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**FACSIMILE TRANSMISSION RECORD**

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Please deliver to recipient as soon as possible. Please notify us if you do not receive the stated number of pages.

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**RECEIPT ACKNOWLEDGED BY:**

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In accordance with our telephone conversation today with Allyson, attached are copies of the Minimum Due Process Guidelines: Denial of Federal Financial Assistance and the Attorney General's Memorandum to the Cabinet transmitting the Guidelines.

April 28, 1999

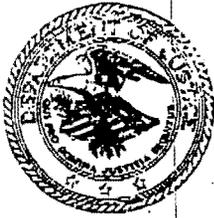
Memo was sent to:

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

April 26, 1999

MEMORANDUM FOR MEMBERS OF THE CABINET

FROM:

THE ATTORNEY GENERAL *J. Michael*

SUBJECT:

Minimum Due Process Guidelines For Agencies  
To Deny Federal Financial Assistance

On September 28, 1996, the President issued Executive Order 13019, 61 Fed. Reg. 51,763, "Supporting Families: Collecting Delinquent Child Support Obligations." Section 1 of the Executive Order requires the Secretary of the Treasury to collect past-due child support obligations by administrative offset. Section 2(b) of the Executive Order requires the head of each executive agency and department to deny federal financial assistance to those individuals whose payments are subject to administrative offset because of delinquent child support obligations. Federal financial assistance is defined as federal loans (other than a disaster loan), loan guarantees, or loan insurance. Section 2(c) of the Executive Order requires the Attorney General, in consultation with the Secretary of Health and Human Services and other affected agencies, to issue guidelines to the executive agencies and departments concerning minimum due process standards to be included in the procedures used in denying federal financial assistance. The attached Guidelines:

- (1) Define federal financial assistance and the persons who may be denied such assistance if their delinquent child support obligations have been referred to Treasury for offset (Guidelines, Section 2).
- (2) Set forth the policy that federal financial assistance will be denied to those with delinquent child support obligations except where (a) denial is not permitted by law; (b) denial would likely result in valid legal claims for damages against the United States;

Members of the Cabinet

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(c) denial would be inconsistent with the best interests of the child or children with respect to whom a child support obligation is owed; or (d) denial should be waived (Guidelines, Sections 3-6).

- (3) Set minimum due process procedures which grant to the person whose name has been referred to Treasury for offset of delinquent child support obligations:
- (a) notice of the proposed denial of federal financial assistance;
  - (b) an opportunity to contest the proposed denial, which includes either a "paper" or oral hearing;
  - and (c) an opportunity to request that a decision denying federal financial assistance be reversed (Guidelines, Sections 10-14).

The Department of Health and Human Services and the Department of the Treasury have reviewed and approved the attached Guidelines. Pursuant to Section 2(b) of the Executive Order, they should be implemented promptly into any existing procedures you have for approving or denying federal loans (other than a disaster loan), loan guarantees, or loan insurance. John W. Showalter of our Civil Division ((202) 307-0244) is available to answer any questions or to provide assistance to your staffs.

As you know, this Administration has placed a high priority on assisting families in collecting past-due child support obligations. Appropriate denial of federal financial assistance to those who have defaulted on such obligations can be an important motivation to inspire people to meet their family responsibilities and can help in the important work of providing child support to those who need it. I thank you for your assistance in implementing these Guidelines.

Attachment

**MINIMUM DUE PROCESS GUIDELINES:  
DENIAL OF FEDERAL FINANCIAL ASSISTANCE  
PURSUANT TO EXECUTIVE ORDER 13,019**

The following minimum due process guidelines are issued by the Attorney General, in consultation with the Secretary of Health and Human Services and the Secretary of the Treasury, and are to be included in the procedures or regulations promulgated by Executive departments and agencies for the denial of federal financial assistance pursuant to Executive Order No. 13,019, 61 Fed. Reg. 51,763 (1996). Existing procedures or regulations may be utilized so long as they comport with these minimum due process guidelines.

Section 1. Purpose.

Executive Order 13,019 provides that Executive departments and agencies shall deny federal financial assistance to any person whose delinquent child support obligations are subject to collection by administrative offset. A person who is determined by a state to have delinquent child support obligations subject to collection by offset shall be denied such assistance pursuant to agency procedures or regulations which comport with these minimum due process guidelines.

Section 2. Definitions.

(a) Agency. Any Executive department, military department or defense agency or other agency of the Executive Branch that provides federal financial assistance as defined in these guidelines.

