendar year. If the CSA benefits exceed the support collected, the difference is taxable as ordinary income.
- (14) money collected from the noncustodial parent be distributed first to pay current support first, then CSA arrearages, then family support arrearages, then AFDC debts.
- (15) in cases of joint and/or split custody, a person is eligible for CSA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award would be below the minimum CSA benefit if the guidelines for sole custody were applied to either parent.

B. UNIVERSAL \$50 OPTION

- (A) Advanced Minimum Child Support Payment

- (1) All non-custodial parents would have a minimum child support obligation set by guidelines of \$50 per child (although this could be per non-custodial parent). The \$50 minimum obligation would be set at the time the order is established or when an existing order is modified.
- (2) Recipients who leave AFDC and other custodial parents who are not on AFDC could apply for advanced payment of the minimum \$50 payment. States must guarantee the \$50 per month minimum payment to the custodial parent even if it fails to collect from the father. The payment would be paid for by state funds, thus giving the states a tremendous incentive to collect support.
- (3) In cases where the custodial parent was on AFDC, the minimum payment would be passed through to the parent. Thus payment by the non-custodial parent would directly benefit the custodial parent. However, the guarantee of payment would not apply if the mother was on AFDC. (In addition, there is no federal match for the first \$50 of AFDC so that states have an incentive to move people off of AFDC.)
- (4) To be eligible for the minimum payment, the custodial parent would have to have an award in place. However, in order to give the states the incentive to establish awards, parents could be granted waivers if the mother has met extremely strict requirements for identifying the father but the state has failed to establish paternity within one year and the failure is due to circumstances beyond the control of the mother. Also, waivers would be granted for cases of rape and abuse. (see existing Bradley Bill language)
- (5) States would have the option of creating work programs so that non-custodial parents could work off the support due if they had no income. The work programs would be very minimalistic with low administrative cost. For instance, non-custodial parents could be sent out on workcrews to paint or clean up parks. The non-custodial parents would be paid minimum wage. Thus a parent would have to work only 12 hours per month to meet the minimum obligation for one child.

APPENDIX 2

EFFECTIVE DATES FOR IMPLEMENTING HYPOTHETICAL REFORMS

1. In general
 - (a) The following schedule assumes passage of Federal legislation before October 1, 1994. Legislation amending existing Federal statutes outside of Title IV-D of the Social Security Act are effective upon enactment unless stated otherwise. Legislation amending Federal responsibilities under Title IV-D is effective October 1, 1994.
 - (b) Some rules of thumb are used: State automation requirements generally follow the FSA automation requirement cycle (Nov. 1). OCSE action and state laws that apply to the CSE system generally take effect Oct. 1. State laws that affect nonIV-D entities (e.g., employers) usually take effect July 1. Commission members are to be appointed within three to six months of passage. Grants and demonstrations assume expedited bidding and approval. Project reports and studies are to be filed one month before the termination of a grant. OCSE should be granted either emergency regulatory power under this Act to expedite enforceable regulations of sections of the Act that are effective within one year of enactment or be guaranteed limited, expedited review by OMB of its NPRM or final rule.
 - (c) Any state requirement that requires legislation to be effective within two years of the date of enactment of the Federal legislation should have an additional caveat: "...or, if the state legislature meets biennially, within three months after the close of its first regular session that began after enactment of this bill."
 - (d) As an alternative, requirements may be couched in language that the section takes effect within a certain number of months or years after enactment.

Effective Dates

hypo p.#	Requirement	Effective Date
1	Paternity	
1	new paternity standard	Oct. 1, 1995
2	incentives for old cases	Oct. 1, 1994
2	FFP - paternity (75%)	Oct. 1, 1996
2	enhanced FFP - paternity (90%)	Oct. 1, 1994
2	FFP/incentives	Oct. 1, 1996
3	Federal regulations	Oct. 1, 1995
3	Fed. \$20 reimbursement	Oct. 1, 1994
3	state-based incentives	Oct. 1, 1995
3	states/health care providers	July 1, 1995
4	state paternity procedures - IV-D	July 1, 1995
4	state paternity procedures - nonIV-D	July 1, 1996
5	state outreach requirements	July 1, 1995
5	enhanced FFP (90%) for pat. out	Oct. 1, 1994
6	coop. & good cause requirements	July 1, 1995
8	contested paternity	July 1, 1996
8	accreditation	
	Fed regs	Oct. 1, 1995
	Eff. for 1st new state K	Oct. 1, 1995
9	establishment tied to paternity	
	Fed regs	Oct. 1, 1995
	state admin. procedures	Oct. 1, 1996
	state laws	Oct. 1, 1995
9	administrative authority for estab.	Oct. 1, 1997
9	disregard	Oct. 1, 1995
11	Nat. Comm. on CS Guidelines	
	funded	Oct. 1, 1994
	named by	Dec. 1, 1994
	report due	Dec. 1, 1996
12	Review and adjustment for all cases	Oct. 1, 1998
13	Distribution changes	
	new priority/multiple orders	Nov. 1, 1996
	tax offset-returns filed	after Jan. 1, 1995
	interest	Nov. 1, 1996
	treatment of CS in AFDC cases	Oct. 1, 1994
15	Central state registry	
	automated requirements tied to	
	current FSA/OCSE reqs.	Nov. 1, 1995
	other requirements	Nov. 1, 1997

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18	Central state clearinghouse centralized coll/dist start up statewide coll/dist	Nov. 1, 1997	Nov. 1, 1998
19	Payee changes		Oct. 1, 1995
20	Inclusion of nonIV-D cases upon request		Nov. 1, 1995
21	FFP 66 to 69% 69 to 72% 72 to 75% enhanced (80%) unified system enhanced (90%) start up		Oct. 1, 1995 Oct. 1, 1996 Oct. 1, 1997 Oct. 1, 1997 Oct. 1, 1994 (sunsets Oct. 1, 1999)
21	Incentives federal reg promulgation paternity standard overall performance		Oct. 1, 1995 Oct. 1, 1996 Oct. 1, 1996
23	Revolving Loan Fund		Oct. 1, 1995
24	Staffing initial fed/state plan state studies completed standards developed by staffing increase req. begins (1st audit - FY 97-98)		Apr. 1, 1995 Apr. 1, 1996 Oct. 1, 1996 Oct. 1, 1997
24	Training OCSE funding state requirements		Oct. 1, 1994 Oct. 1, 1995
25	Outreach state begins to meet goals OCSE requirements/funding		Oct. 1, 1994 Oct. 1, 1994
26	Private right of action (for prospective or ongoing)	upon enactment	
26	Fair hearings fed reg state implementation injury only)		Oct. 1, 1995 July 1, 1996
27	National Child Support Registry funding on-line/fully operational		Oct. 1, 1994 Oct. 1, 1997

27	National Directory of New Hires funding on-line for current W-4 states on-line for all states universal ER reporting reqs.	Oct. 1, 1995 Oct. 1, 1996 Apr. 1, 1997 July 1, 1997
29	Feasibility study (STAWRS, SSA, AHSA) funded let due HHS/IRS decision	Oct. 1, 1994 Dec. 1, 1994 June 1, 1995 Aug. 1, 1995
30	National Locate Registry funding on-line/fully operational	Oct. 1, 1994 Oct. 1, 1997
30	Union hall cooperation - state laws	July 1, 1995
30	Studies: domestic violence and CRAs funded let due	Oct. 1, 1994 Dec. 1, 1994 Dec. 1, 1995
31	IRS data (IRS and state changes)	Oct. 1, 1995
32	IRS tax offset-eff. for returns	after Jan. 1, 1995
32	IRS full collection nonautomated changes automated funding automated IRS implementation automated link with IV-D	Oct. 1, 1995 Oct. 1, 1994 Oct. 1, 1995 Jan. 1, 1996
32	Audit and technical assistance technical assistance funding Fed audit regs change to state-based audit OCSE audit div. unchanged until (OCSE is 3 yrs behind - otherwise lose 1994-1996 audits) OCSE audit funding reduced	Oct. 1, 1994 Oct. 1, 1995 Oct. 1, 1996 Oct. 1, 1999 Oct. 1, 1999
34	OCSE Funding in General	Oct. 1, 1994
34	Establishment - interstate UIFSA (legis. flexible until 1/1/96) other state laws	Oct. 1, 1995 Oct. 1, 1995
37	National subpoena duces tecum	

