

Return to OCSE Home Page

DHHS Fact Sheet

Child Support Enforcement: A Clinton Administration Priority

November 14, 1996. Contact: ACF Press Office
(202) 401-9215.

Child Support Enforcement: A Clinton Administration Priority

Existing Child Support Programs

The goal of the Child Support Enforcement (CSE) program, established in 1975 under Title IV-D of the Social Security Act, is to ensure that children are supported financially by both parents.

Designed as a joint federal, state, and local partnership, the program involves 54 separate state systems, each with its own unique laws and procedures. The program is usually run by state and local human service agencies, often with the help of prosecuting attorneys and other law enforcement officials as well as officials of family or domestic relations courts. At the federal level, the Department of Health and Human Services provides technical assistance and funding to states through the Office of Child Support Enforcement and also operates the Federal Parent Locator System, a computer matching system that locates non-custodial parents who owe child support.

Despite recent record improvements in paternity establishment and child support collections, much more needs to be done to ensure that all children born out-of-wedlock have paternity established and that all non-custodial parents provide financial support for their children. Currently, only about one-half of the custodial parents due child support receive full payment. About twenty-five percent receive partial payment and twenty-five percent receive nothing.

For that reason, President Clinton proposed, and Congress passed, legislation to strengthen and improve state child support collection activities. These provisions, included in the Personal Responsibility and Work Opportunity Act of 1996, could increase child support collections by \$24 billion over 10 years: a national new hire reporting system, streamlined paternity establishment, uniform interstate child support laws, computerized state-wide collections, and tough new penalties, such as driver's license revocation.

Clinton Administration Increases and Innovations

President Clinton has made improving child support enforcement and increasing child support collections a top priority. Since taking office, President Clinton has cracked down on non-paying parents and strengthened child support enforcement, resulting in record child support collections:

In fiscal year 1996, the federal-state partnership collected \$11.8 billion from non-custodial parents, an increase of \$4 billion, or nearly 50 percent, since 1992.

Executive Action: While working toward comprehensive improvement of

child support enforcement, President Clinton has used his executive authority to increase child support collections. Since taking office, President Clinton has directed the Treasury Department to activate a centralized, streamlined Federal system to offset child support debts against most Federal payments; ordered Federal agencies to take necessary steps to deny loans, loan guarantees, or loan insurance to any individual who is delinquent on child support debt; implemented a new program that will help track non-paying parents across state lines; proposed new regulations requiring women who apply for welfare to comply with paternity establishment requirements before receiving benefits; and issued an executive order to make the federal government a model employer in the area of child support enforcement.

Increasing Resources. President Clinton has proposed annual expansions in child support enforcement, increasing resources by 32 percent since taking office. HHS has also launched an initiative and given demonstration grants to states to promote improved performance, service quality and public satisfaction in the child support program.

Prosecuting non-payers. Billions of dollars more in support is owed to children whose parents have crossed state lines and failed to pay. The Justice Department is investigating and prosecuting cases where parents cross state lines to avoid payment under the Child Support Recovery Act. At President Clinton's direction, the Justice Department submitted legislation to Congress in September 1996 that would make it a felony offense to cross state lines to evade a child support obligation if the obligation has remained unpaid for longer than one year or is greater than \$5,000; or to willfully fail to pay a child support obligation for a child living in another state if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000.

New Hire Program Success. On June 18, 1996, President Clinton announced a new national program to track parents who owe child support across state lines. Under the program, states send their new hire information to the Department of Health and Human Services (HHS). The state information is then matched by computer against lists of non-paying parents sent to HHS from all the states. This information is then sent back to the states so they can issue a wage garnishment order and send it to the delinquent parent's employer. On September 28, 1996, President Clinton announced that preliminary data from 17 states show that the program has already located over 60,000 delinquent parents. Of these, 35,000 were parents who owed support to mothers and children on welfare.

Seizing tax refunds. The Federal government collected a record of over \$1 billion in delinquent child support by intercepting income tax refunds of non-paying parents for tax year 1995. The amount was 23 percent higher than the previous year, and up 51 percent since 1992.

Improving paternity establishment. The Clinton Administration has made paternity establishment a top priority. In FY 1996, approximately 800,000 paternities were established, an increase of over 50 percent since 1992. In 1993, the Clinton Administration proposed, and Congress adopted, a requirement that states establish hospital-based paternity programs as a proactive way to establish paternities early in a child's life. Preliminary data from thirty-one states indicates that more than 200,000 paternities were established through the program in 1995.

U.S. Postal Service Posts "Wanted Lists." The U.S. Postal Service is working with states to display "Wanted Lists" of parents who owe child support in post offices. Each state that has such a list will

be able to provide it to the Postal Service, and the list will be displayed in post offices within that state. The President has also challenged every state to create a "Wanted List" to expand efforts to track down parents who owe support and send the strongest possible message that evasion of child support responsibilities is a serious offense.

Action through the Internet. HHS's Office of Child Support Enforcement now has a home page on the Internet that provides information on the child support enforcement program, tells parents where they can apply for child support assistance, and provides links to states that have their own home pages (currently 24).

State Flexibility. Since taking office, the Clinton Administration has granted welfare reform waivers to a record 43 states -- more than the previous two administrations combined. Thirty-three states are already pursuing innovative child support enforcement initiatives under waivers approved by the Clinton Administration.

Improvements Under the Personal Responsibility and Work Opportunity Act of 1996

At President Clinton's urging, the new welfare reform law includes the child support enforcement measures the President proposed in 1994 -- the most sweeping crackdown on non-paying parents in history. Under the new law, each state must operate a child support enforcement program meeting federal requirements in order to be eligible for Temporary Assistance to Needy Families (TANF) block grants. Provisions include:

National new hire reporting system. The law establishes a Federal Case Registry and National Directory of New Hires to track delinquent parents across state lines. It also requires that employers report all new hires to state agencies for transmittal of new hire information to the National Directory of New Hires. This builds on President Clinton's June 1996 executive action to track delinquent parents across state lines. The law also expands and streamlines procedures for direct withholding of child support from wages.

Streamlined paternity establishment. The new law streamlines the legal process for paternity establishment, making it easier and faster to establish paternity. It also expands the voluntary in-hospital paternity establishment program, started by the Clinton Administration in 1993, and requires a state affidavit for voluntary paternity acknowledgment. These affidavits must meet minimum requirements set by the Secretary of HHS. In addition, the law mandates that states publicize the availability and encourage the use of voluntary paternity establishment processes. Individuals who fail to cooperate with paternity establishment will have their monthly cash assistance reduced by at least 25 percent.

Uniform interstate child support laws. The new law provides for uniform rules, procedures, and forms for interstate cases.

Computerized state-wide collections. The new law requires states to establish central registries of child support orders and centralized collection and disbursement units. It also requires expedited state procedures for child support enforcement.

Tough new penalties. Under the new law, states can implement tough child support enforcement techniques. The new law will expand wage garnishment, allow states to seize assets, allow states to require community service in some cases, and enable states to revoke driver's and professional licenses for parents who owe delinquent child

support.

"Families First." Under a new "Family First" policy, families no longer receiving assistance will have priority in the distribution of child support arrears. This new policy will bring families who have left welfare for work about \$1 billion in support over the first six years.

Access and visitation programs. In an effort to increase noncustodial parents' involvement in their children's lives, the new law includes grants to help states establish programs that support and facilitate noncustodial parents' visitation with and access to their children.

LEGISLATIVE IMPLEMENTATION GUIDE

LIENS

Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) Public Law 104-193, Section 368

Draft: 11/8/96

Workgroup:

Dennis Minkler (212) 264-8913

Vince Herberholt (206) 615-2252 x3043

Jeff Ball (202) 401-5427

DRAFT

A. Description of Provision

Under the PRWORA of 1996, States must have procedures under which:

- (a) liens arise by operation of law against real or personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and
- (b) the State accords full faith and credit to liens arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or serving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to enforcement of such a lien.

Effective Date: This provision is effective October 1, 1996 unless State legislation is needed to implement it. In the latter case, States have a grace period of until the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of the Act, with each year of a two-year legislative session deemed as a separate regular session.

B. Variation Among States

Because the lien requirements in the PRWORA are new, there are few, if any, State laws that provide examples of the new provisions.

State laws on the intrastate use of liens vary widely and this diversity will have an impact on implementation of § 368 of the PRWORA. For example, some States require that a certain dollar amount of debt, or dollar amount of property equity must exist before a child support lien can be imposed. Other States only permit the child support lien to be imposed on titled property. States such as Connecticut and North Dakota have administrative guidelines that clarify when it is useful to place liens on nonvehicular property. State procedures for actually imposing a lien are also very diverse. In some States, liens take effect when, a judgment, decree or order

establishing a support order is entered; in others when the clerk of the court enters a copy, abstract or cross-reference of the order on a lien registry, or transmits information to a Statewide central registry. Some States have specific laws for child support liens that allow incremental growth of the amount of the encumbrance when each support payment becomes past-due by operation of law. In some States, priority for each installment's lien is based on the date it was imposed or added to the original lien.

In some States, such as New Jersey, automation plays an important role in imposing and executing liens. In a seven month period, New Jersey collected over \$750,000 through a automated judgment system that real estate title companies and attorneys use to discover outstanding debts of obligors who are attempting to buy, sell or refinance property. Liens are filed centrally, and title searchers and real estate attorneys from any jurisdiction in the State only need to conduct their searches in the Superior Court Clerk's Office in Trenton. An added benefit is that the automated filing system has conserved valuable clerical and court time previously used to obtain and process fixed money judgments.

C. Rationale

Liens are legal claims used to secure compliance with unpaid judgments. The lien process under PRWORA is a powerful enforcement tool because it prevents the obligor from selling property and pocketing proceeds without first satisfying unpaid child support. The defaulting parent also must consider the potential threat of a forced sale unless the underlying child support debt is paid. Because the lien arises by operation of law, there is no additional step that must be taken to place the lien on the property, such as reducing the past due amount to judgment. The new law confers the authority to transfer the lien to property located in other States for the same value as that on in-State property, and the second State must recognize the reach of the first State's lien on the property of the defaulting parent located in the second State.

D. Critical Elements to Consider When Drafting Lien Legislation

What is a lien? A lien restricts the property owner's ability to transfer property and retain all of the proceeds from the transfer. It is intended to prevent the transfer of property if the owner has outstanding debts against it that have been duly recorded or noted. In some cases the transfer cannot take place without the lienholder's approval (the property and its lien are transferred). Liens are usually based on the timing of the filing of the lien, giving the lienholder a superior claim to those who file liens afterwards. Occasionally, a lienholder will seek a forced sale of the property to satisfy the lien.

How does this lien arise and what does it cover? A lien that arises by operation of law means that a lien attaches as soon as child support becomes past due. The lien encumbrance amount equals the amount of the judgment, i.e., the past-due child

support amount. The lien is against real land, or personal property such as cars, boats, stocks and bonds, lottery proceeds, lawsuit judgments, or insurance settlements.

Whose property is covered? The lien attaches to property owned by a noncustodial parent who resides or owns property in the State. Practically speaking, liens are most effective when titled property is encumbered; where notice of the lien is apparent to purchasers through an open registry; or when they can be applied through automated methods on lump sum assets or proceeds.

What is full faith and credit regarding liens? Liens that lawfully arise in one State are to be recognized in another State, for the same encumbrance value as the lien has in the State of origin.

E. Talking Points

Liens work best when they pressure the delinquent obligor to pay off the debt. The goal of the lien process, similar to license restriction and revocation, is to encourage obligors to pay child support, not to take away property. Actual execution of the lien can be avoided by payment of child support arrearage.

The expanded use of liens is an excellent way to increase collections from obligors who are self-employed, working "under the table" for cash, or working for companies that do not report wages to the State Employment Security Agency.

The use of asset information obtained from Project 1099 has helped many States to effectively increase the use of liens.

F. What to Anticipate During the Legislative Process

Every State already has procedures for establishing and executing on liens, it is not envisioned that the new requirements will meet with significant opposition. The less centralized or automated a State's lien network, the more opposition the provision is likely to face, because it will require more State resources to implement it. States however, may take this opportunity to identify legal and procedural barriers that currently exist in the use of liens as an enforcement tool and enact legislation to overcome these barriers.

G. News Articles/Sample Press Releases

Interstate Commission Report section on liens, please see attached.

H. Cost/Benefit Analysis Ideas

The new law provides that liens arise by operation of law, so the cost of using liens should decrease. The costs related to perfecting and serving notice of the lien need to be considered however.

I. Impacted Groups (Non-Governmental)

Father's Groups
Bar Associations
Judicial Societies
Real estate industry
Title companies

J. Government Agencies Affected

IV-D Agencies
Courts
County Clerk's/Title offices

K. Contacts

OCSE: Dennis Minkler (212) 264-8913
Jeff Ball (202) 401-5427

DRAFT

Centralized Collection and Disbursement

Contact: Mary Cohen
(202) 401-5338
e-mail: macohen@acf.dhhs.gov

A. Description of Provision

A centralized collection and disbursement unit provides a single, automated process to collect and disburse child support payments by:

- o generating withholding orders and notices to employers;
- o accurately identifying payments;
- o promptly disbursing money to custodial parents or other payees; and,
- o furnishing parents with a record of support payment status.

Each of the major welfare reform bills under consideration over the last couple of years have included a mandate for such a process. Several of these would allow linkage of local disbursement units through an automated information network in lieu of a single, central collection unit, to the extent such approach would not cost more or take more time to establish.

B. Variations Among States

Almost 20 States now collect and distribute child support payments through a process of centralized collection and disbursement or are in the planning stage to do so. Practices vary in these States depending mainly on whether the child support program is State or county administered.

A number of States opting for centralized collections and disbursement contract with private fiscal agents. A significant benefit of this arrangement is that private fiscal agents may be able to more flexibly allocate staff when needed to cover peak collection and disbursement cycles. There is evidence that this may enable them to perform the functions at a considerably lower cost.

Colorado and New York are both county administered programs that were required by State statute to pilot centralized collection and disbursement prior to full implementation (statutes attached). In both States, payment processing is conducted under contract to a

fiscal agent and local CSE units maintain control of the information while taking advantage of technology and economies of scale to enhance productivity.

Under this arrangement in New York, noncustodial parents and employers send child support payments directly to the fiscal agent who, in turn, records the information and transmits it electronically to the State system for purposes of updating the collection records and performing distribution. The system then provides an electronic datafile to the fiscal agent containing the disbursement information needed to print and mail support checks.

The process in State administered programs is usually more straight-forward. In the Massachusetts central collection and disbursement process, for example, all child support is paid to the Department of Revenue's central office where all child support records are maintained and all disbursements are made. Iowa has a similar arrangement except certain payments may be made directly to the county who, in turn, must send them to the central collections service center (IA statute attached).

In other States, like Alaska and the District of Columbia, centralized collection and disbursement arrangements are simply a matter of organizational expediency -- DC has only one office and Alaska only accepts payment at its central office due to unique geographic considerations.

It is important to acknowledge that States' ability to obtain necessary resources may impact their establishment of a centralized collection and disbursement process. However, automated collection and disbursement may actually prove beneficial to States with limited resources by freeing staff to concentrate on other case-related functions.

C. Rationale

Centralized collection and disbursement processes are more efficient than decentralized approaches. Centralization prevents delays in recording and processing of payments; eliminates redundant and fragmented processes, providing more efficient use of State and county resources; and eliminates or reduces inconsistent records which cause disbursement errors and inconsistent procedures and operations among local offices within a State.

In addition, under a centralized approach to collection and disbursement, payment of support by noncustodial

parents or employers does not have to be made to a wide variety of agencies, institutions and individuals, which is very burdensome and costly.

Centralized collection and disbursement assists States in handling growing caseloads and simplifies the withholding process for employers by eliminating the need for them to send checks to multiple entities. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial parent population, the need for one central location to collect and disburse support payments in a timely manner has intensified. Simplification for employers will become increasingly significant as the number of UIFSA States increase, producing a parallel increase in direct withholdings.

Designation of a single point within a State to receive, account for and distribute child support payments allows States to more effectively handle large numbers of payments, maintain internal controls and decrease the risk of errors and delays in getting payments to custodial parents and children. And, although it is not the focus of this discussion, centralized collection and disbursement processes can accommodate payment monitoring and automated enforcement remedies.

D. Critical Elements

The authority to operate a centralized collection and disbursement unit for child support does not always require State legislation. However, because of political and jurisdictional issues associated with these processes, especially with respect to county administered programs, a legislative foundation may be desirable, if not imperative to combat opposition. For similar reasons, the legislation may need to provide a mechanism for incremental implementation through a pilot or demonstration approach, as has been the experience in other States.

Legislation or procedures to create an effective central collection unit should include three essential elements:

1. All support payments must be made to the central collection unit to allow the IV-D agency to control operation of the function, including payment receipt, distribution and disbursement. This is generally referenced in State title IV-D statutes as requiring payment through the State child support enforcement agency but the statute may specifically reference a central depository.

Statutory language of this nature is especially important where payments go through a Clerk of the

Court and need to be forwarded to the central collection and disbursement unit.

2. Support orders must be required to contain sufficient information to identify the parties involved and to allow the information to be kept current to ensure accurate receipt of payments and disbursements.
3. The central collection unit must have authority to forward (disburse) support collected quickly. State legislation might expressly provide a turn-around timeframe for payment disbursement.

In addition, while not necessarily needed in the statutory language, there are several other important considerations:

1. The central collection unit must be computerized and utilize electronic funds transfer (EFT) and a voice response unit (VRU) for customer service and should generate the notice of collection of assigned support;
2. The State should have sufficient State staff, or contractor staff reporting directly to the State, to handle the function quickly; and
3. The process should be capable of monthly billing of noncustodial parents except when income withholding is in place.

E. Talking Points

- o A centralized collection and disbursement process for child support increases accuracy and speed in getting support payments to custodial parents and their children. Parents who opt for direct deposit could have their share of the support deposited almost immediately. The process is also beneficial to ensuring that support payments are recorded, distributed, and disbursed in a consistent manner throughout the State.
- o Central collection and disbursement is critical to effectively monitor payments and for mass case processing using automation. Centralized collection could also facilitate the calculation of arrearages because it would provide a record of payments that is often otherwise fragmented or inconsistent.
- o Consolidating the support collection and disbursement function at the state level permits county and local staff to be redirected to other

essential client services.

- o A centralized collection process simplifies withholding for employers because they are able to send withholding to one location instead of numerous county clerks or agencies.
- o Collection and disbursement is accomplished based on economies of scale. This allows for the purchase of more sophisticated processing equipment than many counties could individually purchase and for more efficient use of resources because duplication and functional redundancy are eliminated (e.g., it is no longer necessary to maintain two sets of books).
- o Finally, State governments utilizing a centralized collection and disbursement process are able to credit their AFDC reimbursement accounts quickly.

F. What to Anticipate in Legislative Development Process

As indicated above, attempts to establish a centralized collection and disbursement unit for child support enforcement may be resisted because of political and jurisdictional issues. To avoid or lessen these issues, it is important to eliminate the perception that information control will be taken away from the local levels.

In New York, for example, electronic equipment and information technology were combined to achieve the benefits of a centralized approach while at the same time providing local Districts with information control and the semblance of funds control. In effect, this allows the State to achieve the benefits of centralized collection and disbursement while allowing the local elected officials to retain signature authority on agency disbursements.

G. News Articles/Sample Press Releases

None identified.

H. Cost/Benefit Analysis Ideas

Centralized collection and disbursement should reduce administrative costs. Fewer support staff are required to maintain a centralized collection and disbursement process than to maintain a collection and disbursement process in every local county clerk's office.

Consolidation of the collection and disbursement functions at a central location would free up local workers to concentrate on investigative establishment and

enforcement activities. Colorado's centralized collection and disbursement unit also siphoned off tens of thousands of calls that would otherwise go to the local office.

In addition, reduced administrative and data processing costs will result from a single (versus multiple) bank reconciliation process.

Evaluation Research Association, Inc., an independent evaluator of the centralized collection and disbursement pilot project in New York, concluded that the State's centralized process was a more cost effective method of operating than decentralization and met a higher standard of accountability and performance.

A cost-benefit analysis was conducted by comparing costs for performing collection and disbursement functions and operating effectiveness based on measures of accuracy, timeliness and accountability. The results indicated that the State could anticipate \$1.1 million in annual savings from the centralized approach. However, the evaluator also concluded that it would cost 45 percent more for the Department of Social Services in New York to operate the centralized collection function than the privately contracted fiscal agent.

Colorado also attributed a significant increase in collections directly to implementation of its centralized approach.

I. Key Non-governmental Groups Input

Employers and payroll associations might have an interest in helping a State advance the necessary legislative changes, given the vested interest they would have in its implementation.

J. Governmental Agencies Input

It has been the experience of other States attempting to pursue a centralized collection and disbursement unit for child support that the clerks of the court and local child support agencies may be resistant and should be included in the design. In addition, because of the central collection unit's interface with other State agencies, it may be beneficial to solicit their support as well.

K. Contacts

Craig Goellner - Colorado (303) 866-5728
Jim Wimet - New York (518) 473-0574 (listed in CSR)

DRAFT

LEGISLATIVE IMPLEMENTATION GUIDE

EXPEDITED PROCEDURES

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 Public Law 104-193, Section 325 of PRWORA

Draft: 11/05/96

Lead Drafter: Carol Downs (816) 426-3584 x156

Team Member: Jeff Ball (202) 401-5427

A. Description of Provision

Section 325 of the PRWORA lists the new expedited procedures requirements, as codified at section 466(c) of the Social Security Act (42 USC 666(c)). This subsection gives the State agency the authority to take the following actions relating to establishment of paternity or to establishment, modification or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of other State's agencies to take the following actions:

1. Order genetic testing;
2. Subpoena financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to a subpoena.
3. Require all entities in the State (including for-profit, non-profit, and governmental employers) to promptly provide information on the employment, compensation, and benefits of any employee or contractor, in response to the State's request, or that of another State, and to sanction failure to respond to such requests.
4. Obtain access (subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford access to information)
 - a. to the following State and local government records:
 - o vital statistics,
 - o State and local tax files,
 - o real and titled personal property,
 - o occupational and professional licenses and business information,
 - o employment security agency;
 - o public assistance agency,
 - o motor vehicle department,
 - o department of corrections;
 - b. and to records of private entities for individuals who owe or are owed support, or against whom a support obligation is sought, consisting of:
 - o names and addresses of these individuals and their employers as they

- o appear in customer records of public utilities and cable television companies pursuant to administrative subpoena, and
 - o information held by financial institutions, including asset and liability data.
5. Direct the obligor or other payor to change the payee to the appropriate government entity when there is a TANF or Medicaid assignment, or when support is subject to payment through the State Disbursement Unit (new section 454B).
 6. Order income withholding.
 7. Secure assets to satisfy arrearages by:
 - a. Intercepting lump-sum payments from:
 - i. a State or local agency, including unemployment compensation, workers' compensation, and other benefits;
 - ii. judgments, settlements, and lotteries;
 - b. Attaching and seizing assets of the obligor held in financial institutions;
 - c. Attaching public and private retirement funds; and
 - d. Imposing liens and when appropriate, forcing the sale of property and distributing proceeds.
 8. Increase the monthly support payments to include amounts of arrears.

These procedures are subject to due process safeguards, including requirements for notice, opportunity to contest and opportunity to appeal on the record to an independent administrative or judicial tribunal.

Effective Date: This provision is effective October 1, 1996. If State legislation is needed to implement it however, States have a grace period until the first day after the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of the Act, with each year of a two year legislative session deemed as a separate regular session.

B. Variation among States

Washington State, Virginia, Maine, and Missouri have had expedited procedures through administrative process for several years. Some of the more common administrative powers are: income withholding, genetic testing, administrative subpoenas, and changing payees. Massachusetts is one of the few non-administrative process States with

administrative power to levy on assets.

California law requires its State income tax agency, the Franchise Tax Board (FTB), to establish a child support collection program and to use the FTB's automated systems and collection powers as a State taxing authority to collect child support arrears. The collection process begins when county district attorneys refer child support cases to the FTB that are delinquent for 30 days or more with balances greater than \$100. The district attorneys issue a demand for payment notice to the obligor, and if the obligor does not pay the obligation or enter into an approved payment agreement with the FTB, the FTB's automated system issues levies (not limited to intrastate) against bank accounts, wages, and other sources of income. If a levy attaches to bank accounts, the obligor has 10 days to pay the support, before the bank forwards the money to the FTB. The FTB has authority to seize both real and personal property, including vacant land, cash, safe deposit boxes, vehicles, and boats. The FTB forwards any sums it collects to the district attorneys for accounting and disbursement.

C. Rationale

Courts that hear child support matters often have huge caseloads leading to delays in processing cases, and ultimately, to children receiving the child support they deserve. Ordering genetic testing, obtaining financial or other information, issuing income withholding orders, and attaching assets, can and does prolong child support establishment and enforcement efforts by months. When the authority to take such actions is given to the State agency instead, delays can be reduced or eliminated.

Courts in judicial process States still have the same adjudicatory power they had before welfare reform regarding establishing orders, but now the pre-hearing discovery and post-judgment enforcement steps, which are generally ministerial, can be taken quickly.

D. Critical Elements

State due process must still be met, usually including a referral to court for ultimate adjudication of a disputed issue.

Access to State and local government records is subject to safeguards on privacy and information security.

Penalties may be imposed for failure to respond to subpoenas for financial or other information needed to establish, modify, or enforce a support order.

E. Talking Points

Expedited processes can improve child support case processing times and reduce the caseload on overburdened courts.

In an administrative process State, this section should complete a package of

administratively-available tools that do not need court ratification before their use; in a judicial State, this section should carve out from the Court's responsibilities certain administrative tasks done in support of establishing, modifying and enforcing an order.

Although the judiciary initially opposed expedited administrative processes in States that now have them, many judges have found that such processes allow them to have more time to address other issues.

Because the judiciary may resist having some of their powers transferred to an executive agency, effective and accurate communication with court administrators and judges is important.

F. What to Anticipate in Legislative Development Process

States should anticipate resistance from the judiciary and court administrators' organization to expedited processes. States may want to point out that such procedures will reduce the caseload on overly burdened courts, and allow judges to spend time on other matters.

G. News Articles/Sample Press Releases

None identified

H. Cost/Benefit Ideas

The ultimate goal of the child support program, getting child support to children who need it, will be accomplished more rapidly, meaning payments will begin sooner. Local workers, by not having to go to court, will have more time to concentrate on investigative establishment and enforcement activities. Judges will have more time to devote to other cases.

I. Impacted Groups (Nongovernmental)

Parental rights advocacy groups
Employers and Other Withholders of Income
Financial institutions
Private bar (lump-sum settlements and judgments)
Insurance companies

J. Governmental Agencies Affected

Clerks of court
The judiciary
IV-D Agencies
Government agencies with data bases that may be matched with IV-D data

K. Contacts:

Iowa - Patricia Hemphill - (515) 242-6265

Missouri - Dan Joyce - (573) 751-4301

Washington State - Michael Ricchio - (360) 586-3507

DRAFT

DRAFT

LEGISLATIVE IMPLEMENTATION GUIDE

ADMINISTRATIVE ENFORCEMENT

Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Public Law 104-193, Section 323

(to be codified at 42 U.S.C section 666(a)(14))

Draft 10/11/96

Workgroup:

Vince Herberholt, ROX, (206) 615-2552 x3043

J. P. Soden, ROIX, (415) 437-8423

Chuck Kenher, ROI, (617) 565-2477

Jeff Ball, CO, (202) 401-5427

A. Description of Provision

This provision requires States to have procedures in place under which, a State sends to another State, through electronic or other means, a request for help in enforcing a support order. The request must contain enough information to allow the State to which the request is made to compare the information about the case to the information in the State data bases. The request also constitutes a certification of the amount of support that is in arrears, and that the requesting State has complied with all procedural due process requirements appropriate to the case.

Within five (5) business days of receipt of the request under this section, the responding State must respond to the requesting State. A response may not only be an acknowledgment of receipt but may also include information regarding the enforcement attempts taken or contemplated as of the acknowledgment date.

Under this provision, if administrative enforcement assistance is provided neither State shall consider the case to be transferred to the caseload of the responding State. Although administrative enforcement action under this section does not result in a transferred "new" case file in the responding State, the responding state must keep a record of the following data:

1) the number of such requests for assistance received by the State; 2) the number of cases for which the State collected support in response to such a request; and 3) the amount of such collected support.

Effective Date: This provision is effective October 1, 1996. If State legislation is needed to implement it however, States have a grace period until the first day after the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act, with each year of a two-year legislative session deemed as a separate regular session.

B. Variations Among States

Although this enforcement tool does not exist in its statutory form in any State, there are analogous provisions in State law in Massachusetts and Alaska that provide liens or State tax benefit offsets as a limited procedure at the request of another State. No State's law is as comprehensive as this section, primarily because of a lack of: 1) automated access; 2) reciprocal authorization between responding and requesting States; 3) case status issues; and 4) unfamiliarity with the concept.

In a process that somewhat resembles the PRWORA provision, Massachusetts matches case information from neighboring States of obligors who live in communities bordering it. Massachusetts then matches those cases against its financial institution and new hire data bases. When there are matches, or "hits," they are reported back to the other State and appropriate interstate enforcement actions are initiated. Massachusetts then levies on financial assets belonging to the obligors. Massachusetts' law also allows it to take a similar approach in intrastate cases. The IV-D agency is empowered to periodically match IV-D cases in arrears with financial institution's data, then administrative levies are filed against matched financial assets, which are later paid to the child support agency. (See Mass. General Laws ch. 62E §§3-4, 11-14, and Massachusetts Department of Revenue Directive 94-10 explaining the match requirements to financial institutions, attached).

Alaska compares IV-D information with their Permanent Fund Dividend disbursements, identifies matches and then simultaneously attaches the dividend payment for disbursement to the child support agency.

C. Rationale

Administrative enforcement is designed to remove the delays inherent in interstate child support enforcement that occur even with the improvements under UIFSA and other parts of the PRWORA such as interstate liens and interstate administrative subpoenas. By using automation and a minimal amount of second State activity, Massachusetts has found that significant numbers of cases can be enforced en masse instead of on a case-by-case basis.

When a State IV-D agency becomes aware of an obligor's assets in another State, the agency should be able to have these assets seized as soon as possible, reducing the chances the obligor will be alerted to enforcement actions that could result in movement or loss of those assets.

D. Critical Elements

- State enabling legislation must ensure that IV-D agencies are authorized to freeze and seize interstate assets, and conduct automated matches and enforcement activities against property.
- Responding States have 5 business days to respond to incoming requests from other States.
- Requesting States should carefully review their procedural due process requirements and ensure that the appropriate notice and opportunity to be heard have been met before sending a request to another State.
- Responding State IV-D agencies must establish procedures to record and efficiently process requests without the requests becoming part of the existing IV-D caseload.
- States may want to consider whether to develop a plan for nonautomated records matching (judgments, insurance settlements, e.g.) until such records can be automated.

E. Talking Points

- Administrative enforcement provides an enforcement tool to help expedite interstate case processing, through the identification and enforcement of out-of State obligor assets.
- Administrative enforcement allows a responding State to quickly work a case without becoming responsible for all the steps and time frames involved in a true two-State case process. There is no requirement to maintain case information on the responding State's system beyond: 1) the number of such requests for assistance received by the State; 2) the number of cases for which the State collected support in response to such a request; and 3) the amount of such collected support.
- Massachusetts has found administrative enforcement helpful in processing large numbers of child support cases.

F. What to Anticipate During Legislative Process

Resistance from:

Civil liberties groups objecting to more government agencies having access to personal financial information.

Bar and judiciary to (1) attachment procedures if they are not convinced that due process rights to the obligated parent are adequately safeguarded, and (2) the concept of tracking another State's order as their own without registering the order

Noncustodial parents' organizations on due process and privacy grounds, with concern over harm to the spouses and other family members of targeted noncustodial parents when jointly held assets are seized.

Institutions or agencies, such as financial institutions, title searchers and real estate associations, on grounds of privacy, and workload inconvenience.

G. News Articles/Sample Press Releases

"Mass Enforcement in the Bay State," Child Support Report, April 1993 (attached).

H. Cost/Benefit analysis

In Massachusetts, where administrative enforcement via bank matches and levies has been in effect since July 1992, the IV-D agency reports that in four years over 27,500 bank accounts have been levied and over \$18 million collected.

I. Impacted Groups (Nongovernmental)

- 1) Noncustodial parents' organizations
- 2) Bar associations
- 3) Judicial associations
- 4) Civil liberties organizations
- 5) Real estate industry
- 6) Financial institutions
- 7) Title searchers
- 8) Insurance industry
- 9) Trustees/fiduciaries/guardians of trust accounts

J. Government Agencies Affected

- 1) IV-D agencies
- 2) Agencies with data bases to be matched such as financial institutions
- 3) Recorders of deeds and judgments, and security interest filing entities
- 4) Hearing officers or judicial officials who would hear appeals or contests

K. Contacts:

Marilyn Ray Smith, Associate Deputy Commissioner, Massachusetts Department of Revenue,
Child Support Enforcement Division; (617) 577-7200 x30650.

LEGISLATIVE IMPLEMENTATION GUIDE

MANDATORY INCOME WITHHOLDING (new provisions)

Personal Responsibility and Work Opportunity Reconciliation Act of 1996
Public Law 104-193, Section 314

Draft 10/9/96
Workgroup:

DRAFT

Jens Feck, RO II, (809) 766-5196
Chuck Kenher, RO I, (617) 565-2477

A. Description of Provision

PRWORA Section 314 (amends Section 466 of the Social Security Act) strengthens and expands the income withholding process for both IV-D and non-IV-D cases. Specifically, State law must require the use of the following additional procedures:

1. 466(a)(1)(A)&(B) -- Procedures under which all non-IV-D orders issued or modified before 10-1-96 shall become subject to withholding in accordance with section 466(b) if arrearages occur, without the need for a judicial or administrative hearing.
2. 466(b)(4) -- Requires State to send notice to obligor that withholding has been commenced and eliminates advance notice requirement. Continues requirement that all withholdings must be carried out in full compliance with all State due process requirements.
3. 466(b)(5) -- All wage withholding collections in IV-D and non-IV-D orders issued or modified after January 1, 1994 must be administered through a "State Disbursement Unit" (SDU) under section 454B of the Social Security Act (that must be operated by 10/1/98).
4. 466(b)(6)(A) -- Employers must forward withholdings to SDU within 7 business days of employee's normal pay date. The section requires employers to withhold according to notice, except in interstate withholdings in specific areas, to apply the income withholding law of the state of the obligor's principal place of employment. [Previously: employer had to forward withheld amounts within 10 days - 303.100(f)(1)]
5. 466(b)(6)(A) -- States must use withholding notices in a standard format to be prescribed by the Secretary. [Previously: State could develop their own notice as long as the notice

parameter did not exceed relevant information].

6. 466(b)(6)(D) -- The imposition of an employer fine must extend to a failure to withhold or a failure to forward withholdings to the SDU.

7. 466(b)(8) -- Applies withholding system to all types of "income" - income defined as meaning any periodic form of payment regardless of source. Sample law attached. [Previously: withholding system only covered wages, and at State option, could be extended to include forms of income other than wages]

8. 466(b)(11) -- Procedures under which the IV-D agency may execute a withholding without advance notice to the obligor, and procedures allowing for the issuance of withholding orders through electronic means. [Previously: required advance notice to obligor unless State had a pre-August 1984 withholding system in place which did not include advance notice but met State due process requirements].

Effective Date 10/1/96 unless State laws have to be enacted. For State law changes, the grace period is no later than the first day of the first calendar quarter after the close of the first regular legislative session that begins after enactment, with each year of a two-year legislative session deemed as a separate regular session.

B. Variation Among States

Because these income withholding requirements are largely new and inconsistent with previous Federal wage withholding requirements, there are few examples of laws in States that provide examples of the new provisions.

Some States such as Oregon (ORS 25.010 attached), Michigan, and Nevada, do have broad definitions of income that may be helpful for States to examine. For example, Michigan's law extends the definition of "income" to include any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, or annuity. It also includes any amount of money due to the payor under a support order as a debt of any other individual, partnership, association, or public or private corporation, the U.S. or any federal agency, Michigan, or any political subdivision, any other State or political subdivision of another State, or any other legal entity that is indebted to the payor. Nevada's law (NRS 31A.010-31A.330) includes such income sources such as interest, estate funds, public trust, and annuities.

Neither Arizona (ARS 12-2454, 12-2454.01,02) nor Missouri (RSM § 452.350) issues advance notice in delinquency triggered/initiated withholdings.

C. Rationale

The most effective method of collecting current child support and arrears has been through wage withholding. By requiring States to include other sources of income other than wages, there is great potential for increasing collections. Ten years ago, only 22% of total IV-D collections were attributed to wage withholding. In FY 1995, as total IV-D collections reached a record \$11 billion, over 56% of that amount was attributed to wage withholding. It follows that procedures which enhance the scope or proficiency of the income withholding process will, in general, translate into improved compliance by those who owe child support, which is, of course, a primary objective of any child support enforcement program.

PRWORA enhances the process as follows:

1. The scope of income sources is expanded by requiring that all periodic forms of income paid to an obligor are subject to withholding (previously, States had the option whether to require that withholding apply to non-wage income).
2. The amendments facilitate speedy enforcement of child support orders when attachable income is identified or when obligors fall into arrears. The requirement for mandatory advance notice has been eliminated, the need for court or administrative hearings in initiating certain non-IV-D orders has been eliminated, and States are allowed to transmit withholding orders to employers by electronic means.

D. Critical Elements

1. The new provision includes a broad definition of "income" that will increase the type of assets against which withholdings can be made.
2. There is no Federally-mandated advance notice for income withholding after arrears have accrued.
3. Employers must forward withholdings to SDU within 7 business days of employee's normal pay date. Employers used to have 10 days to forward withheld monies.
4. The imposition of an employer fine must extend to a failure to withhold or a failure to forward withholdings to the SDU.
5. All wage withholding collections in both IV-D and non-IV-D orders issued or modified after January 1, 1994 must be administered through a SDU.

E. Talking Points

1. Income withholding is an extremely effective method of collecting child support. Procedures that increase the effectiveness of the income withholding process will benefit the families served by the child support enforcement program.
2. Requiring all types of periodic income, regardless of source, to be subject to withholding will provide a more equitable level of child support enforcement services to families when the obligor's income comes from unconventional sources or employment. It also provides a broader array of income sources that the IV-D agency can use to obtain child support.
3. Dispensing with advance notices to child support obligors who are in arrears will not deprive them of due process because they have been notified of their obligation to pay support and that income withholding is an enforcement method which may be initiated to collect that support. States are still required to notify obligors when withholding has commenced, so that if a mistake of fact is involved and the wrong individual or wrong amount is garnished, there is opportunity to rectify the situation.
4. Streamlining the income withholding process, and increasing the number of cases which are enforced automatically, permits State and local IV-D staff to be redirected to other essential services.
5. Payment of all withholding (with limited exceptions through agreement of the parties) through the State disbursement unit, will increase accountability and simplify the process for employers.

F. What to Anticipate During the Legislative Process

States should anticipate possible opposition from employer groups both to the reduced time frame in which withholdings must be forwarded, and to the extension of employer fines to situations where an employer fails to withhold.

States should also expect lobbying by noncustodial parent groups and legal advocacy organizations about the elimination of the advance notice requirement. There is some concern that the occurrence of incorrect withholdings will increase because withholding amounts often include payments towards arrears, and arrears amounts may be in dispute.

Expect concerns about the increased responsibility for processing withholdings in non-IV-D cases, and questions about the availability of Federal Financial Participation for those functions.

Expect concerns from various interest groups to the requirement that all types of periodic income will be subject to income withholding. Concerns may be raised by contractors, financial institutions administering pensions (banks, mutual funds), law firms (trust account managers), consulting firms (including so-called head-hunter organizations), and others

similarly situated in those States where the existing definition of "wages" or "income" does not yet include payments made by the above entities.

Expect objections to the requirement that all withholdings flow through the State Disbursement Unit, even if the custodial parent wants the employer to send the withheld amounts directly to him or her.

G. News Articles/Sample Press Releases

None identified.

H. Cost/Benefit Analysis Ideas

By elimination of the advance notice requirement, withholdings start earlier, and collections will increase.

The extension of the definition of "wages" (no associated costs) will increase collections from withholdings.

I. Impacted Groups (Non-Governmental)

Employer and payroll organizations such as the American Payroll Association, and the American Society for Payroll Management.

Noncustodial parent interest groups.

J. Government Agencies Affected

The IV-D Agency, any agency previously designated by the State to process withholdings, and any State or Federal agency dispensing periodic benefits or payments to obligors in a jurisdiction which previously limited withholding to wages only.

Courts and IV-D Hearing Officers

K. Contacts

Craig Hathaway, Program Specialist, OCSE
(202) 401-5367

Jens Feck, Program Specialist, OCSE

Region II, Puerto Rico
(809) 766-5196

On advance notice issue:

Dan Joyce, Deputy Director

Internal Operations, Missouri Division of Child Support Enforcement

(573) 526-5360

April 28, 1997

LEGISLATIVE IMPLEMENTATION GUIDE

DRAFT

Uniform Interstate Family Support Act (UIFSA)

Contact person: Andrew Williams (202) 401-1467
e-mail: awilliams@acf.dhhs.gov

A. Description of Provision

The Uniform Interstate Family Support Act (UIFSA) is a model State law governing interstate child support enforcement. The model version of UIFSA was promulgated in 1992 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) [also known as the Uniform Law Commissioners (ULC)]. UIFSA has been endorsed by the American Bar Association (ABA), the U.S. Commission on Interstate Child Support, the Conference of Chief Justices, and the American Public Welfare Association's National Council of State Human Service Administrators. Pending Federal legislation would require States to enact UIFSA as a condition of receiving Federal funding for their child support programs.

B. Variations Among States

To date, at least 26 States and the District of Columbia have adopted UIFSA. See the attached matrix for a list of these States, enactment dates, effective dates, and other information. Pending Federal legislation would require all States to adopt the official version of UIFSA, as promulgated by NCCUSL and approved by the ABA. In this light, most UIFSA States have enacted the model act in its entirety, without making substantial changes. However, at least three States (Colorado, Maine, and South Dakota) have enacted UIFSA without its direct withholding provision, and at least one State (Oregon) revised the direct withholding provision so that it does not apply to cases with multiple income withholding orders against the same obligor's income. In addition, at least one State (Maine) did not adopt some of UIFSA's provisions concerning registration of foreign support orders.

Some interstate child support enforcement experts and practitioners have proposed changes to the model version of UIFSA, and several of the pending Federal legislative bills reflect these proposed changes. Some of the bills contain specific changes that States would have to enact; other bills would require States to enact changes promulgated by NCCUSL.

C. Rationale

Interstate child support enforcement cases require action by more than one State. Most commonly, because a State's jurisdiction is limited, a State working a case on

behalf of a resident obligee has to refer the case to another State for action against a non-resident obligor.

The number of interstate cases is sizeable; in its Report to Congress, the U.S. Commission on Interstate Child Support estimated that about 30 percent of child support cases are interstate cases. The Commission also estimated that these cases only accounted for about 10 percent of total child support collections. Interstate case processing is complicated, time-consuming, and characterized by a lack of communication and cooperation between States.

Interstate case processing is governed largely by State law. UIFSA is the new model State law which is designed to replace the Uniform Reciprocal Enforcement of Support Act (URES A) -- the interstate law previously used by States.

UIFSA is designed to reduce the number of interstate cases, thereby avoiding the problems associated with two-state processing. UIFSA's long-arm jurisdiction and direct withholding provisions limit the need for involvement of more than one State in many cases. The direct withholding provision in particular should ensure that children receive support more quickly since payments will not have to be routed through more than one State.

In the remaining cases that still require action by more than one State, UIFSA seeks to improve processing by:

- Providing for only one support order at a time governing the same parents and child, thereby eliminating confusion associated with multiple orders.
- Providing for the enforcement of orders without the possibility of modification or the establishment of an unwanted new order, in contrast to existing law in many States.
- Improving communication and cooperation between States by providing for improved transmission of evidence and assistance with discovery.

The UIFSA mandate contained in pending Federal legislation is designed to ensure that all States enact and implement UIFSA. Standardization is particularly needed in the interstate arena due to the interaction between States. Once nationwide implementation of UIFSA is achieved, the resulting uniformity should greatly improve interstate case processing.

D. Critical Elements

Based on their experience, many UIFSA States recommend:

- Delaying the effective date. In most UIFSA States there has been a delay (ranging from 3 months to 20 months) between passage of the model law and

its effective date. The delay allows time for training and other implementation activities.

- Repealing unnecessary laws. UIFSA is designed to replace URESA, and most UIFSA States have repealed URESA. Section 905 of the model version of UIFSA provides for the repeal of unnecessary laws. However, States should not repeal any laws that are needed to meet Federal requirements. For example, although UIFSA provides for direct income withholding (where the withholding order is sent directly to an out-of-state employer), States still must be able to respond to interstate income withholding requests (where the withholding order is sent to the responding IV-D agency) as provided for in Federal requirements at §466(a)(1) and (b) of the Social Security Act and 45 CFR 303.100.
- Drafting appropriate paranthetical language. UIFSA's drafters intended for States to adopt UIFSA's provisions as written in the model version. However, some of UIFSA's language is in parentheses, indicating that a State may modify the language or substitute state-specific language. For example, the paranthetical language in section 102 specifies which court or agency is the tribunal under UIFSA. The IV-D agency needs to ensure that all paranthetical language is appropriate and accurately reflects the role of the IV-D agency (particularly if the UIFSA legislation is not being sponsored by the IV-D agency).
- Seeking training and implementation resources. As a result of enacting UIFSA, a State will face costs associated with training staff, revising procedures, and other implementation activities. At least one State, as part of the legislative enactment of UIFSA, got the legislature to earmark funds for UIFSA training.
- Numbering the State code in a manner consistent with the model act. When drafting a State's version of UIFSA, the State may want to use the same section numbers that are found in the model version of UIFSA (or section numbers that correspond in some manner to the section numbers in the model version--for example, section 10-101 instead of section 101). Using consistent section numbers will make it easier to cross-reference the State's version of UIFSA with the model version; such cross-references are often necessary when working interstate cases or discussing UIFSA with other States.
- Including the official comments in the code. UIFSA's drafters included official comments which explain the law's provisions. Some UIFSA States found it useful to include the official comments in the State code. Including the comments in the code ensures easy access to the comments, which provide many answers to frequently asked questions about UIFSA. Depending on State procedures, the UIFSA bill may need to include directions to the compiler of the code asking that the official comments be included.

The model version of UIFSA is contained in the following publications:

UIFSA Handbook

For a copy, call (202) 401-9383, or write:
Office of Child Support Enforcement
Division of Consumer Services
National Reference Center
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

Family Law Quarterly
Spring 1993
(includes unofficial annotations)
Price: \$9 plus postage/handling

For a copy, fax (312) 988-5568, or write:
ABA Order Fulfillment
750 North Lake Shore Drive
Chicago, Illinois 60611

Copies of UIFSA (including automated copies on diskette--so that drafters of States' versions of UIFSA will not have to retype the entire statute) can be obtained from:

National Conference of Commissioners on Uniform State Laws
676 North St. Clair Street
Suite 1700
Chicago, Illinois 60611
phone: (312) 915-0195

E. Talking Points

- A parent should not be able to evade a child support obligation simply because the parent lives in a different State than the child.
- UIFSA is a new model State law that will help States to process cases against out-of-state obligors.
- Nationwide implementation of UIFSA and the resulting uniformity should greatly improve interstate case processing.

F. What to Anticipate During Legislative Process

Coordination between IV-D and NCCUSL. In many UIFSA States, the UIFSA legislation has been introduced and carried by legislators associated with NCCUSL (often Commissioners serving on NCCUSL) rather than legislators acting on behalf of the IV-D agency. In such instances, the IV-D agency needs to work closely with the sponsoring legislators and NCCUSL to ensure that the IV-D agency's interests are represented. If on the other hand the IV-D agency is sponsoring the legislation, the IV-D agency should still work closely with NCCUSL. NCCUSL can provide representatives to help prepare legislative materials and testify before the legislature.

Providing expert testimony. Given the complex and technical nature of UIFSA, many UIFSA States found it useful to have experts testify at legislative hearings to explain the benefits of UIFSA. Family law professors from local law schools, representatives from the local bar association, and representatives from NCCUSL have testified.

Explaining the benefits of UIFSA. Again, given the technical nature of UIFSA, many UIFSA States found it useful to explain, in simple terms, the problems associated with interstate child support enforcement and how UIFSA would fix those problems. Some States found it particularly useful to contrast UIFSA's "one order" system with URESA's multiple order system. Several States also found that the possibility of a Federal mandate convinced legislators to support UIFSA.

Responding to concerns. In some States, legislators have raised concerns about several of UIFSA's provisions. Below are examples of these concerns and possible responses.

- Question: Will passage of UIFSA endanger receipt of Federal matching funds for the State's IV-D program? Answer: No, passage of UIFSA does not conflict with Federal requirements. At least 26 States and the District of Columbia have adopted UIFSA, and all of these States continue to receive Federal matching funds.
- Question: Will UIFSA's direct withholding provision reduce the amount of Federal incentive payments the State receives? Answer: Since other States may send withholding orders directly to an employer in a UIFSA State, collections in such cases will no longer be routed through the UIFSA State's IV-D agency; as a result, the State will no longer receive incentive payments in these cases. However, since a 1992 General Accounting Office study found that many States already use direct withholding despite the lack of legal authority, the impact on incentive payments may be minimal. Any loss could be offset by the increased effectiveness of direct withholding as an enforcement tool. In addition, to the extent that direct withholding under UIFSA is a change from the status quo, families will receive support more quickly since payments will no longer be routed through the IV-D agency in the employer's State.
- Question: Will UIFSA's direct withholding provision be burdensome on employers? Answer: While the overall number of withholding orders that an employer receives should not increase substantially, an employer may receive more withholding orders directly from other States rather than from the IV-D agency in the employer's State. This may be inconvenient to the extent that forms and procedures in other States differ from forms and procedures in the employer's State. However, the Federal Office of Child Support Enforcement is working

to ensure greater national uniformity and is currently pilot-testing a national withholding form.

- Question: Can a UIFSA State interface with other URESA States that have not yet adopted UIFSA? Answer: UIFSA States are able to send cases to URESA States, and vice versa. Once all States have adopted UIFSA, the resulting national uniformity should greatly improve caseprocessing.

G. News Articles/Sample Press Releases

Attached are some background materials and an article developed by NCCUSL--"Why States Should Adopt the Uniform Interstate Family Support Act", "Uniform Interstate Family Support Act", and "Common Sense in Child Support Enforcement". We have attached these materials with NCCUSL's permission.

H. Cost/Benefit Analysis Ideas

Benefits of enacting UIFSA include:

- Ability to control more cases, without referring them to another State, due to broad long-arm and direct withholding provisions.
- Increased paternity establishments and support collections as a result of a more efficient and effective process.
- In the long run, fewer inquiries/complaints from obligors and obligees once the confusion concerning multiple orders is eliminated.
- Clearer communication and interaction between States due to national uniformity and standardization.
- More efficient means for exchanging evidence between States (e.g., telephonic hearings, electronic transmission).

Costs of enacting UIFSA include:

- Training and implementation costs associated with implementing a new law.
- Changes to the statewide automated system to reflect new procedures.
- An initial increase in the number of inquiries from parents and other States regarding the new procedures.

Although implementation of UIFSA will have some costs, the States which have already enacted UIFSA have developed policies, procedures, training materials for

IV-D staff and courts, information packets for employers, forms, and other implementation materials that will be useful to new UIFSA States. In addition, the Federal OCSE is committed to assisting States in the transition to UIFSA. OCSE sponsored UIFSA meetings and conferences, developed a UIFSA Handbook for caseworkers, and is currently pilot testing UIFSA forms.

I. Impacted Groups (Non-Governmental)

Employer and payroll groups; Chamber of Commerce (regarding direct withholding provisions).

Private attorneys; bar association.

J. Government Agencies Affected

Tribunals (courts or administrative agencies).

Judges, hearing officers, or other tribunal decisionmakers.

K. Contacts

National Conference of Commissioners
on Uniform State Laws (NCCUSL)
676 North St. Clair Street
Suite 1700
Chicago, Illinois 60611
phone: (312) 915-0195
contact: Debra Perelman or John McCabe

NCCUSL staff can help prepare legislative materials and testify in State legislatures.

American Bar Association (ABA)
Child Support Project
Center on Children and the Law
740 15th Street, NW
9th Floor
Washington, D.C. 20005
phone: (202) 662-1751
fax: (202) 662-1755
contact: Margaret Campbell Haynes

The ABA's Child Support Project has provided training and technical assistance regarding UIFSA. Its projects include development of a judicial training curriculum and a UIFSA fax information service.

National Child Support Enforcement
Association (NCSEA)
Hall of States
400 North Capitol Street, Suite 372
Washington, D.C. 20001-1512
phone: 202-624-8180
contact: Eleanor Landstreet

NCSEA has sponsored several regional and national training conferences focusing on UIFSA.

Contacts from States that have already enacted UIFSA are listed on the attached matrix.

Federal OCSE contacts include:

Your Federal Regional Office

Jeff Ball (technical assistance); (202) 401-5427

Karen Bartlett (interstate forms); (202) 401-4630

Hope Butler (Interstate Roster and Referral Guide); (202) 401-9391

Steve Cesar (UIFSA Handbook); (202) 401-5436

Vince Herberholt (Regional interstate workgroups); (206) 615-2552 x3043

Dianne Offett (training; standard interstate withholding form); (202) 401-5425

Andrew Williams (Federal interstate policy; interstate forms); (202) 401-1467

UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)

February 5, 1996

Contact Person: Hope Butler; phone: (202) 401-9391

UIFSA State *Code Cited *Contact Person	Date Adopted; if passed	Effective Date	Adopted Verbatim
Alaska *AK Statute 25.25, Para 101 Contact: Georgette Brown (907) 269-6837	05/31/95	01/01/96	No
Arizona *AR Revised Statute (ARS) 12-1721 through 1756 Contact: Dianne Reynolds (602) 274-7951	04/20/93	07/01/95	Excludes provision for criminal bench warrant. Includes civil arrest warrant
Arkansas *Act 468 1993 amending Title 9 (Family Law) Chapter 17 of the Arkansas Code of 1987. Annotated Contact: Mary Smith (501) 682-8410	03/12/93	03/12/93	Yes
Colorado *Colorado Revised Statutes Title 14, Article 5 Contact: Andrea Baugher (303) 866-4396	04/20/93	01/01/95	No

UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)

February 5, 1996

*Code Cited *Contact Person	UIFSA State	Date Adopted; if passed	Effective Date
--------------------------------	-------------	----------------------------	-------------------

LEGISLATIVE IMPLEMENTATION GUIDE

LOCATOR INFORMATION FROM INTERSTATE NETWORKS

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 Public Law 104-193, Section 315

Draft 10/28/96

Workgroup:

John Pérez, RO I (617) 565-2468

Dave Williams, RO I (617) 565-2474

A. Description of Provision

Section 466(a)(12) of the Social Security Act, as added by section 315 of PRWORA, requires States to have in effect laws which require the use of procedures in place to ensure that all Federal and State agencies conducting child support activities have access to any system the State uses to locate an individual for purposes relating to motor vehicles or law enforcement.

The National Law Enforcement Telecommunications System (NLETS) is a prime example of such a resource. NLETS provides State and local law enforcement officials with motor vehicle, driver's license and traffic violation information. Another resource is the National Crime Information Center (NCIC). This Federal data base includes NLETS information and criminal warrants indicating which States will conduct extraditions. NCIC is available currently only to law enforcement agencies with appropriate access or "ORI" numbers. Many state or district attorney's offices have access to both systems for law enforcement purposes.

The most successful way currently for IV-D agencies to gain access to NLETS and NCIC is for the IV-D agency to contract with local law enforcement agencies providing IV-D functions. Such contracts allow the IV-D agency indirect access to NLETS and NCIC through the law enforcement agency.

Effective Date: This provision is effective October 1, 1996. If State legislation is needed to implement it however, States have a grace period until the first day after the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of the Act, with each year of a two-year legislative session deemed as a separate regular session.

B. Variations Among States

OCSE is not aware of any State that has laws and a system in place that would meet the mandates of this provision of the PRWORA. All States have implemented some form of in-State motor vehicle access with widely divergent State practices.

o Alabama/Tom Bernier (334) 242-9321

The Alabama Division of Support is classified as a law enforcement agency and has direct on-line access to NLETS. The information obtained through NLETS is strictly for locate purposes only. In addition to NLETS, the Division of Support has a contract with the Alabama Administrative Office of Courts for direct on-line access to the court computer system for locate information. Alabama also has direct on-line entry to the Electronic Parent Locator Network (EPLN) database that contains address information from about ten States' motor vehicle agencies.

o Connecticut

The Bureau of Support Enforcement (BCSE) has automated on-line access with the Department of Motor Vehicles for address and driver's license numbers. BCSE also has on-line access to the Department of Corrections (DOC) for the inmates' DOB, SSN, incarceration status and release date.

o Maine/Ann Liburt (207) 287-2887

The IV-D agency uses its on-line access to the State's Registry of Motor Vehicle database to obtain address, title, registration and license information. No formal access to law enforcement systems exists; all contacts/requests for information must be made by telephone or written correspondence.

o Michigan

Michigan sends inquiries to driver's license bureaus in most States, territories and some Canadian provinces, using a State driver license request letter. It also transmits hard copy locate inquiries to sister States' Parent Locator Services. Michigan has no legislation on this process.

o Montana/Susan Carr (406) 444-4675

In Montana, both field and central locate unit staff have direct on line "inquire/view only" access to information from their State Department of Motor Vehicles. This is accomplished via an interface with their statewide automated computer system. The central locate unit accesses law enforcement information by telephoning the State Highway Patrol. The Highway Patrol also serves as a liaison with other States. Montana's Child Support Enforcement Division is deemed a law enforcement agency and has an assigned ORI number, the access number for NLETS and NCIC.

○ **North Carolina/Kathy Futrell (919) 571-4114
Christine Hall**

North Carolina's locate functions are spread throughout the State. Its locate sources include: Employment Security, EPLN, and the Department of Motor Vehicles. Some counties have local FPLS access and can request 1099 information; but the response must still be routed through the SPLS.

○ **South Dakota/Lilia LaFave (605) 773-3641**

Both field staff and the central locate unit have direct on-line "inquire/view only" access to Department of Motor Vehicle information and the State Unified Judicial System. This is completed through a computer interface in their automated State-wide IV-D system.

For additional in-State law enforcement information, staff in the central locate unit submit a written request to their Division of Criminal Investigations (DCI). Release of information by DCI however, is generally limited to address and employment data, and not to criminal records. Based on written request, the South Dakota DCI provides their IV-D agency with copies of drivers' license photos. The State OCSE has the ability to use a Department-wide ORI number, although the IV-D agency is not specifically designated as a law enforcement agency.

South Dakota's Centralized Locate Unit has on-line access to NLETS for accessing drivers' license information nationwide, but not other forms of information such as criminal records.

○ **Vermont**

Vermont's statute gives its IV-D agency access to motor vehicle information (see 33 V.S.A. Sec. 4107). Vermont does not currently have access to law enforcement systems.

○ **Washington/Elizabeth Morgan**

The Division of Child Support (DCS) supplies the Department of Licensing (DOL) with a file containing the name, SSN and DOB of all noncustodial parents with open cases on the SEMS database. DOL matches this file with their database and returns any match to DCS. The new information on matches returned to DCS by DOL includes: name, DOB, SSN, driver's license number, address (street, city, state and zip), date (of address). DOL also supplies DCS with a code to indicate any of the

following: individual deceased, record purged, new State (individual moved to) and possible alternate name/DOB. Information from DOL is added to the SEMS database, using the auto-locate logic (comparison of date of DOL address to date of best address on SEMS). The match with DOL is done quarterly.

In addition to the quarterly match, DCS staff have real-time, on-line access to DOL driver's license, vehicle plate and vessel registration records from their PC work station. This access is available during normal business hours.

DCS supplies the Department of Corrections (DOC) with a file containing the name, SSN AND DOB of all noncustodial parents with open cases on the SEMS database. DOC matches this file with their database. On matches, DOC returns the following information, from their records, to DCS: the noncustodial parent's location, supervisor (probation/parole officer), DOB, release date, aliases, last known address, information on prison employment, amount of disposable income and debt owed to the DOC. This information is added to the SEMS database as a case comment, except for address information, which is added using the auto-locate logic (see above). This match is done on an annual basis.

C. Rationale

IV-D agencies often find it difficult to locate noncustodial parents, particularly in the interstate context. Locate tools that improve States' ability to locate noncustodial parents should help to improve child support enforcement. While States generally have access to their own Department of Motor Vehicle databases, they often lack access to those of other States.

In addition, a number of noncustodial parents are, or have been, involved with the criminal justice system. Interface with law enforcement databases may provide information on 1) current jail/prison status; 2) parole or probation address information; and 3) employment information. Because of the fluid relationship people have with corrections/law enforcement, periodic interface can provide either good locate information or good leads for skip tracing activities.

D. Critical Elements

- States should develop legislation that allows them access to State law enforcement and motor vehicle records for locate purposes, with Federal and other States' access permitted.

E. Talking Points

- Access to interstate motor vehicle and law enforcement databases should help to improve IV-D agencies' ability to locate noncustodial parents, and improve child support enforcement case processing.

- States must have procedures in place ensuring that State and Federal agencies conducting child support enforcement activities have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.
- Because the statutory provision is very broad, and there does not appear to be any corresponding statutory mandate upon law enforcement agencies, States may have to enter into negotiations with law enforcement records systems to obtain access to those databases by pointing out the possible loss of some Federal funding to the State if the access is denied.

F. What to Anticipate During the Legislative Process

States should expect resistance from law enforcement agencies about allowing IV-D agencies access to NLETS and other record systems for safeguarding of information concerns. States should be prepared to give law enforcement agencies positive examples of States with access to these databases, and to give them arguments why IV-D agencies should have such access.

G. News Articles/Sample Press Releases

Dear Colleague Letter No. 95-55, dated August 28, 1995 - Re: Use of NLETS to Access Driver Information

H. Cost/Benefit Analysis

None available.

I. Impacted Groups (Nongovernmental)

NLETS--administrators/State board members
 NCIC--administrators/State board members
 Noncustodial parent groups

J. Government Agencies Affected

IV-D Agencies
 U.S. Department of Justice, National Criminal Information Center
 Law enforcement agencies

K. Contacts

Alabama/Tom Bernier (334) 242-9321

Maine/Ann Liburt (207) 287-2887

Montana/Susan Carr (406) 444-4675

North Carolina/Kathy Futrell (919) 571-4114 Christine Hall

South Dakota/Lilia LaFave (605) 773-3641

DRAFT

State New Hire Reporting

Contact: Lourdes Henry
(202) 401-5440
e-mail: lhenry@acf.dhhs.gov

A. Description of Provision

A State New Hire Reporting directory is an automated system to which employers and labor organizations furnish identifying information on newly hired employees. The information reported is matched against the State child support caseload to identify individuals and their income source for purposes of establishing paternity, establishing and modifying orders of support and for enforcement action.

States may also use the new hire information for other matching purposes, such as unemployment compensation fraud detection.

B. Variations Among States

New hire reporting has been a cornerstone to the child support reform measures included in the various welfare reform bills under consideration by the Congress. However, State innovation has been the most critical driving force in this area. Already, more than 25 States have implemented some form of new hire reporting, though with significant operational variations (see attached matrix).

The areas where State practices diverge the most are: the agency to which employers report (e.g., SESA or IV-D); employer reporting timeframes; the method of transmitting the information, though most States provide employers some flexibility; which employers are required to report; and sanctions for nonreporting.

Of those States currently operating New Hire Reporting Programs there is a fairly even divide between states that require reporting to the IV-D agency and states that require reporting to the State employment security agency, or other State agency. The various Federal proposals which have included State New Hire Reporting require the child support agency to maintain responsibility for the new hire reporting system but do not specify to whom the information is reported.

State timeframes for employer reporting also differ. About half of the States with New Hire Reporting programs require employers to report in 15 days or less, and the remaining States provide up to 30 days or more from the date of hire (though the point the clock begins ticking also vary). Proposals above also had varying reporting timeframes, none

allowing more than 30 days. Under some of the Federal proposals, consideration was given to employers reporting in an automated fashion.

The area with the greatest and probably most significant variation is which employers in the State are required to report. In several States, employer reporting is voluntary. In a number of other States, the reporting requirement is targeted to specific employers. For example, some States only require reporting by high-turnover industries while others might require only large employers to report. Some States have employed targeting as an incremental approach to full employer reporting or have adopted this approach as a compromise during the legislative process.

This is also the area where State practices differ most from the Federal proposals which have all required full employer reporting. Currently of those States with new hire reporting systems, less than half require all employers to report.

With respect to reporting sanctions and reporting format, there is a significant range in State activity. Employer sanctions for failure to report range from no penalty to \$1,000 per infraction and the method of transmitting information ranges from a specific requirement for a mailed copy of the W-4 to complete employer discretion in transmission mode.

States take similar approaches in at least one important area--the information employers are required to report. Most States require employers to report the employee's name, address and SSN, and the employer's name, address and/or identification number, or that information generally available through completion of the W-4, which some States use as the reporting form.

C. Rationale

Information on the noncustodial parent's employment is vital to the Child Support Enforcement Program's mission. New hire reporting systems provide a simple and effective method to secure and maintain information on the location of parents. This is increasingly important as caseloads grow.

Currently, the State Employment Security Agencies (SESA) receive information about employees and their income on a quarterly basis. This data is an excellent source of information for implementing wage withholding as well as for locating the non-custodial parent to establish an order. A major drawback, however, is that this data is approximately three-to-six months old before the child support agency has

access.

A significant number of obligors delinquent in their child support change jobs frequently or work in seasonal or cyclical industries. A new hire reporting system will make it easier for States to enforce child support through wage withholding for these individuals.

D. Critical Elements

For the purpose of establishing a New Hire Reporting program, state legislation should explicitly address the following factors:

1. Who reports--In some states, the statute requires all employers to report. Other states target certain industries (e.g., automotive services, construction, health & business services, building & trade contractors, restaurants, lodging places, movies, engineering & management services, landscape services and wholesale trade, based on for example, frequency of staff turnover). Others target by the size of industry, or by the number of wage withholding forms sent to an employer.
2. Exemptions to the new hire reporting--State legislation should explicitly define any exemptions from the reporting requirement. Some states have exempted employers from reporting on low-wage or part-time and temporary hires. Some states exempt employees under 18 years of age.
3. What information is reported--Generally, most states require similar information from employers (i.e., employee name, address, SSN, date of birth, employer's name, address, date of employment, and the Employer Identification Number (EIN)).
4. To whom this information is reported--State statute should specify to which agency the information is reported--generally the IV-D agency, SESA, or other designated agency.
5. Reporting Timeframes--Timeframes for employers to send information should also be specified in the statute. Under existing new hire reporting systems these timeframes range anywhere from 5 to 35 days after hire.
6. How the data is transmitted--For example, most States provide employers several options for transmitting the information, including by FAX, mail, magnetic tape, computer printouts, diskettes and, in some cases with very few reports, phones.
7. Interagency relationships--The statute should clearly define the interagency relationship in sharing data and financing arrangements.

E. Talking Points

--New Hire reporting provides a fast and effective method for locating noncustodial parents and their income source--benefiting both the enforcement of child support and potentially fraud detection in the unemployment compensation program.

--New Hire Reporting is perceived as a proactive measure that benefits the state and custodial parent by providing early identification of employment for the immediate implementation of income withholding.

--New hire reporting systems provide a simple and effective method to secure and maintain information on the location of parents. This is increasingly important as caseloads grow.

--New hire reporting systems will make it clear to nonpaying parents that they cannot simply change jobs to avoid their child support responsibilities.

F. What to Anticipate in the Legislative Development Process

State experience indicates that there is a resistance to new hire reporting. However, many states have been able to work with employers to reach compromise.

Alaska and other States with experience in pursuing New Hire Reporting advise States to seek the support of employer, union and payroll associations before drafting their legislation. They believe that providing employers with adequate materials explaining the process; allowing flexibility in the method of transmission; and providing a hotline for quick answers can be beneficial to successful passage of legislation.

A number of States have also been required to make a series of compromises to ensure passage of their bills. For example, Alaska contacted Washington State for suggestions on developing its legislative proposal. Based on the information received, Alaska anticipated legislators' resistance to the bill and drafted it to fit its political climate. In Washington, to gain support for the measure, the IV-D program offered to phase-in new hire reporting and added a sunset provision to end reporting if it proved to be ineffective.

Similarly, in South Carolina, a bill calling for a mandatory new hire reporting program was introduced but was opposed by employer associations who considered this a burden to employers. A compromise was reached to make the program voluntary. The issue of confidentiality also arose and to

address this concern, the law specifies that unmatched data must be destroyed immediately. States may want to consider how long any data should be stored.

A number of State compromises have focused specifically on reporting timeframes to elicit employer support. In Washington for example, after a successful pilot, legislation was drafted that mandated a 5-day reporting timeframe for employers within 18 state specified employment areas. Employer associations opposed the expansive nature of the bill and eventually a compromise was reached to have employers from 5 state-specified employment areas report within 35 days of hire.

G. News Articles/Samples Press Releases

None identified.

H. Cost/Benefit Analysis Ideas

Washington's experience in conducting a cost/benefit analysis might prove helpful to other states. During the first 18 months of its program created in 1990, over 12,000 employers submitted over 216,00 reports of new hires and rehires to the child support agency. Of these, 8 percent matched with open cases of obligors. Of these matched cases, 87 percent of the obligors had made no support payments during the preceding year. Based on employer reports, collections were successful among 43 percent of those who were non-payers the previous year, averaging \$1,200 per parent (Washington's New Hire Report).

The Washington child support agency clearly considers the program to be cost effective for the States. It reports that for every dollar spent on the program, \$22 was collected. While a report to the Washington legislature questions these figures, even conservative estimates show a \$1 to \$4 cost/collection ratio.

I. Impacted Groups (Non-governmental)

Because employers and payroll associations are particularly affected by New Hire Reporting systems, gaining their support is vital. States with experience suggest bringing them on board before, during, and after the legislative process.

One state which has had a particularly difficult time in pursuing legislation believes that a longer lead time would have given backers of the legislation more time to explain the program to employers and perhaps offset opposition.

J. Government Agencies Impacted

New Hire reporting can prove beneficial to detecting unemployment compensation fraud. To the extent a State considers cross-matching the information for purposes beyond child support, those agencies should be involved in laying the groundwork for the desired legislation.

K. Contacts

The following state contacts provided OCSE with a history of their legislative experience, all of which could not be included here. Copies of their interviews are attached. Our special thanks to:

Alaska Contact: John Main, Child Support Enforcement Office
phone (907) 269-6832; fax (907) 269-6692; internet:

Maryland Contact: Donna Blankenship, Policy Specialist
phone (410) 767-7403; fax (410) 333-8992

South Carolina Contact: Chrissy Brogdon, Assistant Project
Administrator
phone, (803) 737-5875; fax (803) 737-5896

Ohio Contact: Rose Riley, Chief, Bureau of Direct Services
phone (614) 752-6567; fax (614) 466-6613

Florida Contact: Calvin Melton, Coordinator, Special Programs
and Interagency Initiatives
phone (904) 922-9547; fax (904) 488-4401

Washington Contact: Charlyn DeVoss Shipley, Support Enforcement
Officer phone (360) 586-3556; fax (360) 586-3094

DRAFT

LEGISLATIVE IMPLEMENTATION GUIDE

Collection and Use of Social Security Numbers for Use in Child Support Enforcement

Draft 9/16/96

Workgroup:

Susan Notar, CO, snotar@acf.dhhs.gov, (202) 401-4606
Sue Honciano, RO IX, (415) 437-8424

A. Description of Provision

States must require the social security numbers (SSNs) of applicants to appear on the applications for professional licenses, commercial driver's licenses, and marriage licenses. If a State allows the use of a number other than the SSN to appear on the applications for such licenses, it must advise applicants. SSNs must also be placed on the record of anyone subject to divorce decrees, support orders, paternity determinations or acknowledgments, and they must also be placed on death certificates and death records.

Effective Date: this section amends § 466 of the Social Security Act. Its effective date is therefore October 1, 1996, unless the State needs to change its law to meet the new requirements. States have a grace period for State law changes until the effective date of the State law implementing the provisions, but no later than the first day of the first calendar quarter after the close of the first regular legislative session that begins after the enactment of the bill, with each year of a two-year legislative session deemed as a separate regular session.

B. Variations Among States

States currently have diverse practices regarding social security numbers on various documents. While some States require SSNs on certain documents, others do not. Note that not all of the State practices listed below will comply with the new requirements of the welfare reform law (P.L. 104-193).

Applications for Professional and Occupational Licenses

Arizona requires that SSNs be maintained in the database of the agency issuing the license or certificate. California and Hawaii require SSNs to appear on the application for professional and occupational licenses.

Commercial Driver's Licenses

At least nine States, Alabama, Arizona, California, Guam, Hawaii, Kansas, Michigan, Nevada and North Carolina require SSNs on the application for commercial driver's licenses.

At least three States, Georgia, Montana, and South Dakota request SSNs on the application for commercial driver's licenses.

Personal Driver's Licenses

At least three States, Arizona, California, and Nevada, require SSNs on the application for driver's licenses:

In many States, such as Guam, Hawaii, and Virginia, the SSN is the driver's license number.

Illinois currently does not require SSNs on driver's licenses, it is optional.

Marriage Licenses

Kansas requires the SSNs of the couple to be placed on the marriage certificate itself.

Guam and Hawaii do not require the SSNs to appear on the certificate, but include them as a matter of practice.

Montana by practice, not mandate, places the SSNs on the application for a marriage license.

Alabama does not require the SSNs on the marriage certificate.

Paternity Determinations

At least nine States, Alabama, California, Colorado, Indiana, Kansas, Michigan, Nevada, North Carolina and Vermont require SSNs on paternity acknowledgment forms (see Colorado, North Carolina, and Vermont laws, attached).

Georgia, Kentucky, Montana, and South Dakota, request the SSNs but do not require them.

Divorce Decrees

Kansas requires SSNs on divorce decrees.

Arizona, Guam, and Hawaii, do not require SSNs on divorce decrees, but routinely include them.

In Indiana, SSNs are not required on the divorce decree, but must be in the clerk of court's records.

Alabama does not require SSNs to appear on divorce decrees.

Birth Certificate

At least three States, Arizona, Indiana, and Montana, require the SSN on a separate document or form when filing the birth certificate.

At least nine States, California, Guam, Hawaii, Kansas, Kentucky, Michigan, Nevada, North Carolina, and Vermont require the SSN to appear on the birth certificate (see Vermont's statute, attached).

Georgia, and South Dakota, request the SSN to appear on the birth certificate or another form.

Death Certificate

Alabama, Kansas and Michigan require SSNs on the death certificate.

Guam, Hawaii, and Indiana, do not require SSNs to appear on certificates, but routinely include them.

C. Rationale

Requiring SSNs to appear on a wide variety of documents will facilitate child support enforcement by helping IV-D agencies to locate obligors and their assets, and establish accurate child support orders. SSNs are the closest thing to a universal identifier of the number's bearer. The better the identifying information that the IV-D agency has, the less likely the wrong person will be served with child support papers. Having SSNs on marriage licenses will help to locate recently married parents who have separated but who are not yet parties to a support order.

D. Critical Elements

- States should note the different documents on which SSNs are required to appear:
 - on **applications** for professional or occupational, driver's or commercial, and marriage licenses;
 - on the **records** relating to divorce decrees, support orders, or paternity determinations or acknowledgments;
 - on the **records** regarding someone who has died **and** on the **death certificate**.

- If States allow numbers other than SSNs to appear on the applications for professional or occupational, marriage, commercial or individual driver's licenses, it must advise applicants.
- States need to balance the interests of expediting child support cases, and concerns for privacy regarding the increased use of SSNs on documents.
- States should also consider ways batterers could use the SSNs on documents to locate and harass or stalk victims of domestic violence, and work to prevent this from occurring.
- States must ensure that their laws meet the requirements of this section of the new law. In some cases, States will merely have to amend their current law to come into compliance. For example, where a State now requests that social security numbers appear on applications for commercial driver's licenses, they must now require them to do so.

E. Talking Points

- Because social security numbers are the closest thing we have to a universal identifier, their use on a wide array of documents including the records of divorce cases and paternity acknowledgments, applications for marriage, occupational and professional, driver's licenses, and death certificates, will help to facilitate child support enforcement by improving location of obligors and their assets. This in turn will help to ensure that child support orders are accurate and issued in a timely manner.
- In Bowen v. Ray, 476 U.S. 693 (1986), the United States Supreme Court ruled that States can require social security numbers are furnished as a precondition to receiving AFDC under title IV-A.
- The Interstate Commission recommended that States have and use laws requiring SSNs of persons applying for a marriage license to be listed on the license by each applicant's name; and that States have and use laws that require SSNs of the obligor and individual obligee to be listed on all child support orders.
- The Privacy Act, 5 U.S.C. 552a(b)(1) allows a record contained in a system of records to be disclosed without the consent of the individual to whom it pertains, if the disclosure is for "routine use".

F. What to Anticipate During Legislative Process

States should be aware that privacy concerns are likely to be raised about the use of social security numbers, and the release of such numbers (particularly by noncustodial parent groups). Many States have enacted their own versions of the Federal Privacy Act, 5 U.S.C. 521 et seq., and IV-D agencies should work with their State legislators to ensure that the new provisions regarding SSNs do not violate either the Federal or State privacy acts.

G. News Articles/Sample Press Releases

See attached section of the Interstate Commission's report.

H. Cost/Benefit Analysis Ideas

Requiring social security numbers to appear on numerous documents has the capability to improve child support locate and establishment of orders, and therefore collections functions. States need to carefully draft their legislation implementing this provision of the new law, to avoid potential lawsuits regarding the release of social security numbers.

I. Impacted Groups (Non-Governmental)

Bar Associations and other professional organizations where members have licenses, including accountants, chiropractors, doctors, lawyers, and notaries.

Commercial trucking agencies and other commercial transportation agencies.

Hospitals--for paternity acknowledgments and death records.

J. Government Agencies Affected

Courts and administrative agencies where divorce decrees and support orders are entered.

Administrative offices of courts where couples apply for marriage licenses.

Department of Motor Vehicles, for applications for driver's licenses.

K. Contacts

Tom Bernier, Alabama (334) 242-9321

DRAFT

STATUS OF DEVELOPMENT OF STATE SELF ASSESSMENT UNITS

Contact: Keith E. Bassett
(202) 401-9387
e-mail: KBassett@acf.dhhs.gov.

A. Description of Provision

Title III, Subtitle E, Section 342 - FEDERAL AND STATE AUDITS, which in section (a) State Agency Activities states: that each state will "provide a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures; using such standards and procedures as are required by the Secretary, under which State agency will determine the extent to which the program is operated in compliance with this part".

B. Variation Among States

To date, many States have created self assessment units to focus upon program compliance and improve performance. Most of the state's efforts are in their infancy and are loosely structured.

Each state will now be required to create a Self Assessment Unit to conduct the required reviews of their operations and report the results of such reviews to the Secretary HHS. This appears to be the extent of the "specific requirements" that have been contained in the version of the legislation that was enacted. Earlier versions of the bills under consideration contain more specifics and thus may be considered to determine the breadth of the mission which was envisioned and perhaps should be considered as the specifics of this portion of the Law are considered further.

Who organizationally will conduct these reviews, when they will be conducted, as well as the scope of these efforts all needs to be determined. In addition, the question of whether any or all of this function can be contracted out needs to be explored also. The Law is silent on all of these issues. The following are examples of some states' efforts to initiate this activity and the appropriate state contact:

- California has a self assessment unit. Their review covers basically all case processing functions and other penalty requirements. Approximately 15 full time staff at the state level and 58+ part-time staff.

assigned at the 58 counties (function does not require full time activity at the county level. Some counties have more than one part time staff member assigned to the function during the time of review.

Contact: Vivianne DuFour (916) 263-1913.

- Missouri has a self assessment unit. This unit is a spin off of their old quality assurance unit. Their objective is to evaluate every local field office and prosecuting attorney under contract at least once every year. These reviews will be program focused and will closely follow the Federal audit regulations. They plan to assess compliance/substantial compliance for each unit and implement corrective action plans and do follow-up reviews where appropriate. They have approximately 8 staff assigned to this function.

Contact: Mr. Leroy Gilliam (573) 751-2170.

- Virginia has a self assessment unit that conducts annual reviews that are patterned after our audits. They use the Federal regulations and have a 75% and 90% compliance standard. They evaluate Statewideness, Reports and Maintenance, etc. They sample cases from the caseload universe and evaluate a one-year period and sampled over 1,100 cases in their first review. Their criteria is more restrictive than the actual Federal requirements, eg. current payments coming in, arrears balance, etc. and they make recommendations and have corrective action.

Contact: Terry Gates, Office of Program Evaluation (804) 692-1460.

- Minnesota has a unit, separate from the child support program, that performs a review of the County CSE units. This unit also performs reviews of the State's Food Stamp program. Most reviews occur within a two-year period, although the policy is for reviews once every three years at a minimum. The scope generally involves case review and compliance with the 75% standard for affected criteria; accounting procedures; cooperative agreement reviews; and, a review of cost of living adjustments. There are approximately eight people stationed throughout the State performing a review of 87 counties within the state.

Contact: Mr. Wayland Campbell, Child Support Business Manager, (612) 297-1112.

- Delaware conducts reviews on a quarterly basis and samples 1% of the current caseload (approximately 350

cases). They review 8 case processing areas and use a questionnaire which references Federal regulations. They review cases for compliance and timeframes as well as the implementation of corrective action plans. There are 5 people identified as members of this staff.

Contact: Karryl Hubbard, Deputy Director (302) 577-4804

- Ohio has a review unit and they try to follow the Federal schedule of reviews so that all counties get reviewed for all criteria every three years. However, this unit reviews all counties yearly for at least some functional aspects of the program. There are approximately 20 to 30 or more staff involved in this activity.

Contact: Unknown at this time.

- Arizona has a unit that reviews the county attorneys and clerks of the court under contract once a year to ensure that "the contract provisions are met". While we don't know exactly the scope of the reviews, we know that they do not include a case review. The reviews they perform include an analysis of the management reports that the ATLAS system produces and include an analysis of information about the programs ability to meet performance standards. There are currently 3 staff assigned to this function.

Contact: Mr. David Bray (602) 274-8024

- Colorado conducts a statewide case review, as well as reviews of the county child support offices once a year to ensure that Federal requirements are being met. These reviews are patterned after the Federal program results and performance measurement audit before the performance standards were established. Recently this review process has been modified to incorporate a review of performance standards but it's not necessarily consistent with the changes that were made in the Federal audit protocol.

Contact: Ms. Roberta Meyer (303) 866-2832.

- Idaho has a self assessment unit. In the past it has conducted both special reviews of single offices as well as statewide reviews. As statewide statistics came into compliance, the focus would shift to specific functions in specific offices. Regional offices that received bad reviews were required to submit and complete corrective action plans. One person is assigned to this function.

Contact: Unknown

- Montana has a self assessment unit. There reviews have been primarily focused on specific criteria and have been performed statewide. As with Idaho, regional offices that get bad reviews are required to submit and complete corrective action plans. One person is assigned to this function.

Contact: Mr. Chad Dexter, (406) 444-1846.

- Oregon does not have a self assessment unit and we are unaware of any plans to create one.

- Washington has a self assessment unit. They have focused their reviews on specific criteria statewide, specific criteria in specific offices and full reviews of specific offices. Three staff are assigned to this unit.

Contact: Mr. Bob Bryant (360)586-3440.

- North Carolina has had a quality assurance unit for several years. It has a full time staff of nine and is located through out the state.

Contact: Mr. Barry Miller, (919) 571-4120 X-129.

- Georgia has just established a self assessment unit within the last two months. This unit consists of five full time employees.

Contact: Ms. Helen Kearns (770) 535-5476.

- Florida has just recently created a quality assessment unit. It is termed a "Monitoring Team".

Contact: Ms. Sharon Thomas (904) 922-9577.

- Arkansas has a self assessment unit. This unit conducts annual reviews and their scope is to determine program compliance. There are five staff assigned to this function.

Contact: Ms. Sharon Lee, (501) 682-6219.

- New Mexico has a self assessment unit. This unit conducts annual reviews of the program to determine program compliance. There are three people assigned to this function.

Contact: Mr. Marty Berman, (505) 827-7299.

- Oklahoma has a self assessment unit. This unit conducts both program compliance and financial reviews annually. There are four staff assigned to this function.

Contact: Mr. Fred McCrosky, (405) 522-2381.

- Texas has a self assessment unit. This unit conducts both program compliance and financial reviews annually. There are twenty staff assigned to this function.

Contact: Mr. Jeff Lewis, (512) 463-2181, ext.5690.

C. Rationale

Since the Federal OCSE Division of Audit has considerable history and experience in these types of activities, we stand ready to assist in any way possible and to whatever depth the states desire, to help them get started and fulfill their responsibilities under this act. We have tools, techniques, technology and expertise to meet the needs of states and their personnel to effectively transfer this function to the states. We believe that our role is to coordinate the transfer of technology and capacity building from the Federal government to the states and facilitate the exchange of information and experiences from one state to another.

D. Implementing Procedures

While no statutory changes may be necessary, the following operational issues should be addressed in implementing this requirement.

At the present time, we are putting together a workgroup to explore the best methodologies to develop this effort, identify interested parties, explore within the states and child support community what is happening in this area. To date we have representatives from two states who have experience or interest in this area and two regional office as well as several field and central office Audit Division who have come forward to participate in our effort. All others are certainly welcome. Please contact Keith Bassett, Director, OCSE Division of Audit (202)401-9387 to volunteer.

APRIL 29, 1997

IN-HOSPITAL VOLUNTARY ACKNOWLEDGEMENTS

STATES	FY 1994	FY 1995	FY 1996	FY 1997
ALABAMA	0	4,508	3,795	1,357
ALASKA	0	0	0	0
ARIZONA	0	752	0	0
ARKANSAS	4,190	5,299	5,827	0
CALIFORNIA	0	13,413	20,492	0
COLORADO	4,323	6,192	5,502	1,848
CONNECTICUT	0	0	1,656	0
DELAWARE	0	690	1,454	1,892
DISTRICT	2,834	375	1,917	0
FLORIDA	0	35,552	33,657	0
GEORGIA	0	17,120	9,612	1,612
GUAM	0	0	0	0
HAWAII	0	0	0	0
IDAHO	0	1,603	2,082	0
ILLINOIS	0	874	4,626	3,236
INDIANA	0	0	0	0
IOWA	0	5,438	4,288	1,985
KANSAS	0	0	0	0
KENTUCKY	0	682	1,600	0
LOUISIANA	0	0	0	0
MAINE	0	0	0	0
MARYLAND	0	2,804	7,802	4,312
MASSACHUSETTS	5,981	10,917	9,909	0
MICHIGAN	19,677	20,451	35,929	0
MINNESOTA	8,118	8,559	8,250	0
MISSISSIPPI	0	0	0	0
MISSOURI	0	8,197	7,429	0
MONTANA	0	1,701	1,718	413
NEBRASKA	0	815	0	0
NEVADA	0	2,601	583	0
NEW HAMPSHIRE	0	2,473	2,457	422
NEW JERSEY	0	0	0	0
NEW MEXICO	0	0	0	0
NEW YORK	6,282	26,110	23,400	0
NORTH CAROLINA	0	10,694	15,501	0
NORTH DAKOTA	0	0	0	0
OHIO	0	0	0	0
OKLAHOMA	0	0	0	0
OREGON	0	0	0	0
PENNSYLVANIA	2,890	4,489	3,097	1,258
PUERTO RICO	0	0	0	0
RHODE ISLAND	0	0	0	0
SOUTH CAROLINA	0	0	0	0
SOUTH DAKOTA	0	1,815	1,750	474
TENNESSEE	0	11,433	4,911	0
TEXAS	11,734	38,642	36,100	0
UTAH	0	4,336	3,263	1,067
VERMONT	0	20	81	38
VIRGINIA	5,571	8,256	8,652	0
VIRGIN ISLANDS	0	0	0	0
WASHINGTON	9,764	11,050	9,934	1,318
WEST VIRGINIA	0	3,583	0	0
WISCONSIN	3,047	0	0	0
WYOMING	0	0	0	0
TOTAL	84,411	271,444	277,274	21,232

LEGISLATIVE IMPLEMENTATION GUIDE**Enforcement of Orders Against Paternal or Maternal Grandparents****Workgroup:**

Ed Donoghue, RO V, (312) 353-4239

Susan Notar, CO, snotar@acf.dhhs.gov, (202) 401-4606

Sue Honciano, RO IX, (415) 437-8424

A. Description of Provision

This provision gives States the option to enact a State law to enforce child support orders jointly and severally against the paternal or maternal grandparents where the child's parents are minors, and the custodial parent is receiving assistance under the IV-A Temporary Assistance for Needy Families (TANF) program. This optional provision not only creates new rights for those entitled to child support in the States that choose to adopt this provision, but also imposes new legal obligations on paternal/maternal grandparents of the noncustodial parent against whom a child support order is entered.

B. Variations Among States

At least five states have grandparent liability laws in place: 1) Arizona, 2) Hawaii, 3) Ohio (both IV-A and non-IV-A cases), 4) South Dakota, and 5) Wisconsin. The Virgin Islands has a general liability of relatives law, which could include grandparents. While enforcement of the laws in these states has been minimal, or unknown because of a lack of a tracking system, it could be that the intent in these individual states was more to influence behavior (see talking points, below), than to order grandparents to support their grandchildren.

South Dakota reports that its grandparent liability law is an optional provision in State law that is rarely used. It is available in both public assistance, and non-assistance cases. Maternal grandparents who are supporting their grandchild have used the provision to bring cases against paternal grandparents for child support.

Wisconsin's legislation is broader than the Federal legislation in that it allowed both sets of grandparents (maternal and paternal of either the noncustodial or custodial parent) to be held liable for the baby's support. Wisconsin enacted its grandparent liability law as part of the "Abortion Prevention and Family Responsibility Act" of 1985 (see report, attached). The legislation was designed to reduce abortions by funding pregnancy prevention programs, and an adoption center. The State legislature hoped to promote shared grandparent support for grandchildren and increased communication between parents and teenagers, especially males, about sexual behavior and family responsibility. Wisconsin's grandparent liability law was originally supposed to sunset on December 31, 1989 because of legislative concern that the

provisions might have a negative impact on parent/teen relations, and/or lead to a higher abortion rate. The law however, is still in place. The Wisconsin county departments of social services referred 107 potential grandparent liability cases to district attorneys between August 1, 1986 and April 30, 1988, and support was ordered in thirteen cases. Paternal grandparents were ordered to make maintenance payments for their minor son's out of wedlock child in six cases, while maternal grandparents were ordered to pay in eight of the thirteen. The average monthly support payment was \$79.81.

C. Rationale

In the past, the parents of a teenage mother often assumed the responsibility for supporting, or at least housing, a grandchild. The grandparent liability law is designed to require father's families to shoulder some of this burden as well, but only in cases where the parents are minors and the custodial parent is receiving TANF under the IV-A program on behalf of her child. Grandparent liability laws have the potential to increase communication between parents and their teenage sons and daughters about adolescent sexual behavior and the responsibilities of having and raising a family, as well as force the parents of teenagers who have children to take some financial responsibility for the needs of the grandchildren.

D. Critical Elements

- If States choose to enact this provision, they should consider:

What will be the duration of support? Will it end when the minor reaches the age of majority, or continue until age 21 or beyond if the child is in college or technical school or is handicapped as is allowed in some States?

If a case is initiated while the child is a minor but has not been resolved when the child reaches the age of majority, does the suit become moot, or will the State continue it?

Will application of this provision to public assistance cases only result in lawsuits based upon equal protection grounds?

- If the purpose of a state opting to implement this law is to impact attitudes and behavior, then people must know about it and understand it well enough to know if it applies to them. Media attention and other forms of communication are necessary.

E. Talking Points

- Unlike most of the other child support provisions in the welfare reform law, States have the option whether to enact this provision.

- Under the law, both parents must be minors, and the custodial parent must be receiving Temporary Assistance for Needy Families before the grandparents can be pursued for support.
- This provision allows the grandparents, rather than taxpayers alone, to be held responsible for the financial support of their grandchildren.
- Grandparents may be held jointly and severally liable for the child support of their grandchildren. This means that one or both grandparents could be held financially responsible if the other requirements of the section are met.
- The law and its financial sanction could increase communication between parents and their teenage children about adolescent sexual behavior and its results.

F. What to Anticipate During Legislative Process

States should consider having an expert from a State that already has implemented grandparent liability testify before the legislature.

States should anticipate possible resistance to this provision from both father's rights groups and senior citizen organizations. It would be helpful therefore to meet with both groups and explain the benefits of such legislation to them, that it would help keep them involved in the child and grandchild's life, and would show that they are responsible and responsive to the needs of the child.

States should be aware that IV-D agencies may learn of instances where a minor mother has become pregnant by a non-minor father and statutory rape issues may arise. Depending on State law, there may be a need to report such cases to the proper authorities.

G. News Articles/Sample Press Releases

Attached.

H. Cost/Benefit Analysis Ideas

Because this provision has the potential to face opposition from both senior citizen as well as father's rights groups, States should consider whether passing this legislation is "worth" it to them, either in the sense of deterrence (encouraging grandparents to urge their children to wait until they are adults to have children), or actual child support dollars recouped from grandparents. This is especially true in light of the small number of potential grandparent cases to which such a provision will apply.

In its 1988 evaluation of its grandparent liability law (attached), Wisconsin noted that of approximately 2400 minors giving birth each year in Wisconsin, only about half qualified for AFDC. Of those, over two-thirds lived in households where the grandparent's income didn't

justify pursuing grandparent support. The report also noted that about two-thirds of the partners of the minor females having children were not minor males, making the law inapplicable. Further, in some instances the paternity of the minor father will not have been established, and/or grandparents may be deceased, incarcerated, or elusive. Wisconsin noted that for those reasons, it was able to pursue grandparent liability in only about 240 cases per year, or 10% of the minor births in the State. The Wisconsin reported noted that among parents and teenagers who had heard about the law, there was reportedly a small benefit in family communication. About 3% of the girls and 5% of the boys reported discussion with their parents about the law. About 9% of the girls and 3% of boys who had heard about the law reported that it led to discussion of sexuality or birth control with their parents. Wisconsin's evaluation did not find that the law led to a decline in the number of teen pregnancies, and in fact, the number of teen pregnancies actually increased in the years following its enactment, reflecting general trends in the country as a whole.

I. Impacted Groups (Non-Governmental)

- Senior citizen interest groups such as American Association of Retired Persons (AARP), Gray Panthers, etc.
- Grandparents of children of minor parents who receive assistance under the IV-A Temporary Assistance to Needy Families program. These individuals could possibly be the subjects in a class action suit, since this provision could be seen as subjecting them to obligations that are not applicable to other grandparents.
- Parental Support groups, Hawaii and Arizona educated such groups on the provision.
- Outreach to high schools about the new law to serve as a deterrent, the message that their parents will be upset and financially liable if they have kids as minors.
- Private attorneys; Bar associations.

J. Government Agencies Affected

- IV-D agencies will have to determine whether parents are minors, whether the custodial parent is receiving TANF.
- TANF agencies may have to communicate whether a given case involves minor parents to the IV-D agency.
- The judiciary and IV-D hearing officers, Hawaii and Arizona conducted training session on their grandparent liability provisions.

K. Contacts

Wisconsin
Todd Kummer
County and Interstate Services Unit Supervisor
Bureau of Child Support
Division of economic Support
Wisconsin Department of Health and Social Services
1 West Wilson Street
P.O. Box 7935
Madison, WI 53707-7935

Arizona, Christina Doss, Supervisor, Policy Unit, IV-D Agency (602) 274-7951

Hawaii, Jan Ikei, Program Specialist, (808) 523-0215

Ohio, Sarah Cooper, (614) 752-6563.

Virgin Islands, Aurjul H. Wilson, IV-D Director, (809) 775-3070

DRAFT

LEGISLATIVE IMPLEMENTATION GUIDE

LOCATOR INFORMATION FROM INTERSTATE NETWORKS

**Personal Responsibility and Work Opportunity Reconciliation Act of 1996
Public Law 104-193, Section 315**

Draft 10/28/96

Workgroup:

John Perez, RO I (617) 565-2468

Dave Williams, RO I (617) 565-2474

A. Description of Provision

Section 466(a)(12) of the Social Security Act, as added by section 315 of PRWORA, requires States to have in effect laws which require the use of procedures in place to ensure that all Federal and State agencies conducting child support activities have access to any system the State uses to locate an individual for purposes relating to motor vehicles or law enforcement.

The National Law Enforcement Telecommunications System (NLETS) is a prime example of such a resource. NLETS provides State and local law enforcement officials with motor vehicle, driver's license and traffic violation information. Another resource is the National Crime Information Center (NCIC). This Federal data base includes NLETS information and criminal warrants indicating which States will conduct extraditions. NCIC is available currently only to law enforcement agencies with appropriate access or "ORI" numbers. Many state or district attorney's offices have access to both systems for law enforcement purposes.

The most successful way currently for IV-D agencies to gain access to NLETS and NCIC is for the IV-D agency to contract with local law enforcement agencies providing IV-D functions. Such contracts allow the IV-D agency indirect access to NLETS and NCIC through the law enforcement agency.

Effective Date: This provision is effective October 1, 1996. If State legislation is needed to implement it however, States have a grace period until the first day after the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of the Act, with each year of a two-year legislative session deemed as a separate regular session.

B. Variations Among States

OCSE is not aware of any State that has laws and a system in place that would meet the mandates of this provision of the PRWORA. All States have implemented some form of in-State motor vehicle access with widely divergent State practices.

o Alabama/Tom Bernier (334) 242-9321

The Alabama Division of Support is classified as a law enforcement agency and has direct on-line access to NLETS. The information obtained through NLETS is strictly for locate purposes only. In addition to NLETS, the Division of Support has a contract with the Alabama Administrative Office of Courts for direct on-line access to the court computer system for locate information. Alabama also has direct on-line entry to the Electronic Parent Locator Network (EPLN) database that contains address information from about ten States' motor vehicle agencies.

o Connecticut

The Bureau of Support Enforcement (BCSE) has automated on-line access with the Department of Motor Vehicles for address and driver's license numbers. BCSE also has on-line access to the Department of Corrections (DOC) for the inmates' DOB, SSN, incarceration status and release date.

o Maine/Ann Liburt (207) 287-2887

The IV-D agency uses its on-line access to the State's Registry of Motor Vehicle database to obtain address, title, registration and license information. No formal access to law enforcement systems exists; all contacts/requests for information must be made by telephone or written correspondence.

o Michigan

Michigan sends inquiries to driver's license bureaus in most States, territories and some Canadian provinces, using a State driver license request letter. It also transmits hard copy locate inquiries to sister States' Parent Locator Services. Michigan has no legislation on this process.

o Montana/Susan Carr (406) 444-4675

In Montana, both field and central locate unit staff have direct on line "inquire/view only" access to information from their State Department of Motor Vehicles. This is accomplished via an interface with their statewide automated computer system. The central locate unit accesses law enforcement information by telephoning the State Highway Patrol. The Highway Patrol also serves as a liaison with other States. Montana's Child Support Enforcement Division is deemed a law enforcement agency and has an assigned ORI number, the access number for NLETS and NCIC.

○ **North Carolina/Kathy Futrell (919) 571-4114
Christine Hall**

North Carolina's locate functions are spread throughout the State. Its locate sources include: Employment Security, EPLN, and the Department of Motor Vehicles. Some counties have local FPLS access and can request 1099 information; but the response must still be routed through the SPLS.

○ **South Dakota/Lilia LaFave (605) 773-3641**

Both field staff and the central locate unit have direct on line "inquire/view only" access to Department of Motor Vehicle information and the State Unified Judicial System. This is completed through a computer interface in their automated State-wide IV-D system.

For additional in-State law enforcement information, staff in the central locate unit submit a written request to their Division of Criminal Investigations (DCI). Release of information by DCI however, is generally limited to address and employment data, and not to criminal records. Based on written request, the South Dakota DCI provides their IV-D agency with copies of drivers' license photos. The State OCSE has the ability to use a Department-wide ORI number, although the IV-D agency is not specifically designated as a law enforcement agency.

South Dakota's Centralized Locate Unit has on-line access to NLETS for accessing drivers' license information nationwide, but not other forms of information such as criminal records.

○ **Vermont**

Vermont's statute gives its IV-D agency access to motor vehicle information (see 33 V.S.A. Sec. 4107). Vermont does not currently have access to law enforcement systems.

○ **Washington/Elizabeth Morgan**

The Division of Child Support (DCS) supplies the Department of Licensing (DOL) with a file containing the name, SSN and DOB of all noncustodial parents with open cases on the SEMS database. DOL matches this file with their database and returns any match to DCS. The new information on matches returned to DCS by DOL includes: name, DOB, SSN, driver's license number, address (street, city, state and zip), date (of address). DOL also supplies DCS with a code to indicate any of the

following: individual deceased, record purged, new State (individual moved to) and possible alternate name/DOB. Information from DOL is added to the SEMS database, using the auto-locate logic (comparison of date of DOL address to date of best address on SEMS). The match with DOL is done quarterly.

In addition to the quarterly match, DCS staff have real-time, on-line access to DOL driver's license, vehicle plate and vessel registration records from their PC work station. This access is available during normal business hours.

DCS supplies the Department of Corrections (DOC) with a file containing the name, SSN AND DOB of all noncustodial parents with open cases on the SEMS database. DOC matches this file with their database. On matches, DOC returns the following information, from their records, to DCS: the noncustodial parent's location, supervisor (probation/parole officer), DOB, release date, aliases, last known address, information on prison employment, amount of disposable income and debt owed to the DOC. This information is added to the SEMS database as a case comment, except for address information, which is added using the auto-locate logic (see above). This match is done on an annual basis.

C. Rationale

IV-D agencies often find it difficult to locate noncustodial parents, particularly in the interstate context. Locate tools that improve States' ability to locate noncustodial parents should help to improve child support enforcement. While States generally have access to their own Department of Motor Vehicle databases, they often lack access to those of other States.

In addition, a number of noncustodial parents are, or have been, involved with the criminal justice system. Interface with law enforcement databases may provide information on 1) current jail/prison status; 2) parole or probation address information; and 3) employment information. Because of the fluid relationship people have with corrections/law enforcement, periodic interface can provide either good locate information or good leads for skip tracing activities.

D. Critical Elements

- States should develop legislation that allows them access to State law enforcement and motor vehicle records for locate purposes, with Federal and other States' access permitted.

E. Talking Points

- Access to interstate motor vehicle and law enforcement databases should help to improve IV-D agencies' ability to locate noncustodial parents, and improve child support enforcement case processing.

- States must have procedures in place ensuring that State and Federal agencies conducting child support enforcement activities have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.
- Because the statutory provision is very broad, and there does not appear to be any corresponding statutory mandate upon law enforcement agencies, States may have to enter into negotiations with law enforcement records systems to obtain access to those databases by pointing out the possible loss of some Federal funding to the State if the access is denied.

F. What to Anticipate During the Legislative Process

States should expect resistance from law enforcement agencies about allowing IV-D agencies access to NLETS and other record systems for safeguarding of information concerns. States should be prepared to give law enforcement agencies positive examples of States with access to these databases, and to give them arguments why IV-D agencies should have such access.

G. News Articles/Sample Press Releases

Dear Colleague Letter No. 95-55, dated August 28, 1995 - Re: Use of NLETS to Access Driver Information

H. Cost/Benefit Analysis

None available.

I. Impacted Groups (Nongovernmental)

NLETS--administrators/State board members
 NCIC--administrators/State board members
 Noncustodial parent groups

J. Government Agencies Affected

IV-D Agencies
 U.S. Department of Justice, National Criminal Information Center
 Law enforcement agencies

K. Contacts

Alabama/Tom Bernier (334) 242-9321

Maine/Ann Liburt (207) 287-2887

Montana/Susan Carr (406) 444-4675

North Carolina/Kathy Futrell (919) 571-4114 Christine Hall

South Dakota/Lilia LaFave (605) 773-3641

DRAFT

LEGISLATIVE IMPLEMENTATION GUIDE

Voiding of Fraudulent Transfers

Draft 9/13/96

Workgroup:

Susan Notar, CO, snotar@acf.dhhs.gov, (202) 401-4606

Sharan Lesmeister, RO VII, (816) 426-3584

A. Description of Provision

States must have in effect either the Uniform Fraudulent Conveyance Act of 1981, or the Uniform Fraudulent Transfer Act of 1984, or another law, specifying the indicia of fraud creating a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor. States must also have procedures in place to void such transfers, or obtain a settlement in the best interests of the child support creditor, when the State knows of a transfer by a child support obligor that establishes a prima facie case. A prima facie case is one that has the evidence necessary to require the obligor to rebut the evidence of fraudulent transfer.

Effective Date--this is a § 466 requirement of the Social Security Act, taking effect October 1, 1996, unless the State needs to change its law to meet the new requirements. For State law changes, the grace period is until the effective date of the State law implementing the provisions, but no later than the first day of the first calendar quarter after the close of the first regular legislative session that begins after the enactment of the bill, with each year of a two-year legislative session deemed as a separate regular session.

B. Variations Among States

While all States and territories have in place a law prohibiting fraudulent transfers (see chart, attached) it appears that few States if any, use them regularly in child support proceedings. For example, Iowa, Kansas, Missouri, and Nebraska all have fraudulent conveyance laws, but they report that they do not use them because they have found that such transfers are difficult to prove, and there is no clear way to identify when a fraudulent transfer takes place unless the custodial parent tell them. Thirty-nine States have enacted either the Uniform Fraudulent Conveyance Act or the more recent Uniform Fraudulent Transfer Act. Fifteen States have enacted a comparable law based on early English common law. Those laws provide for indicia of fraud and a remedy for creditors.

C. Rationale

Obligors often transfer their assets to someone else to appear as though they have less income or assets when child support is ordered. Remarried obligors place the title of their real and personal property in the new spouse's name. Sometimes, the obligor asks a friend or relative to accept title to the obligor's property to avoid making support payments. While all States have in place a law prohibiting fraudulent transfers, the problem for child support purposes is that the laws have not been used. The new provision requires States to affirmatively void such transfers, or attempt to obtain settlements in cases where the IV-D agency knows that such a transfer has occurred.

D. Critical Elements

- If States do not have either the Uniform Fraudulent Conveyance Act of 1981, or the Uniform Fraudulent Transfer Act of 1984 in place, they must have another law specifying the indicia of fraud creating a prima facie case that an obligor transferred property to avoid payment of a child support order. "Indicia of fraud" relieves the child support creditor (the State or the custodial parent) from the initial burden of proving that the obligor had an intent to fraudulently transfer the property. Instead, the child support creditor could show a dramatic decrease in the obligor's bank account one day and a corresponding account held in his mother's name the next.
- States must have in place procedures to void such transfers, or obtain a settlement in the best interests of the child support creditor when the State "knows" of a transfer that establishes a prima facie case. The new law does not define how States would know of transfers, States may therefore want to establish criteria for identifying cases of fraudulent transfer.
- If States do not use procedures to void fraudulent transfers, they must have in place procedures to obtain a settlement from the obligor on behalf of the child support creditor, the State or the family.

E. Talking Points

- Obligors should not be able to escape their legal and moral responsibility of supporting their children by fraudulently placing money and assets in the names of relatives, new spouses, and friends.
- Effective enforcement of this section could serve as a deterrent for other obligors from fraudulently transferring property to avoid paying child support.
- Laws prohibiting fraudulent transfers have in been in place for some 300 years, since the days of English common law.
- All States and territories have enacted a fraudulent conveyance law, so States

need to focus on effective ways in which to use this enforcement tool. For example, the new provision requires States to have procedures in place to void fraudulent transfers or to seek a settlement when they know of such a transfer by a child support obligor.

- IV-D agencies should work with financial institutions and other government agencies such as departments of motor vehicles, to ensure that they understand the importance of this provision, and that child support enforcement agencies may request information from them to help them prove that a fraudulent transfer has taken place.
- IV-D agencies should emphasize the importance of sharing information on possible fraudulent transfers with custodial parents, because any information custodial parents can give to the IV-D agency will help it to "know" of potential cases.

F. What to Anticipate During Legislative Process

It is possible that some States will not have to pass legislation to meet the requirements of this section if they have a law prohibiting fraudulent transfers in place that meets the requirements of the section, and can put procedures in place to use it through court manuals or administrative rules. Other States may have to amend their fraudulent transfer law, and/or child support proceedings code, to put appropriate procedures for enforcement in place.

G. News Articles/Press Releases

Please see attached section from the Interstate Commission report, "Supporting Our Children: A Blueprint for Reform".

H. Cost/Benefit Analysis Ideas

Most IV-D agencies would probably agree that fraudulent transfer is a common problem in child support cases. Voiding such transfers or obtaining settlements in the best interest of the child support creditor therefore has the potential to help States greatly increase their child support collections. Because these cases are likely to take time to prove, IV-D agencies should develop simplified mechanisms for learning of fraudulent transfers, and voiding them, or obtaining settlements.

I. Impacted Groups (Non-Governmental)

- Financial Institutions--States may want to work with banks, and credit unions to inform them of the new requirement, and the fact that IV-D agencies may request financial information on obligors.
- Father's groups--to inform them of new provision and to let them know that

['312] -- '454B

State new hire reporting systems in existence prior to P.L. 104-193 must meet rest of new requirements ['313] -- '454(28)

Requirements Effective 10/1/99

End of optional exception period for local court collection of child support in lieu of State centralized collection unit ['312] -- '454B

Requirements Effective 10/1/2000

ADP systems must meet all IV-D requirements enacted on or before this law (with additional time tied to regulation issuance) ['344(A)(4)] -- '454(24)

IV-D agencies are cracking down on these cases.

- Oblige groups such as ACES, to let them know the importance of providing the IV-D agency with as much information about possible fraudulent transfers.

J. Government Agencies Affected

IV-D agencies should work with the following governmental agencies, both to educate them about the new provision as well as to work with them on fraudulent transfer cases.

- Department of Motor Vehicles
- Title Registration Office/Clerk of Courts
- Judiciary and IV-D Hearing Officers

K. Contacts

Jeff Ball
Team Leader
Technical Assistance Branch
Administration for Children and Families
Federal Office of Child Support Enforcement
370 L'Enfant Promenade, S.W., Washington, D.C. 20447
(202) 401-5427

Ray Rainville
Chief
Child Support Enforcement Services
New Jersey Courts
(609) 292-4634

STATE	UFCA ¹	UFTA ²	Comp. Act ³	Statute §§
ALABAMA		✓		Code 1975, 8-9A-1 to 8-9A-12.
ALASKA			✓	A.S. 34.40.010.
ARIZONA		✓		A.R.S. 44-1001 to 44-1010.
ARKANSAS		✓		A.C.A. 4-59-201 to 4-59-213.
CALIFORNIA		✓		West's A.C.C. Code, 3439 to 3439.12.
COLORADO		✓		West's C.R.S.A. 38-8-101 to 38-8-112.2.
CONNECTICUT		✓		C.G.S.A 52-552a to 52-552/.
DELAWARE	✓			6 Del.C 1301 to 1312.
WASH., D.C.			✓	D.C. Code Ann. 28.3101.
FLORIDA		✓		West's F.S.A. 726.101 to 726.112.
GEORGIA			✓	Ga. Code Ann. 23-2-60.
HAWAII		✓		HRS 651C-1 to 651C-10.
IDAHO		✓		I.C. 55-910 to 55-921.
ILLINOIS		✓		S.H.A. 740 ILCS 160/1 to 160/12.
INDIANA			✓	Burns Ind. Code Ann. 32-12-1-14.
IOWA			✓	I.C.A. 639.30.
KANSAS			✓	KSA 33-102.
KENTUCKY			✓	KRS 405.060.
LOUISIANA			✓	L.S.A. CC 2036.
MAINE		✓		14 MRSA §§ 3571 to 3582.
MARYLAND	✓			Code, Commercial Law, 15-201 to 15-214.

¹Uniform Fraudulent Conveyance Act of 1918.

²Uniform Fraudulent Transfer Act of 1984.

³Most comparable acts are based on the original English law, Statute of 13 Elizabeth. Indicia of fraud establish a prima facie case; the remedy of voiding the transfer is available to the creditor.

STATE	UFCA	UFTA	Comp. Act.	Statute §§
MASSACHUSETTS	✓			M.G.L.A. c. 109A, 1 to 13.
MICHIGAN	✓			M.C.L.A. 566.11 to 566.23.
MINNESOTA		✓		M.S.A. 513.41 to 513.51.
MISSISSIPPI			✓	Miss. C.A. 15-3-3.
MISSOURI		✓		V.A.M.S. 428.005 to 428.059.
MONTANA		✓		MCA 31-2-326 to 31-2-342.
NEBRASKA		✓		R.R.S. 1943, 36-701 to 36-712.
NEVADA		✓		N.R.S. 112.140 to 112.250.
NEW HAMPSHIRE		✓		RSA 545-A:1 to 545-A:12.
NEW JERSEY		✓		N.J.S.A. 25:2-20 to 25:2-34.
NEW MEXICO		✓		NMSA 56-10-14 to 56-10-25.
NEW YORK	✓			McKinney's Debtor and Creditor Law, 270 to 281.
N. CAROLINA			✓	NCGS 39-15.
N. DAKOTA		✓		NDCC 13-02.1-01 to 13-02.1-10.
OHIO		✓		R.C. 1336.01 to 1336.11.
OKLAHOMA		✓		24 Okl.St. Ann. 112 to 123.
OREGON		✓		ORS 95.200 to 95.310.
PENNSYLVANIA		✓		12 Pa.C.S.A 5101 to 5110.
RHODE ISLAND		✓		Gen. Laws 1956, 6-16-1 to 6-16-12.
S. CAROLINA			✓	SCCA 27-23-10.
S. DAKOTA		✓		SDCL 54-8A-1 to 54-8A-12.
TENNESSEE	✓			T.C.A. 66-3-301 to 66-3-314.
TEXAS		✓		V.T.C.A. Bus. & C. 24.001 to 24.012.
UTAH		✓		U.C.A. 1953, 25-6-1 to 25-6-13.
VERMONT			✓	V.S.A. 27-542, 9-2281.

STATE	UFCA	UFTA	Comp. Act	Statute §§
VIRGINIA			✓	V.C.A. 55-80.
WASHINGTON		✓		West's RCWA 19.40.011 to 19.40.903
WEST VIRGINIA		✓		Code, 40-1A-1 to 40-1A-12
WISCONSIN		✓		W.S.A. 242.01 to 242.11
WYOMING	✓			W.S. 1977, 34-14-101 to 34-14-113
PUERTO RICO			✓	P.R.L.A. 31-3492, 10-61, 10-1770
VIRG. ISLANDS	✓			28 V.I.C. 201 to 212
GUAM			✓	G.C.C. 1227-1231
TOTAL	8	31	15	

Caveat: This chart was compiled in 1994, so some States may have changed their laws after that year.