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- (b) Delinquent child support obligations. The amount of support determined under a court order, or an order of an administrative procedure established under state law, for the support and maintenance of a child, or of a child and parent with whom the child is living, which has not been paid.
- (c) Delinquent child support obligations subject to collection by administrative offset. A "delinquent child support obligation" that has been submitted to the Department of the Treasury for collection by offset.
- (d) Denying official. An official authorized to deny federal financial assistance as defined in these guidelines. The denying official is either:
- (1) The agency head, or
  - (2) An official designated by the agency head.
- (e) Federal financial assistance. Any federal loan (other than a disaster loan), loan guarantee, or loan insurance.
- (f) Notice. A written communication served in person or sent by mail to the last known address of a person, his/her identified counsel, or his/her agent for service of process. Notice shall be considered to have been received by the addressee five days after being properly sent to the last address known by the agency.

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(g) Respondent. A person who has applied for federal financial assistance or is currently receiving such assistance and who has received a notice of proposed denial of such assistance.

(h) State. Any of the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency of a state.

Section 3. Coverage.

These guidelines apply to all persons who apply for federal financial assistance or who are currently recipients of federal financial assistance.

Section 4. Policy.

(a) In order to protect the public interest, it is the policy of the Federal Government to deny federal financial assistance to those persons whose delinquent child support obligations are subject to collection by administrative offset.

(b) The determination whether to submit a delinquent child support obligation is made by the state. Before a delinquent child support obligation is submitted to the Department of the Treasury, the person owing the obligation is notified of the amount owed and the state's intention to submit the obligation for collection by administrative offset. The person is notified of his or her right to an administrative review by the state referring the obligation or, upon the request of the person, by the state with the order upon which the referral was based, of

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the state's determination that delinquent child support is owed, the amount of such support, as well as any other rights available under state law.

(c) Denial of federal financial assistance is a serious action which shall be used only in the public interest. Agencies shall deny federal financial assistance in accordance with procedures or regulations which comport with these guidelines.

(d) When more than one agency has an interest in the proposed denial of federal financial assistance to a person, consideration shall be given to designating one agency as the lead agency for making the decision. Agencies are encouraged to establish methods and procedures for coordinating their denial actions.

(e) Nothing in these guidelines is intended to imply that an agency has any authority to determine whether a person owes a delinquent child support obligation or the amount of such obligation.

Section 5. Denial of federal financial assistance.

Except as set forth in Section Six, a person whose delinquent child support obligations are subject to collection by administrative offset shall be denied federal financial assistance so long as his/her obligations are subject to collection by offset.

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Section 6. Exceptions.

(a) A person whose delinquent child support obligations are subject to collection by administrative offset will not be denied federal financial assistance when such person falls within a class of persons eligible to receive federal financial assistance where it has been determined by the agency head that denial of federal financial assistance to persons in such a class:

(1) is not permitted by law; or

(2) would likely result in valid legal claims for damages against the United States; or

(3) would be inconsistent with the best interests of the child or children with respect to whom a child support obligation is owed; or

(4) should be waived as, for example, inconsistent with the agency's programmatic requirements.

(b) Upon making a determination as set forth in subsection (a), the head of each agency shall provide written notification of his/her determination, with the reasons therefor, to the Secretary of the Treasury.

Section 7. Continuation of existing federal financial assistance.

(a) An agency must continue federal financial assistance extended to a person prior to notification that the person has delinquent child support obligations subject to collection by administrative offset where discontinuance or termination of the federal financial assistance would subject the United States to liability.

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(b) An agency shall not renew or extend federal financial assistance to a person (where a failure to renew or extend would not subject the United States to liability) once the agency has been notified that the person has delinquent child support obligations subject to collection by administrative offset.

Section 8. Denial of federal financial assistance.

The denying official shall deny federal financial assistance to a person for the causes set forth in Section Nine, using procedures or regulations which comport with Sections Ten to Twelve of these guidelines.

Section 9. Causes for denial of federal financial assistance.

Federal financial assistance shall be denied to a person when:

(a) The agency has obtained from the Secretary of the Treasury, or other authorized source, information that the person has delinquent child support obligations and that these obligations are subject to collection by administrative offset; and

(b) The person does not fall into a class of persons which has been excepted from denial of federal financial assistance as set forth in Section Six.

Section 10. Notice of proposed denial of federal financial assistance.

The denying official shall initiate a denial of federal financial assistance by notice to the person who has applied for such assistance or who is presently receiving such assistance

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(hereafter the "respondent"). The notice shall include the following statements or information:

(a) The agency has been informed that the respondent has delinquent child support obligations and that these obligations are subject to collection by administrative offset;

(b) Pursuant to Executive Order 13,019 and other applicable law, the person's application for federal financial assistance must be denied, or that, if the respondent is presently receiving such federal financial assistance, such assistance will not be renewed or extended.

(c) An explanation of the person's opportunity to contest the proposed denial as described in Section Eleven.

Section 11. Opportunity to contest proposed denial.

(a) Within 30 days, or such greater time as permitted by the head of the agency, after receipt of the notice of proposed denial of federal financial assistance, the respondent may submit to the denying official, in person, in writing, or through a representative, information and argument in opposition to the proposed denial.

(b) The respondent shall be afforded an opportunity for a proceeding where the respondent's information and opposition to the proposed denial is reviewed. This review may consist of a "paper" review of the record or may involve an oral hearing. In determining whether to grant an oral hearing, the agency may consider whether: 1) agency statutes or regulations require an oral hearing; 2) issues of credibility or veracity are involved;

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3) other factors make an oral hearing necessary for a complete review of the issues. Unless otherwise required by law, an oral hearing is not required to be a formal evidentiary-type hearing, although the agency should carefully document all significant matters discussed at the hearing.

(c) The sole purpose of such a proceeding, whether "paper" or "oral," shall be to determine:

(1) Whether the respondent has a delinquent child support obligation subject to collection by administrative offset; and

(2) If so, whether the respondent belongs to a class of persons excepted from denial of federal financial assistance pursuant to Section Six.

(d) The agency shall not make, and the respondent shall not request, a determination whether the respondent owes a delinquent child support obligation or the amount of such obligation.

Section 12. Denying official's decision.

(a) The denying official shall make a decision on the basis of all the information in the administrative record, including any submission made by the respondent. The decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless this period is extended for good cause.

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(b) If the denying official decides to deny federal financial assistance to the respondent, the denying official shall give the respondent prompt notice:

- (1) referring to the notice of proposed denial; and
- (2) specifying the reason for denial.

(c) If the denying official decides not to deny federal financial assistance to the respondent, the denying official shall give the respondent prompt notice of that decision. A decision not to deny federal financial assistance shall be without prejudice to a subsequent denial of federal financial assistance by any other agency.

Section 13. Reversal of denial decision.

(a) The respondent may request that the denying official reverse the denial decision. Such a request shall be in writing and supported by documentation. The denying official may grant such a request for the following reasons:

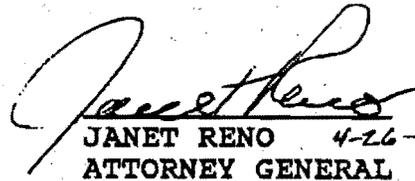
(1) Information received by the agency from the Secretary of the Treasury or other authorized source that the respondent has no child support obligations subject to collection by administrative offset.

(2) Information that the agency head has excepted the class of federal financial assistance recipients to which respondent belongs from the operation of the Executive Order pursuant to Section Six.

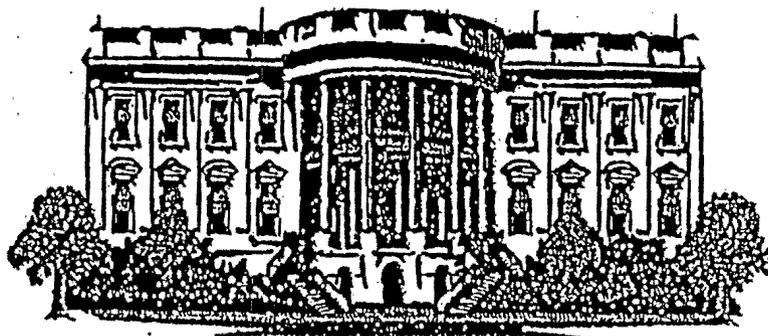
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Section 14. No private rights created.

These guidelines do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure of an agency to comply with any of these guidelines, or regulations implementing these guidelines, be available to any debtor as a defense.



JANET RENO 4-26-99  
ATTORNEY GENERAL



## THE WHITE HOUSE

Domestic Policy Council

DATE:

6/22/98

FACSIMILE FOR:

Michael Kharfen, HHS

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205-9688

PHONE:

FACSIMILE FROM: Cynthia Rice, Special Assistant to the President for  
Domestic Policy

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5

COMMENTS:

Can you help me find out  
what happened to this executive

order? ~~Please let me know~~

Can you do a Q+A?

International Brotherhood of Firemen & Oilers

WILLIAM J. CLINTON

THE WHITE HOUSE,  
February 24, 1995.

Executive Order 12953 of February 27, 1995

### **Actions Required of all Executive Agencies To Facilitate Payment of Child Support**

Children need and deserve the emotional and financial support of both their parents.

The Federal Government requires States and, through them, public and private employers to take actions necessary to ensure that monies in payment of child support obligations are withheld and transferred to the child's caretaker in an efficient and expeditious manner.

The Federal Government, through its civilian employees and Uniformed Services members, is the Nation's largest single employer and as such should set an example of leadership and encouragement in ensuring that all children are properly supported.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

#### **PART I—PURPOSE**

**Section 101.** This executive order: (a) