



DATE: _____

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TO:	: <u><i>Diana Melinda</i></u>	FROM:	[] MARY BOURDETTE
OFFICE	: _____		[] BARBARA CLARK
ROOM NO	: _____		[] GREG JONES
PHONE NO	: _____		[] PATRICIA BRAVO
FAX NO	: _____		[<input checked="" type="checkbox"/>] LAUREN GRIFFIN
			[] AMY LOCKHART
			[] SARA COSTIN
			[] ALIX HOWARD

TOTAL PAGES 456 - 7431
INCLUDING COVER: 395 - 6148

REMARKS

*This is a summary of
NR 3130. I hope to get
final language*

ID:

DESCRIPTION OF H.R. 3130
The Child Support Performance and Incentive Act of 1998
June 24, 1998

Title I: Alternative Penalty Procedure

Eligibility for alternative penalty. If a State is making a good faith effort to comply with the data processing requirements of the Family Support Act of 1988 and if the State submits to the Secretary of Health and Human Services (HHS) a corrective compliance plan describing how, by when, and at what cost it will comply, the State may avoid the penalty in current law and qualify for the new penalty. The new penalty is 4 percent, 8 percent, 16 percent, 25 percent, and 30 percent, respectively, for the first, second, third, fourth, and fifth or subsequent year of failing to comply with the data processing requirements; this percentage is applied to the amount payable to the State in the previous year as Federal administrative reimbursement under the child support program.

Penalty waiver. All penalties are waived if, by August 1, 1998, a State has submitted to the Secretary a request that the Secretary certify the State as meeting the 1988 data processing requirements and the State is subsequently certified as a result of a review conducted pursuant to the request.

Partial penalty forgiveness. If a State operating under the penalty procedure achieves compliance with the data processing requirements before the first day of the next fiscal year, then the penalty for the current fiscal year is reduced by 90 percent.

Penalty reduction for good performance. In addition to complying with the data processing requirements of the 1988 Act, States must comply with the data processing requirements imposed by the 1996 welfare reform law by October 1, 2000. In the case of the 1996 requirements, a State that fails to comply can have its annual penalty reduced by 20 percent for each performance measure under the new incentive system (see Title II below) for which it achieves a maximum score.

Expansion of waiver provision. The authority of the Secretary to waive certain data processing requirements and to provide Federal funding for a wider range of State data system activities is expanded to include waiving the single Statewide system requirement under certain conditions.

Federal payments under waiver. States must submit to the Secretary separate estimates of the costs to develop and implement a single Statewide system and the alternative system being proposed by the State plus the costs of operating and maintaining these systems for five years from the date of implementation. The Secretary must agree with the estimates. If a State elects to operate such an alternative system, the State is paid the 66 percent Federal administrative reimbursement only on expenditures that do not exceed the estimated cost of the single Statewide system.

Inapplicability of penalty under TANF. States are subject to the child support penalties but are exempt from penalties under the Temporary Assistance for Needy Families (TANF) program.

Title II: Child Support Incentive System

Amount of incentive payments. The incentive payment for a State for a given year is calculated by multiplying the incentive payment pool for the year by the State's incentive payment share for the year. The incentive payment pool is equal to the Congressional Budget Office estimate of incentive payments for each year under current law. Specifically, the amounts (in millions) for fiscal years 2000 through 2008, respectively, are: \$422, \$429, \$450, \$461.

\$454, \$446, \$458, \$471, and \$483. After 2008, the incentive payment pool increases each year by the inflation rate.

Calculating incentive payments. In addition to the incentive payment pool, incentive calculations are based on the five factors defined below. The general approach is to pay to each State its share of the incentive payment pool based on the quality of its performance on the five incentive performance measures. The five measures are: paternity establishment, establishment of support orders, collections on current payments, collections on arrearages, and cost effectiveness.

Treatment of interstate collections. In computing incentive payments, support collected by a State at the request of another State is treated as having been collected by both States. State expenditures on a special interstate project carried out under section 455(e) are excluded from incentive payment calculations.

Regulations. The Secretary of HHS is required to prescribe regulations necessary to implement the incentive payment program within nine months of the date of enactment.

Reinvestment. States are required to spend child support incentive payments to carry out their child support enforcement program or closely related activities.

Transition rule. The new incentive system will be phased in over two years beginning in fiscal year 2000.

General effective date. Except for the elimination of the current incentive program, the amendments made by this legislation take effect on October 1, 1999.

Title III: Adoption Provisions

The current penalty for violating the provision on adoption across jurisdictional lines is terminated and a new penalty substituted.

Title IV: Miscellaneous

Elimination of barriers to medical child support. The Secretaries of the Departments of Health and Human Services and Labor must design and implement a standardized medical support notice. State child support enforcement agencies are required to use this standardized form to communicate the issuance of a medical support order, and employers are required to accept the form as a "qualified medical support order" under the Employee Retirement Income Security Act (ERISA).

Safeguard of new employee information. The conference agreement includes several protections against misuse of the New Hire information collected by the child support enforcement program.

Limitations on use of TANF funds for matching under certain federal transportation programs. This provision clarifies that TANF money used as matching funds for grants under the Transportation Equity for the 21st Century Act of 1998 must be spent primarily on the transportation needs of families eligible for TANF benefits and other low-income families.

High-volume automated administrative enforcement in interstate cases. A definition of previous law is clarified.

General Accounting Office reports. By December 31, 1998, the Comptroller General of the United States must report to Congress on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order. In addition, not later than December 31, 1998, the Comptroller General must report to

Congress on the implementation of the Federal Parent Locator Service and the State Directory of New Hires.

Data matching by multi-state financial institutions. HHS may assist states in coordinating financial institution data matches in the case of financial institutions with branches in more than one state.

Elimination of unnecessary data reporting. An unnecessary state data reporting requirement in the child support enforcement program is dropped.

Eligibility under welfare-to-work programs. Assistance provided to low-income noncustodial fathers counts toward the requirement that 70 percent of funds be spent on very low-income individuals.

Study on child support owed by aliens. The Secretary of the Department of Health and Human Services is required to report to Congress within 6 months of enactment on the feasibility of a program that would bar entry to aliens trying to enter the United States if they owe \$5,000 or more in child support to a U.S. citizen.

Technical corrections. States are given an additional five months to report data used to compute adoption incentive payments (until April 30, 1998) and the Secretary is given an additional four months to approve the data (until July 1, 1998). In addition, two conflicting requirements of current law concerning a state data reporting requirement on Social Security numbers are reconciled.

Andrea Kane

06/26/98 07:05:58

PR4

Record Type: Record

To: Diana Fortuna/OPD/EOP, Cynthia A. Rice/OPD/EOP
cc: linda.lawson @ ost.dot.gov @ inet, Beach-Benjamin @ dol.gov @ inet, psavage- @ os.dhhs.gov @
inet, Lgriffii1 @ os.dhhs.gov @ inet
Subject: child support incentives bill

In reviewing the ATJ and WTW provisions of the final bill that passed, there are three things that I didn't expect to see, but I don't think they pose major problems. Linda and Ben, let me know if DOT or DOL disagree. Lauren, do you know when (iv) surfaced and where it came from (see note 1. below)?

1. ATJ:

- (k)(1)(C)(iv) adds a fourth group to the population who must receive the preponderance of benefits of ATJ--low income individuals at risk of qualifying for TANF. (iv) was not in the most recent version I'd seen, and was not something Patricia Bravo mentioned as a last minute change, so I'm not sure when it was added. Since eligibility for TANF includes current and former recipients and low income individuals (defined as up to 150% of poverty level), this is not totally inconsistent in principal, but it will raise some administrative issues of how to define "at risk".
- (k)(1)(C)(iii) seems to have a technical drafting error. The last version I saw simply included noncustodial parents at the end of (ii) so it read "former recipients of such assistance and noncustodial parents". I suggested to Patricia that noncustodial parents needed a more specific reference such as "noncustodial parents of children receiving or who have received assistance". The final language broke noncustodial out onto its own line (iii) and referenced Welfare-to-Work eligibility criteria -- item (aa) or (bb) of section 403(a)(5)(C)(ii)(II), but this went too far. Should have referenced Section 403(a)(5)(C)(ii) and (iii), which define eligibility for the 70% and 30% of formula funds. (ii) (aa) and (bb) references the duration of assistance of the recipient and (as amended in Sec 408 of this child support bill) minor children of the noncustodial parent and do not specifically reference noncustodial parent. Also, they are within the 70% section, thereby eliminating eligibility of noncustodial parents under the 30% section (characteristics of long-term recipients, as opposed to long term recipients). *The preponderance term gives some wiggle room, but this may be something worth raising with Hill staff.*

WTW:

- In the marked up fix Cynthia sent back to Ron and Patricia last Friday, she crossed out the amendment to 403(a)(5) (C)(ii) that struck "of minors whose noncustodial parent is such a recipient" and instead sent the two other changes from DOL. However, the final version includes this amendment as (1) under Sec 408. As I read it, it doesn't cause a problem as long as (2) and (3) are there, but DOL should double check it. Ben--can you pass along to Roxy Nicholson? She may already be aware of it.

Diana Fortuna

06/26/98 04:50:19
PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Andrea Kane/OPD/EOP
Subject: H.R. 3130 -- Just Passed the Senate

child support incentives bill passed both houses.

----- Forwarded by Diana Fortuna/OPD/EOP on 06/26/98 04:41 PM -----

Melinda D. Haskins 06/26/98 02:10:57 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: James C. Murr/OMB/EOP
Subject: H.R. 3130 -- Just Passed the Senate

H.R. 3130 has been cleared for consideration by the President.

Message Sent To:

Diana Fortuna/OPD/EOP
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Laura Oliven Silberfarb/OMB/EOP
Edwin Lau/OMB/EOP
Janet R. Forsgren/OMB/EOP

Diana Fortuna

06/24/98 05:16:14

PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: No one's asking, but here's a draft press statement on child support incentives; wonder what I should do with it

Possible Administration comment on House consideration/passage of HR3130, the Child Support Enforcement and Incentive Act of 1998:

While we have not yet had a chance to review the legislation being considered by [or passed by] the House, we are pleased that Congress appears to be moving toward passage of such a bill. We strongly support the bill's provisions to reward states based on their performance on a number of key child support enforcement goals -- provisions which are based on an Administration proposal. We also support the bill's concept of an alternative penalty structure to guarantee that states face automatic and escalating penalties if they fail to automate their child support enforcement systems on time. We look forward to enactment of a bill that would accomplish these important goals.

Andrea Kane

06/24/98 08:23:12

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Child Support Incentives Bill--Other provisions

This bill also includes changes related to Welfare-to-Work (as Diana's earlier note mentioned) and Access to Jobs. We're happy about the Welfare-to-Work changes and can live with the ATJ changes.

Welfare-to-Work Eligibility for Non Custodial Parents

The bill clarifies two issues to facilitate serving non-custodial parents under WTW.

1) As drafted, the BBA requires that in order for a **non-custodial** parent to be eligible for services, the **custodial** parent must meet 2 of the 3 'hard-to-serve' criteria (educational deficit, substance abuse, poor work history). The bill clarifies that either the custodial or non-custodial parent can meet these criteria, thereby ensuring that the individual being served is the one with the barriers to employment and addressing the concern that the organization serving the non-custodial parent would not necessarily have access to information about the custodial parent.

2) As drafted, the BBA requires that in order to serve a non-custodial parent, the custodial parent must be a long-term welfare recipient. The bill clarifies that either the custodial parent or the minor child of the noncustodial parent must be long-term recipients. This addresses child only cases. DOL thought these amendments were needed, and we agreed. Ron Haskins was very supportive (as was Wendell), but Dennis Smith was not. The House prevailed.

Access to Jobs Match

As you know, Access to Jobs envisioned a fairly broad notion of match, including allowing other federal funds such as WTW and TANF to be used for match. Once W&M and Sen. Finance staff eventually started paying attention to ATJ, they raised a issues that were all over the map from concern about losing control of "their" TANF funds, to allowing states to transfer funds out of TANF to ATJ, to whether this might be a vehicle for states to use TANF funds to build roads. They considered a variety of amendments to TANF in the child support bill to address these concerns--some real, some perceived. HHS managed to persuade committee staff to drop some of the weirder fixes, so what we ended up with is definitely better than what could have been, but it's not perfect. The provisions got pretty messy given multiple agencies and committee jurisdictions. There'll be an opportunity--and challenge--to work with HHS, DOL, and DOT to operationalize these provisions as DOT develops the criteria for Access to Jobs competitive grants.

What ended up in the child support bill:

1. TANF funds used as ATJ match must be used for new or expanded transportation services (and not for construction), and the preponderance of Access to Jobs funds (including TANF match) must be spent on current or former TANF recipients and noncustodial parents (ATJ has a somewhat broader eligibility criteria--current and former TANF recipients, or those up to 150% of poverty).
2. Any TANF funds used as ATJ match are subject to the 30% cap on transferability. In other words, even though there is no new authority for states to **transfer** funds out of TANF to ATJ, if they use TANF funds to **match** ATJ, this amount combined with any transfers to child care and SSBG cannot exceed 30%. We were not thrilled with the principle --if a state identifies transportation as a major need, why would we want to limit the amount they could use to leverage additional transportation resources? But, this is not likely to pose a serious practical constraint since almost all states have plenty of room under their 30% cap and ATJ is so much smaller than

TANF (ATJ = up to \$140 M/year while TANF = \$16 B)

3. If someone receives transportation "benefits" through Access to Jobs, but is not receiving any other TANF assistance, these transportation benefits are not considered TANF assistance. This allows someone who just needs help with transportation, either after they have moved from welfare to work or in lieu of getting on welfare, to be served through ATJ (including TANF match) without invoking the time limits, child support assignment, and other TANF requirements. While there is some slippery slope concern on the definition of assistance, it did not seem appropriate to fight this issue here after we'd been so vocal about the need for transportation.

Message Sent To:

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