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	OCSE distributes nat. subpoena nationwide force effective	Oct. 1, 1995 Oct. 1, 1995
38	Multiple cases	Oct. 1, 1995
38	Enforcement	
	IRS tax offset changes	Jan. 1, 1995
	state law changes	Oct. 1, 1995
	exception: imm. withholding in all IV-D cases	Oct. 1, 1996
	exception: imm. withholding in all nonIV-D cases	Oct. 1, 1997
	state automated access to state data bases and fin. instit.	Nov. 1, 1997
42	Health care	
	Federal changes	Oct. 1, 1996
	IRS amends W-4	Oct. 1, 1995
	state changes	Oct. 1, 1996
44	Child Support Assurance - Option A	
	funding for states' admin. costs	Oct. 1, 1994
	funding for fed's admin costs	Oct. 1, 1994
	funding for benefit	Oct. 1, 1995
	CSA start up may begin	Oct. 1, 1994
	CSA benefit eligibility begins	Oct. 1, 1995
	CSA phase in completed	Oct. 1, 2000
46	Child Support Assurance - Option B	
	fed/state money for 6-10 demos	Oct. 1, 1995
	funding for 2nd-wave demos	Oct. 1, 1998
	state interim reports	
	1st wave	Jan. 1, 1998
	2nd wave	Jan. 1, 2001
	state final reports	
	1st wave	Oct. 1, 2000
	2nd wave	Oct. 1, 2003
	Fed reports to Congress	
	1st wave	Apr. 1, 2001
	2nd wave	Apr. 1, 2004
	Fed administrative funding	Oct. 1, 1994
	Fed regs	Oct. 1, 1995
50	Child Support Assurance - Option C	Oct. 1, 1996
52	Nat. Comm. on Access and Visitation	
	funded	Oct. 1, 1994
	named by	Dec. 1, 1994
	report due	Dec. 1, 1996

54	Appendix 1 - Administrative option	Oct. 1, 1997
55	Appendix 1 - Contest of pat. option	Oct. 1, 1996

ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONCUSTODIAL PARENTS

Under the present system, the needs and concerns of noncustodial parents are often ignored. The system needs to focus more attention on this population and send the message that "fathers matter". We ought to encourage noncustodial parents to remain involved in their children's lives, not drive them further away. The child support system, while getting tougher on those that can pay but refuse to do so, should also be more fair to those noncustodial parents who show responsibility towards their children. Some elements above will help. Better tracking of payments will avoid build-up of arrearages. A simple administrative process will allow for downward modifications of awards when a job is lost. But other strategies would also be pursued.

Ultimately expectations of mothers and fathers should be parallel. Whatever is expected of the mother should be expected of the father. And whatever education and training opportunities are provided to custodial parents, similar opportunities should be available to noncustodial parents who pay their child support and remain involved. If they can improve their earnings capacity and maintain relationships with their children, they will be a source of both financial and emotional support.

Much needs to be learned, partly because we have focused less attention on this population in the past and we know less about what types of programs would work. Still, a number of steps can be taken.

A. ACCESS AND VISITATION

1. Grants to States

- (a) Block Grants will be made to states for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education and enforcement.
- (b) Since access and visitation issues are still primarily under the jurisdiction of the State Court systems, the Department of Justice would administer the program.
- (c) DHHS participation would be required in writing the program rules, reviewing the grant applications and in project evaluations.
- (d) Grants could be competitive or could be provided to each state. Resource allocation would have to be higher for block grants.

2. A National Commission on Access and Visitation

- (a) A National Commission on Access and Visitation would be created to study and make recommendations to Congress on issues of access and visitation raised by both custodial and non-custodial parents.
- (b) The Commission shall be composed of 9 members with 3 members each appointed by the House of Representatives and the Senate and 3 appointed by Secretary of HHS within 6 months of enactment.
- (c) The Commission shall study custody and visitation dispute resolution, methods to minimize disputes, setting up positive visitation exchange environments and schedules that take into

account geographic proximity of the parties to one another, and other issues which promote a child's receiving emotional support from both parents.

- (d) The Commission, with the support of NICHD shall review current research findings on the role of parental involvement on child well being and identify additional research needs.

B. TRAINING AND EMPLOYMENT

1. JOBS Participation (See JOBS Provisions in section *Promoting Self-Sufficiency*)

Amends title IV-F of the Social Security Act and PL 99-509 (OBRA '86). States would have considerable flexibility in the design of their non-custodial parents JOBS program.

- (a) A portion of JOBS program funding would be reserved for education and training programs for noncustodial parents. State's could use not less than 10 percent but not more than 20 percent of their jobs funds to serve the non-custodial parents of children receiving AFDC or it's replacement.
- (b) The non-custodial parent's children would have to be receiving AFDC at the time of referral, but the non-custodial parent could continue participating in the program even if the child(ren) became ineligible for AFDC.
- (c) The non-custodial parent's participation would be unrelated to self-sufficiency requirements or JOBS participation by the custodial parent.
- (d) Parenting and peer support would not be required but would receive the highest level of FFP.
- (e) The child support payment would be suspended or reduced to the minimum while the non-custodial parent was participating in JOBS activities which did not provide a stipend or wages sufficient to pay the amount of the current order.
- (f) This suspension or reduction could be made retroactively but only back to the point in time where the parent volunteered for or enrolled in the JOBS program or, as is possible under current law, back to the date of filing for a downward adjustment or application for IVD services for review and adjustment.

2. Targeted Jobs Tax Credit

Amends section 51 of the Internal Revenue Code.

- (a) The Targeted Jobs Tax Credit (TJTC) would be made available to fathers with children receiving food stamps and children receiving AFDC-only or Medicaid-only.
- (b) In addition to the requirement that the children (covered by the support order) are receiving mean's tested benefits the non-custodial parent would have to meet the definition of economically disadvantaged and have at least two months child support arrears at the time certification or referral.

- (c) The child support enforcement program or a private entity acting on it's behalf will be responsible for the certification/referral process.

C. PATERNITY AND PARENTING

Demonstration grants to states and/or community based organization to develop and implement non-custodial parent (fathers) components for existing programs for high risk families (e.g. Head Start, Healthy Start, Family Preservation, Teen Pregnancy and Prevention) to promote paternity establishment and to develop parenting skills. Three year grants, must have evaluation component and be replicable in similar programs else where.

- (a) Experimentation with a variety of programs whereby men who participate in employment or training activities do not build up arrearages while they participate.
- (b) Significant experimentation with mandatory work programs for noncustodial parents who don't pay child support.
- (c) PSE or CWEP job slots (full-time or part-time) allocated for noncustodial parents who have failed to, or are unable to, pay child support. Include at State option providing unsubsidized community service slots.
- (d) Allow states to use up to 5 percent of their PSE slots in demonstrations designed to provide assistance to non-custodial parent (with children receiving AFDC) unable to meet current child support and arrears obligations. Strict evaluation requirements. [Note: incomplete]

WR SPECS - CHILD SUPPORT

DEPARTMENT OF HEALTH AND HUMAN SERVICES
ASSISTANT SECRETARY FOR PLANNING AND EVALUATION



PHONE: (202)690-6805 FAX: (202)690-6562

Date: 5/19

From: Wendell Premeis

To: Bruce Reed

Division: _____

Division: _____

City & State: _____

City & State: _____

Office Number: _____

Office Number: _____

Fax Number: 690-6562

Fax Number: 456-7028

Number of Pages + cover 9

REMARKS: _____

May 19, 1994

MEMORANDUM

To: David Ellwood
Mary Jo Bane
Bruce Reed

From: Wendell Primus ^{WJP}

Re: Additional comments on CSE specs

Attached are comments on the child support legislative specifications which came from Elaine Kamarck yesterday. Also attached is a copy of the comments from CLASP, which you should have already received.

cc: Belle Sawhill
Kathi Way

MEMORANDUM TO WENDEL PRUMUS (fax 690-6562)

From: Elaine Kamarck
Re: Comments on Legislative Specifications for the
Child Support Enforcement Proposal of the
Working Group on Welfare Reform, Family
Support and Independence.

I have reviewed the legislative specifications for the first portion of the welfare reform legislation. It is a very strong plan with many specific, tough actions to establish paternity and collect child support. It even acknowledges the non-economic role of fathers in children's lives - something the Vice President plans to talk about at his upcoming family conference. I have only a few comments.

1. Establish Rewards in Every Case

The one problem I see with this section is that it is somewhat overly prescriptive in dictating to the states the administrative steps they must take to establish paternity. Having established the proper incentive structures in the law our reforms need not and should not attempt to micro manage how states achieve the goals they set with HHS for increasing paternity establishment. I question the wisdom, for example, of *requiring* the steps at the bottom of page 3 or the steps mentioned on page 8 subsection 2. These are all good ideas and they probably would help increase paternity establishment but to require these actions in legislation - perhaps at the expense of something we have not thought of which might be more effective - is the sort of thing which tends to be counter productive over the long haul.

2. Ensure Fair Award Levels

The portion of this section that is most vulnerable to criticism is the proposal to create a National Commission on Child Support Guidelines to study the desirability of uniform national child support guidelines. This strikes me as somewhat bureaucratic and not likely to work but probably, in the end, harmless.

3. Collect Awards that are Owed

My only problem with this section is that no where in it is mentioned the possibility that private vendors may be able to play a role in making the new system happen. Is this assumed? We know that especially when it comes to state of the art computer applications the private sector is often quicker and more effective at

innovation. I would hope that the intent is not to preclude private sector involvement in this process especially since some private collection agencies in large states like Texas are having very positive results. Private sector involvement here - especially on a strict performance basis - could go a long way towards blunting the criticism you are likely to get from those who will feel this system is putting too much of a burden on already overburdened state bureaucracies.

Center for Law and Social Policy

CLASP

May 12, 1994

PAULA ROBERTS
SENIOR STAFF ATTORNEY

Bruce Reed
David Ellwood
Mary Jo Bane
c/o Patricia Sosa
Working Group on Welfare Reform, Family
Support and Independence
Aerospace Building
901 D Street, SW, Suite 600
Washington, DC 20447

Dear Chairs of the Working Group:

Thank you very much for sharing the May 3rd draft of recommendations on child support. It is obvious that a lot of additional work has been done and many improvements made. I particularly applaud the paternity establishment provisions, the emphasis on much greater use of administrative process, and the changes in distribution of support collected for AFDC and post-AFDC families. While the proposal makes positive strides toward federalization of collection through the National Clearinghouse, as you know, I would go even further and use the IRS to collect child support in most cases. Perhaps the most disappointing part of the proposal is the section on Child Support Assurance Demonstrations. If possible, I would make major revisions here. Other areas of concern are AFDC cooperation, staffing and the audit provisions.

Below are more detailed comments on a few of the areas where I would recommend change:

ESTABLISHING AWARDS IN EVERY CASE

This part of the proposal is very strong and should greatly increase the chances that paternity will be established. I am concerned, however, about Recommendation #7 which appears on the bottom of page 6. As explained on page 5, this recommendation allows putative fathers standing to initiate their own paternity actions even if the mother is not "cooperating with the state." It may be that we greatly disagree about this, or it may be that the choice of words is misleading.

If you are suggesting that state law should allow fathers as well as mothers to commence paternity actions, I agree. If you are suggesting that IV-D agencies should be

able to represent putative fathers in paternity cases, I also agree. Indeed, that is the current law. It is also what HHS has been telling the states for years (see e.g., PIQ-88-2). Where we may disagree is whether the IV-D agency should represent a father seeking to establish paternity when the mother is "not cooperating" with the state. If what you mean is that where the mother has not sought services from the state IV-D agency, the agency should be able to proceed and bring an action at the father's request, I agree. If, however, you mean that when an AFDC mother has been granted a "good cause" exception from cooperation, then the state is nonetheless free to go ahead and represent the father in a paternity proceeding, I profoundly disagree. If the father is a threat to the mother or the children, or the child was conceived through rape or incest or adoption is contemplated, I do not think it is good policy for the state to nonetheless represent the father in forcing the paternity issue. If your intention is not to have the IV-D agency pursue these cases, then on page 5, paragraph 4, and in Recommendation #7 you could simply change the phrase "not cooperating with the state," to "not using IV-D services." That would make it clear that you mean that fathers on their own could come in to establish paternity even if the mother had yet to do so.

On pages 8 through 10, you describe a system of cooperation by AFDC mothers in establishing paternity. As I understand your recommendation, the cooperation issue would be moved from the IV-A agency to the IV-D agency. A IV-D worker would monitor pre-AFDC cooperation as well as continuing cooperation from those receiving AFDC. These changes seem sensible given the evidence that having a IV-A worker do intake results in information not reaching the IV-D agency. The change, however, would preclude mothers whose children's fathers were unknown, and those who had a name but no additional identifying information, from receiving AFDC. As I have strongly expressed in the past, I believe that this change is inappropriate and could prove very harmful to children. Knowing a piece of information but refusing to reveal it is noncooperation; not knowing the information in the first place is not noncooperation.

On page 12 Recommendation #2 suggests that if the mother has met the cooperation requirement, and the state has failed to establish paternity within one year, the state would not be eligible for FFP for the family's AFDC grant. This, like current policy, sanctions the IV-A agency for the failures of the IV-D agency. It seems particularly ironic to do this in light of the fact that the process for obtaining child support information and enforcing cooperation have (appropriately I think) been moved from the IV-A agency. Now, IV-A will have no responsibility for, or ability to affect what the IV-D agency does; yet IV-A will bear the penalty for IV-D's failure. Moreover, as more states move their child support agencies to their revenue departments, it may not even be the same state official responsible for both the IV-A and IV-D agencies. Punishing a party who is both without guilt and without the ability to resolve the problem seems foolish. Any penalty imposed for failure to meet a one-year timeframe for establishing paternity should be imposed on the IV-D agency.

On page 13, you discuss the broadened use of administrative authority to establish child support orders. As you know, I am a strong proponent of the greater use of administrative authority and find this section particularly heartening. According to the bottom of page 13 in section 1(c), however, administrative support orders would not be available in cases where there is a court proceeding pending for legal separation or divorce. Frequently there are lengthy delays before a pending case actually gets to a court hearing. Given this, I would suggest that you allow administrative agencies to set temporary support orders even when a court proceeding is pending. The administrative order could be superseded by the subsequent court order, but, in the interim, children would receive support.

ENSURE FAIR AWARD LEVELS

On page 18, Recommendation #4(a) would require states to have an administrative review process to modify child support awards. The administrative agency would modify all child and medical support orders including those entered by a court. I am not sure whether this is constitutionally possible. Perhaps you have already looked at the separation of powers issues and concluded that it is. If so, disregard my comment. If you haven't looked at this issue, however, I would suggest you do.

The section on distribution of child support payments is very positive and should greatly help AFDC and post-AFDC families. One change that is not included but should be, is amending 42 U.S.C. §602(a)(28) to require states to use fill-the-gap budgeting for child support. If you are unable to go this far, at least making fill-the-gap an option available to the states should be considered. This could be added to page 21, as a third recommendation.

COLLECT AWARDS THAT ARE OWED

As part of the National Clearinghouse, you would create a National Child Support Registry. One way to move cases quickly into the registry would be to begin by entering all the cases certified to the IRS for tax intercept next year. A recommendation to this effect might be added at page 30.

Also, the proposal creates a National Directory of New Hires. In your proposal, the Directory would tell states that someone has a new job and the states would send out the income withholding order (p. 32). This is unnecessarily cumbersome and time-consuming. By the time the state gets around to sending out the withholding order, the employee may have changed jobs again. At the very least, there will be a gap in payment of support to the children. It would be far more efficient and productive to have the New Hire Directory send out the income withholding order.

On page 42, the problem of fraudulent transfer of assets is discussed. I am not familiar with the Uniform Fraudulent Conveyance Act or the Uniform Fraudulent Transfer Act and wonder if mandating state's adoption of them is wise. Section 301 of S. 1909 which was introduced by Senator Bryan takes a simple approach to this problem: it requires states to create a presumption that a transfer of property by someone who owes child support arrears, would be presumed fraudulent. The burden would shift to the transferring parent to show otherwise. This might be a simpler approach than mandating that states adopt the Uniform Transfer Act.

On page 53, it is proposed to increase FFP to 90 percent for the development and implementation of state central registries. In subsection 2 of this section, it is suggested that states should be held harmless from sanctions involving current federal requirements for system certification during their conversion to central registries. This, in effect, rewards states which have failed to meet the automation requirements of the 1988 law. It sends entirely the wrong message about your commitment of the need for timely compliance with the law. Please remember states were given seven years to implement these requirements and many have not done so. Why would they take new requirements seriously if history tells them deadlines are not important?

While in favor of revising the audit criteria (pages 57-59), I do not have sufficient time to think through your proposal. One thing that leaps out is that the audit penalty appears to still be assessed against the state's AFDC program. As mentioned above, this seems irrational. Any audit penalties ought to be imposed on the state IV-D agency not the AFDC agency.

On page 57, you discuss the staffing issue and suggest that the Secretary conduct a staffing study. You do not require states to staff up to the levels indicated by the study. Without an implementation requirement, the study will be utterly worthless.

CHILD SUPPORT ASSURANCE

Perhaps the most disappointing part of the proposal is that which relates to Child Support Assurance (CSA). You propose only three demonstration projects which do not need to be statewide. The projects will last seven to ten years and, at the end of that time, the Secretary will decide whether additional state demonstration projects should be conducted. States would receive a 90-10 match rate for administrative costs and for that portion of the assured benefit that does not represent a reduction in AFDC. The benefit is limited to children with orders and would count against AFDC dollar-for-dollar. It would also be treated as ordinary income for other means-tested programs. Finally, there is no requirement that the states selected to run the demonstration projects have a proven track record in child support enforcement.

Not only is the number of demonstration projects disappointingly small, but that projects would be conducted for seven to ten years and then a decision would be made

as to whether more demonstrations were needed is truly disappointing. If the point of demonstration projects is to learn how to implement a child support assurance program, then at the end of the demonstration phase there should be enough information to proceed nationwide, not to have more demonstration projects.

In addition, the funding proposed will probably not entice many states into wishing to participate as demonstration sites. Nor is there any guarantee that states would have good enough child support enforcement programs to show how a system could be cost-effective. Finally, it is not clear how many AFDC families would actually benefit from this proposal. Not only would CSA eligibility be limited to those with paternity and support orders (a limited percentage of AFDC cases), but also the benefits would count dollar-for-dollar in AFDC and other means-tested programs. By and large, this will leave AFDC families no better off by virtue of CSA. Indeed, it may well leave them worse off as they may also lose access to Medicaid, JOBS education and training services, and subsidized child care.

Two additional demonstration projects, under which states would establish a minimum \$50 per child support obligation and parents would be able to apply to the state to receive a guaranteed \$50 child support payment each month, are proposed. It is not clear whether the guarantee is \$50 per child or \$50 per family but in either case this system would provide very little help to families and is almost insulting in its meagerness.

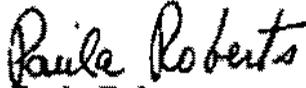
I would strongly suggest looking at the CSA demonstrations proposed in S. 1962 by Senators Dodd and Rockefeller as a model for designing your demonstration projects. The focus on using states with a commitment to child support enforcement, broadening eligibility to those who have cooperated in obtaining an order, and the treatment of the guaranteed benefits for purposes of means-tested public assistance are all better models than your proposal from the point of view of low-income families. Additional funding for good demonstrations could be obtained by deleting the \$50 guarantee proposal and putting the money into true CSA demonstrations.

NONCUSTODIAL PARENTS

The proposal would expand the availability of JOBS and WORK Programs to noncustodial parents of children who are receiving AFDC or who have child support arrears owed from prior periods of their children's AFDC receipt. While programs for low-income, noncustodial parents are certainly needed, in the context of the resources available to serve the needs of custodial parents, it is a difficult decision as to how much money to put into such programs. On page 68, you would allow states the option of earmarking up to 10 percent of their JOBS and WORK program funding for noncustodial parents. This is a fairly substantial percentage of the funds and I would suggest that 5 percent is more in the range of what should be authorized. When more is known about how to successfully deal with this population, 10 percent of the available resources being directed to them may be more appropriate.

Again, I want to thank you for the opportunity to comment. Constraints of time have made me focus on what needs changing rather than what is positive in the proposal. My failure to comment at length on the positive should not be taken to mean that I do not appreciate the hard work and thoughtfulness that have gone into this effort.

Sincerely,



Paula Roberts
Senior Staff Attorney

FOR YOUR MEETING AT HHS

**HYPOTHETICAL
CHILD SUPPORT ENFORCEMENT
AND ASSURANCE
PROPOSAL**

WR
SPECS

(child support)

REVISED DRAFT -- 1/6/94

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

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CHILD SUPPORT ENFORCEMENT AND ASSURANCE

BACKGROUND AND SUMMARY

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

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

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

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

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

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

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

The Proposal has three major elements:

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

In addition, there are two other elements considered:

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

I. ESTABLISH AWARDS IN EVERY CASE

Current System

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

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

Proposal

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

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

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

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

Current System

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

Proposal

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

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

III. COLLECT AWARDS THAT ARE OWED

Current System

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

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

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

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

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

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

Proposal

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

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

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

Current System

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

Proposal

- State demonstrations of a number of variations.

V. SUPPORTS AND NONFINANCIAL EXPECTATIONS FOR NONCUSTODIAL PARENTS

Current System

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

Proposal

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

In addition:

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

HYPOTHETICAL CHILD SUPPORT ENFORCEMENT AND ASSURANCE PROPOSAL

I. ESTABLISH AWARDS IN EVERY CASE

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

Paternity Performance and Measurement Standards

Each State's performance would be measured based not only upon cases within the State's current IV-D (child support) system, but upon all cases where children are born to an unmarried mother. States would be encouraged to improve their paternity establishment records through a combination of performance standards and performance-based incentives.

Measure of Paternity Establishment

Under a new paternity establishment measure, the paternity status of all children born out of wedlock would be reported at the time of birth and the records maintained throughout the child's first 18 years of life, improving significantly each State's ability to determine precisely how long it takes to establish paternity on each case.

Each State would be required, as a condition of receipt of federal funding for the child support enforcement program, to calculate a State paternity establishment percentage based on yearly data that record: (1) all out-of-wedlock births in the State for a given year, regardless of the parents' welfare or income status; and (2) all paternities established for the out-of-wedlock births in the State during that year. Thus, each State would have a record of the status of paternity for all births which would be reflected in the State percentage for a given year. (For purposes of the performance based incentives, adjustments to the denominator would be prescribed by regulations for adoptions and people leaving or entering the state.)

Records of cases for which paternity has not been established during the first year would continue to be maintained and cases where paternity is established would report the age of the child, enabling States to determine exactly how long it is taking to establish paternity for each child. In addition, the new, more accurate data would provide more flexibility in accounting for State performance. Measurements could not only track the percent of paternities established within the first year of the child's life, but also the percent established in one to two years, two to three years, etc..

Funding and Incentives

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

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

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

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

Voluntary Acknowledgment of Paternity

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

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

- (1) require other health-related facilities (including pre-natal clinics, "well-baby" clinics, in-home public health service visitations, family planning clinics and WIC centers) to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children; this effort should be coordinated with the U.S. Public Health Service and Education program. Medicaid and WIC program information may be made available to identify mothers in need of services; and
- (2) make available procedures within hospitals to provide for taking a blood or other sample at the time of the child's birth, if the parents request the test.

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

- (1) have statutes allowing the commencement of paternity actions prior to the birth of the child and expedited procedures for ordering genetic tests as soon as the child is born, provided that the putative father has not yet acknowledged paternity;
- (2) provide administrative authority to the IV-D agency to order all parties to submit to genetic testing in all cases where either the mother or putative father requests a genetic test, or where the putative father denies the allegation or fails to appear at any scheduled conference to respond to the allegation, without the need for court hearing or approval;
- (3) advance the costs of genetic tests, subject to recoupment from the putative father if he is determined to be the biological father of the child (Federal funding would continue at 90% for laboratory tests for paternity); if the result of the genetic testing is disputed, upon reasonable request of a party, order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting the additional tests; (if the test results are reversed indicating that the previous decision was inaccurate, the individual who requested the tests could recoup the costs of the procedures from the State);
- (4) provide discretion to the administrative agency or court setting the amount of support to forgive delivery medical expenses or limit arrears owed to the State (but not the mother) in cases where the father cooperates or acknowledges paternity before or after a genetic test is completed;

- (5) provide administrative authority to the IV-D agency to enter default orders to establish paternity specifically where a party refuses to comply with an order for genetic testing;
- (6) preclude the use of requiring court hearings to ratify acknowledgments of paternity unless collaterally attacked on an appeal from an administrative hearing or if new evidence is discovered;
- (7) provide that acknowledgments of paternity create either a rebuttable or conclusive presumption of paternity. If a rebuttable presumption of paternity is created, states must provide that the presumption ripens into a conclusive legal determination with the same effect as a judgment no later than 12 months from the date of signing the acknowledgment. States may, at their option, allow fathers to move to vacate or reopen such judgments at a later date in cases of fraud or if it is in the best interest of the child.
- (8) allow putative fathers (where not presumed to be the father under State law) standing to initiate their own paternity actions, even if the mother of the child is not cooperating with the State;
- (9) before paternity is established, and until either parent brings a custody action which is heard by a tribunal, presume that the mother (or at State option, the primary caretaker) of the child born out of wedlock has custody of the child; any custody action initiated by either parent will be treated as an initial custody determination where the presumption of custody granted to the mother has no bearing on the ultimate custody determination by the State;

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

Outreach

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

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

States would be required to implement outreach programs promoting voluntary acknowledgment of paternity through a variety of means including, but not limited to, the distribution of written materials at schools, hospitals, and other agencies. States are

encouraged to establish pre-natal programs to educate expectant couples, either married or unmarried, of their joint rights and responsibilities in paternity. At State option, such programs could be required of all expectant welfare recipients. Programs, upon approval of the Secretary, would be eligible for an enhanced matching rate of 90 percent.

In addition, States would be required to make reasonable efforts to follow up with individuals who do not establish paternity in the hospital, providing them information on the benefits and procedures for establishing paternity. The materials and the process for which the information is disseminated is left to the discretion of the States, but States must have a plan for this outreach, which includes at least one post-hospital contact with each parent whose whereabouts are known (unless the State has reason to believe that such contact puts the child or mother at risk).

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

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

Cooperation and Good Cause Exceptions

All mothers with children born out of wedlock would be provided the opportunity to establish paternity for their children. Mothers who wish to receive certain Federal benefits to support their families must cooperate fully with paternity establishment procedures under a new stricter definition of cooperation. "Cooperation" would be determined by the IV-D worker through an expedited process and the relevant programs would be notified. Mothers must meet the new strict definition of cooperation before they could begin to receive benefits. State agencies would be required to either establish paternity if at all possible or impose a sanction in every case within strict timelines. States would be penalized for failure to establish paternity where the mother has cooperated.

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

- (1) Good cause exceptions would be granted for non-cooperation on an individual case basis using strict application of the existing good cause exceptions for the AFDC program.

- (2) State IV-D workers must inform each applicant of the good cause exceptions available under current law and help the mother determine if she meets the definition.
- (3) The initial cooperation requirement is met when the mother has provided the State the following information:
 - (a) the name of the putative father; and
 - (b) sufficient information to verify the identity of the person named (such as the present address of the person, the past or present place of employment of the person, the past or present school attended by the person, the name and address of the person's parents, friends or relatives that can provide location information for the person, the telephone number of the person, the date of birth of the person, or other information that, if reasonable efforts were made by the State, could lead to identify a particular person to be served with process);
- (4) Additionally, the continued cooperation requirement is met when the mother provides the State the following information:
 - (a) additional relevant information which the mother can reasonably provide, requested by the State at any point;
 - (b) appearance at required interviews, conference hearings or legal proceedings, if notified in advance and an illness or emergency does not prevent attendance; or
 - (c) appearance (along with the child) to submit to genetic tests.

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

Cooperation Prior to Receipt of Benefits

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

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

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

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

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

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

Responsibilities and Standards for States

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

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

Contested Paternity Cases

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

States must:

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

Accreditation of Genetic Testing Laboratories

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

Administrative Authority to Establish Orders Based on Guidelines

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

- (1) the custodial parent has assigned his or her right of support to the state;

(2) the parent has not assigned his or her right of support to the State but has established paternity through an acknowledgment or a State administrative procedure; or

(3) in cases of separation where a parent has applied for IV-D services and there is not a court proceeding pending for a legal separation or divorce.

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

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

National Commission on Child Support Guidelines

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

In addition, the Commission should study the following:

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

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

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

Modifications of Child Support Orders

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

States shall have and use laws that require the review and adjustment of all child support orders included in the State Central Registry once every three years. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances.

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

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

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

- (1) provide the child support agency administrative power to modify all child support orders and medical support orders, including those orders entered by a court;

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

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

Distribution of Child Support Payments

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

Priority of Child Support Distribution

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

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

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

Federal Income Tax Refund Offset

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

- (1) child support or alimony owed to a family (non-AFDC arrearages);
- (2) federal tax debts;
- (3) child support owed to a State or local government (AFDC arrearages); and
- (4) remaining debts delineated in their order under Section 634 of the Internal Revenue Code.

Interest

All states must calculate and collect interest on arrearages. There will be a national uniform interest rate to be determined annually by the Secretary, which reflects the Federal District Court's interest rate on judgments. Priority and distribution rules shall be determined by the Secretary.

Treatment of Child Support for AFDC Families - State Option

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

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

III. COLLECT AWARDS THAT ARE OWED

A. STATE ROLE

Overview

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

Central State Registry and Clearinghouse

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

Central State Registry

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

- (1) all present IV-D orders established, modified or enforced in the State;
- (2) all new and modified orders of child support (IV-D and non-IV-D) established by or under the jurisdiction of the State, after the effective date of this provision;
- (3) existing child support cases not included in the IV-D system at the date of enactment at either parent's request;
- (4) all out-of-wedlock births in the State (if automated elsewhere, automated access); and
- (5) all cases for which paternity has been established but an award has not been secured.

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

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

- (8) routinely match against other State data bases to which the child support agency has access;
- (9) use a national identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;
- (10) preclude the child support agency from charging a fee to any custodial or noncustodial parent for inclusion in the registry, and agencies are precluded from imposing any new fees on custodial parents for routine establishment, enforcement or modification of cases handled through the registry;
- (11) maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);
- (12) use technology and automated procedures in operating the registry wherever feasible and cost-effective; and
- (13) ensure that the interest charged can be automatically calculated.

Monitoring of Cases by State Staff

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

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

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

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

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

Option for Unified State Registry

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

Central State Clearinghouse

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

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

In fulfilling these obligations, the clearinghouse must:

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

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

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

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

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

Eligibility for Services

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

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

Opportunity to Opt-Out

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

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

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

In addition, in no circumstances may a State:

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

Funding

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

Federal Financial Participation

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

Financial Incentives

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

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

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

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

States would continue to receive their share of AFDC reimbursements.

Unified State System FFP Enhancement

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

A unified state program is one which includes:

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

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

Registry and Clearinghouse Start-up Enhanced FFP

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

State/Federal Maintenance of Effort

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

Revolving Loan Fund

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

Funding would be limited to no more than \$5 million per State or \$1 million per project, except for limited circumstances under which a large State undertakes a statewide

project, in which case the maximum for that State shall be \$5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.

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

Staffing Study

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

Training

One and one-half (1.5) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund technical assistance, training, operational research, demonstrations, and staffing studies.

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

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

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

Outreach

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

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

- (1) provide office hours that provide parents opportunity to attend appointments without taking time off of work;
- (2) conduct surveys to identify underserved populations potentially eligible for child support and target outreach efforts to serve these populations and encourage improved participation; and
- (3) make substantial efforts to increase the amount of information available on the child support programs.
- (4) develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.

To aid State outreach efforts, the OCSE must:

- (1) develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;
- (2) develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services; and
- (3) develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs.

- (4) focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.

B. FEDERAL ROLE

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

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

National Child Support Registry

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

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

The National Registry must:

- (1) contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent and the case identification number;
- (2) establish interfaces between State Central Registries and the National Registry for the automatic transmission of case updates;

- (3) match the data against other Federal data bases;
- (4) point all matches back to the relevant State in a timely manner; and
- (5) interface and match with National Directory of New Hires.

National Directory of New Hires

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

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

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

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

The National Directory of New Hires shall:

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

(c) the Federal Parent Locate Service (FPLS) data base;

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

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

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

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

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

Locate and Case Tracking

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

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

- (1) allowing States (through access to the National Locate Registry) to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:
 - (a) the records of other State CSE agencies and locate sources;
 - (b) federal sources of locate information in the same fashion; and

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

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

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

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

IRS Data

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

IRS Tax Refund Offset

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

IRS Full Collections

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

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

- (5) the Taxpayer Bill of Rights, hardship exceptions, and ombudsperson activity that may result in a delay because of the noncustodial parent's claim of inability to pay shall not be available in child support full collection cases and tax refund offset cases.

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

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

Technical Assistance

The OCSE shall provide technical assistance to States by:

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

Audit and Reporting

Audit procedures by the Secretary shall include:

- (1) simplifying the Federal audit requirements to focus primarily on performance outcomes. Federal audit of procedures and process will normally be conducted only if a State substantially or repeatedly fails the performance indicators;

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

States shall:

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

Federal audits will be required whenever one of the following conditions is met:

- (1) if the State self-reviews determine that the Federal requirements are not being met, OCSE audit will ascertain the causes for the deficiency/weakness so that States will be able to take better corrective actions;
- (2) at a minimum, based upon the GAO Government Auditing Standards, every 3 years, OCSE will assess the reliability of the computer-processed data (or results provided as a result of the self-review). These reviews/audits will: (a) examine the computer system's general and application controls; (b) test whether those controls are being complied with; and (c) test data produced by the system to ensure that it is valid and reliable;
- (3) if a State has failed a previous audit, then OCSE will continue to evaluate on an annual basis, whether the State has corrected the deficiencies;
- (4) if the State's report on the status of grievances/complaints indicates substantial and material noncompliance with the program requirements, then OCSE will evaluate the State's program.

Each State will also be subject to periodic financial audits to ensure that their funds are being allocated and expended appropriately and adequate internal controls are in place which will help ensure that all monies are being safeguarded.

The Secretary shall promulgate regulations to revise the penalty process for failures to meet the program's performance goals and objectives and/or failure to generate reliable and valid data. Penalties shall be imposed immediately after a corrective action period, but one-half of the penalties shall be put in escrow for a period of up to two years to be returned to the State if the State passes the audit in the two-year period. Penalties placed in escrow can be used by the State to contract for technical assistance at the discretion of the Secretary.

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

Customer Accountability

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

Funding for OCSE

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

C. OTHER ENFORCEMENT

Interstate Enforcement

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

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

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

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

In addition, the Federal government shall:

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

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

Enforcement

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

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

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

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

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

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

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

In addition, Congress shall:

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

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

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

Tax Deduction Coordination

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

Effective Date

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

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

Congress would authorize and appropriate funds for 6 to 10 CSA State demonstration programs in year one, and additional programs in year five.

- (1) Each demonstration would last seven to ten years. An interim report would be due four years after approval of the demonstration grant.
- (2) The Secretary may determine from the interim reports whether the programs should be extended beyond seven to ten years and whether additional State demonstrations should be added, based on various factors that include the economic impact of CSA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSA has been received by the custodial parent, the impact of CSA on work-force participation and AFDC participation, effectiveness in interstate cases, effect on paternity establishment rates, and any other factor the Secretary may cite. An additional six to ten State demonstration programs may be authorized by the Secretary 48 months after the first demonstration grants are awarded, based on prior authorization in the enabling legislation, and funds specifically appropriated for additional demonstration projects.
- (3) As part of the demonstrations, some States would have the option of creating work programs so that noncustodial parents could work off the support if they had no income.
- (4) The demonstration projects are based on a 90%/10% federal/state match rate.
- (5) The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.
- (6) The demonstrations shall be implemented statewide in six or more of the initial demonstration projects.
- (7) The Secretary shall evaluate the final reports based on the factors listed in (2) and recommend to Congress and the President whether a national child support assurance program is in the nation's interest, and if so, how it should be designed and implemented.

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

- (1) the CSA program be administered by the state IV-D agency, or at state option, its department of revenue; in order to be eligible to participate in the CSA program, states must ensure that their automated systems that include child support cases are fully able to meet the CSA program's processing demands, timely distribute the CSA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSA cases.

- (2) At least one State shall use each of three benefit scales. The three scales are:

# of children	Scale #1	Scale #2	Scale #3
1	\$1,500	\$2,500	\$3,500
2	\$2,100	\$3,000	\$4,000
3	\$2,700	\$3,500	\$4,500
4 or more	\$3,300	\$4,000	\$5,000

- (3) the CSA basic benefit amounts be indexed to the adjusted Consumer Price Index.
- (4) if a State chooses it may supplement the CSA basic benefit amount by paying the FMAP contribution of any supplement up to \$25, and all of any supplement over \$25.
- (5) the CSA benefit be counted as private child support for the purpose of eligibility for other government programs;
- (6) the CSA benefit be deducted dollar for dollar from an AFDC grant.
- (7) CSA eligibility be limited to children who have paternity and support established. Initial eligibility decisions are to be made by the agency, or ideally, by an independent referee. Eligibility decisions may be appealed to a hearing.
- (8) waivers may be granted:
- (a) in cases in which more than one year has passed since the parent applied for the program, the parent has fully complied with all phases of the requirements, but paternity has not been established or a support award has not been set due to circumstances beyond the control of the parent; or
- (b) in cases of rape, incest or danger of physical abuse.

- (9) an applicant for the program be defined as someone who has filed a verified written application with the agency requesting that paternity be established and a support award set.
- (10) in order for the applicant to fully comply with all phases of the requirements, he or she must:
- (a) provide the name of the alleged father;
 - (b) provide sufficient information to verify the identity of the person named, including the named person's: present address, past or present place of employment; past or present school attended, names and addresses of parents, other relatives or friends who can provide location information for the named person; telephone number, social security number, or other information that, if reasonable efforts were made by the agency, could lead to the named person being served with process;
 - (c) continue to provide all other relevant information that the applicant has that may be requested by the agency;
 - (d) appear at required interviews, conference hearings or legal proceedings, provided the person is notified in advance and illness/emergency does not prevent attendance; and (e) submit self and child to genetic tests.
- (11) circumstances beyond the control of the parent be defined to include:
- (a) failure of the agency to make reasonable and timely efforts to locate the person;
 - (b) instances in which the person cannot be located despite the agency's reasonable efforts because the person has disappeared or moved out of the country;
 - (c) instances in which the person has been located but the agency has failed to serve him with the legal papers;
 - (d) cases in which the agency or courts have failed to complete the legal process to establish paternity or set an award; or
 - (e) other cases in which the agency's or court's action or inaction has resulted in the failure to establish paternity or set an award.

- (12) the CSA or that portion of a CSA affecting a particularly child be provided to that child as long as he or she is under 18 years old, or if the child is still enrolled in high school, as long as he or she is under 19 years old.
- (13) the CSA be treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the state would send each CSA recipient a statement of the amount of CSA provided and private child support paid during the calendar year. If the CSA benefits exceed the support collected, the difference is taxable as ordinary income.
- (14) money collected from the noncustodial parent be distributed first to pay current support first, then CSA arrearages, then family support arrearages (see distribution section), then AFDC debts.
- (15) in cases of joint and/or split custody, a person is eligible for CSA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award would be below the minimum CSA benefit if the guidelines for sole custody were applied to either parent.

Additional Demonstrations

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

Under these demonstrations, States must:

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

V. SUPPORTS AND NONFINANCIAL EXPECTATIONS FOR NONCUSTODIAL PARENTS

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

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

Getting Fathers Involved Early in the Child's Life

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

Reexamination of Guidelines Issues by National Guidelines Commission

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

Modifications of Orders

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

Distribution Changes that Benefit Children and Provide Incentives for Fathers

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

Better Tracking of Payments to Avoid Build-up of Arrearages

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

NonCustodial Parents – Additional Proposals

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

APPENDIX

EFFECTIVE DATES FOR IMPLEMENTING HYPOTHETICAL REFORMS

In general

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

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

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

Effective Dates

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

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

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

37	Enforcement	
37	state enforcement law changes	Oct. 1, 1995
38	exception: imm. withholding in all IV-D cases	Oct. 1, 1996
38	exception: imm. withholding in all nonIV-D cases	Oct. 1, 1997
41	Tax deduction coordination	Jan. 1, 1996
42	Child Support Assurance Demonstrations	
	fed/state money for 6-10 demos	Oct. 1, 1995
	funding for advanced CS demos	Oct. 1, 1995
	funding for 2nd-wave demos	Oct. 1, 2000
	state interim reports	
	1st wave	Jan. 1, 1999
	2nd wave	Jan. 1, 2001
	state final reports	
	1st wave	Oct. 1, 2002-5
	2nd wave	Oct. 1, 2006-9
	Fed reports to Congress	
	1st wave	Apr. 1, 2005
	2nd wave	Apr. 1, 2009
	Fed administrative funding	Oct. 1, 1994
	Fed regs	Oct. 1, 1995

WR SPEC -
Child Support

DRAFT - JANUARY 24, 1994

CHILD SUPPORT ASSURANCE DEMONSTRATIONS

Rationale

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

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

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

Vision

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

Drafting Specs

up to?

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

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

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

- (1) the CSA program be administered by the state IV-D agency, or at state option, its department of revenue; in order to be eligible to participate in the CSA program, states must ensure that their automated systems that include child support cases are fully able to meet the CSA program's processing demands, timely distribute the CSA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSA cases.
- (2) states be provided flexibility in designing the benefit scales within the following parameters: at least two states shall provide benefit levels between \$1,500 per year for one child and \$3,000 per year for four or more children and two states shall provide benefit levels between \$3,000 per year for one child and \$4,500 per year for four or more children.
- (3) the CSA basic benefit amounts be indexed to the adjusted Consumer Price Index.
- (4) if a State chooses it may supplement the CSA basic benefit amount by paying the FMAP contribution of any supplement up to \$25, and all of any supplement over \$25.
- (5) the CSA benefit be counted as private child support for the purpose of eligibility for other government programs;
- (6) the CSA benefit be deducted dollar for dollar from an AFDC grant, except that in low benefit states, the Secretary shall have discretion to approve applications for programs with less than a dollar for dollar deduction. (Also, where CSA removes someone from the AFDC grant, states may, at their option, continue eligibility for other related benefits that would have been provided under the AFDC grant.)
- (7) ~~CSA eligibility be limited to children who have paternity and support established. (Waivers from this requirement may be granted only in cases of rape, incest, danger of physical abuse, or other circumstances that the state deems beyond the control of the recipient if such circumstances are approved by the Secretary.)~~
- 8) the CSA or that portion of a CSA affecting a particularly child be provided to that child as

?

random assignment benefit

Why not other states?
Too broad

long as he or she is under 18 years old, or if the child is still enrolled in high school, as long as he or she is under 19 years old.

- 9) the CSA be treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the state would send each CSA recipient a statement of the amount of CSA provided and private child support paid during the calendar year. If the CSA benefits exceed the support collected, the difference is taxable as ordinary income.
- 10) money collected from the noncustodial parent be distributed first to pay current support, then CSA arrearages, then family support arrearages (see distribution section of enforcement), then AFDC debts.
- 11) in cases of joint and/or split custody, a person is eligible for CSA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award would be below the minimum CSA benefit if the guidelines for sole custody were applied to either parent.

Additional Demonstrations

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

Under these demonstrations, States must:

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES
ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

WR-
SPECS
(Child Support)



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Number of Pages + cover 5

REMARKS: Additional materials

DRAFT - January 7, 1994 - for discussion only

CHILD SUPPORT ENFORCEMENT AND NONCUSTODIAL PARENTS II.

Discussion Issues

1. Paternity Performance Measurement

Issue: What should be used to measure paternity establishment performance?

Currently, paternity performance is measured by comparing the number of IV-D paternities established each year to the number of IV-D cases in which paternity needs to be established (almost exclusively welfare cases). If our goal is to establish paternities for all out-of-wedlock births and to provide performance based incentives to encourage states towards that goal, then we need to measure the number of paternities established against all out-of-wedlock births.

Birth records are maintained by state vital statistics agencies. All but six states currently record marital status at the time of the birth. However, two of the six states that do not record this information are New York and California.

Options:

1. Require all states to keep the same records and record marital status. % of
or Soc. Sec. #'s
2. Leave the vital statistics data as it is and accept current estimation techniques (based on name comparison) that determine the out-of-wedlock births in the six states. (This could make it difficult to legally defend incentives that might be provided for states.)
3. Use a national survey to measure state paternity performance. For instance, a greatly augmented SIPP could yield state specific data on out-of-wedlock births and paternity establishment. (The Census Bureau opposes this idea and the data collected may be suspect.)

Recommendation: Go with option 1.

MJB: 2 measures: Soc. Sec. #s / births
+ IV-D / births

2. Cooperation and Program Eligibility

Issue: Should the cooperation requirement for establishing paternity be extended to other programs?

Currently, cooperation is a requirement for eligibility for the AFDC and Medicaid programs. Cooperation could also be required as a condition of eligibility for other programs such as housing assistance, child care tax credits, and the children's exemption. (We are not considering extending the cooperation requirement to food stamps since it was decided to preserve food stamps as a basic safety net.) **WARNING:** This is a very hot issue with women's groups who are very much opposed to extending the cooperation requirement to other programs.

Count housing benefits as part of penalty

Options:

- 1. Do not extend cooperation requirements to other programs.
- 2. Extend cooperation requirements to housing assistance only, on the basis that it is not an entitlement program and there is often a waiting list for assistance.
- 3. State option to extend the requirement to other programs.

Recommendation: Option 1 preferably, possibly option 2.

3. Paternity Establishment Incentives

Issue: Should there be financial incentives for parents to encourage paternity establishment?

The proposal gets much tougher on requiring paternity establishment both by imposing a much stricter cooperation requirement and tougher sanctioning policies. This stick approach could be balanced by also trying a carrot approach in the form of offering financial incentives.

Options:

- 1. State flexibility and PFP for financial incentives.
- 2. Demonstrations of incentive approaches such as replacing the \$50 pass-through with a \$50 bonus in the AFDC grant if paternity is established. *maybe*
- 3. \$50 bonus in the AFDC grant for all states.

Recommendation: Options 1 and/or 2, Option 3 if other welfare reform savings permit.

4. New Hire Reporting

Issue: Should self disclosure be part of new hire reporting?

There are two major alternatives for operation of the new hire reporting requirements. Under both alternatives, the fact of hire is reported to the Federal New Hire Directory, matched against the National Registry and hits are pointed back to the state. One alternative is for employers to report the fact of hire only. If employers had to report within ten days of hire, employers could be informed of the wage withholding order within two to three weeks of hire. Still, there would be some delay and some short term employees could escape the wage withholding.

A shorter period of time for employers to report could shorten the period of time to get a wage withholding order in effect. However, based on the experience of states with new hire reporting, employers will push for at least ten to fourteen days to report the fact of new hire because most employers use payroll firms, which may not find out about the new hire until a week or more after the actual hire. Very short reporting periods also mean paper reports coming directly from the employer rather than by electronic means from the payroll firms.

Alternatively, employees could be required to self disclose the existence of a child support obligation at the time of hire (through an amended W-4 or simply by a requirement of disclosure). Employers would then immediately withhold the amount of support that the employee disclosed and forward it to the obligee (or alternatively, hold it in escrow until notified by the child support agency where to send the payment). The advantage of this approach is that the withholding starts from the very first paycheck (if the employee honestly reports the obligation). The disadvantage is that it is more difficult administratively. Employers may not be informed of the right amount to withhold or the right place to send the money and therefore there would be mix-ups because of wrong addresses, etc. If escrow accounts were required, this might also be considered an imposition on small employers.

Options:

- 1. Require disclosure.
- 2. Report fact of hire only. *voluntary*
- 3. Allow employer option of reporting within 48 hours or requiring self disclosure and escrowing the money.

Recommendation: Slight preference for option 2.

5. License Suspension

Issue: Should the driver's or professional and occupational licenses of those who fail to pay child support be withheld or

suspended pending compliance with the support order?

Some states have recently adopted procedures whereby the professional and occupational licenses, and in some states, drivers' licenses, of those who fail to pay child support can be withheld or suspended. States that have implemented such procedures are reporting very successful results. Many persons, especially the self employed, who have escaped payment in the past are paying up. Preliminary cost estimates suggest that it could result in very significant federal savings. In practice there is a high response rate to warning letters that are sent out and with due process protections very few people actually have their licenses taken away. On the other hand, this is controversial because it does hit some of the higher paying obligors, even doctors and lawyers, who have more political clout.

Options:

1. Provide for suspension or withholding of both driver's and professional and occupational licenses.
2. Provide for suspension or withholding of only driver's or only professional and occupation licenses.
3. Do not suspend or withhold licenses.

Recommendation: Option 1

6. Prescriptiveness of proposal

Issue: Should the number of state requirements be reduced?

Twenty-five state requirements were deleted from the previous draft. These include:

- o participation by hospitals in in-hospital paternity establishment as a condition of Medicare or Medicaid
- o requiring states to provide multiple opportunities to acknowledge paternity
- o procedures for opportunities to voluntarily submit to testing before being ordered
- o bonuses for paternity establishment
- o new timeframes for establishment of paternity
- o preventing re-litigation of parentage
- o eliminating laws making it a crime to father child out-of-wedlock
- o changes to opt-out for wage withholding
- o deleting three state requirements for the unified program enhanced FFP
- o staffing standards
- o location of child support programs



- o state requirements for self-disclosure
- o deletion of four service of process requirements
- o due process requirements for license revocations
- o deleting four interstate requirements regarding wage withholding
- o health care coverage changes
- o tax deduction change eliminated

In addition, numerous requirements were simplified or modified.

Many of the requirements apply to only a relatively small percentage of cases or states. However, the cumulative effect of reducing state requirements is to: (1.) make the system much less efficient since many provisions are designed to streamline or make procedures more uniform, or (2.) preserve loopholes through which individual can escape or delay payment of their child support obligations. If the goal is to make the payment of support truly inescapable, all loopholes need to be closed. It is also extremely difficult to hold states to tough paternity establishment standards and timeframes unless they have the tools to establish paternities quickly.

On the other hand, the need for prescriptiveness needs to be weighed against the concern that there are too many mandates.

Options:

1. Go with the approximate level of mandates that are in the current proposal.

2. Cut deeper into the number of mandates. Items that have been identified as of relatively low priority include:

- o abolishing jury trials for paternity cases unless required by state constitutions
- o commencement of paternity actions prior to birth in appropriate cases couple with expedited procedures for genetic tests after birth
- o challenges to genetic testing results resolved initially by retesting
- o temporary support ordered if paternity is contested pending resolution of the case
- o easier admission into evidence of costs in paternity cases
- o extending statute of limitations for collection of child support arrearages
- o preventing fraudulent transfers to avoid payment of support

Recommendation: Option 1.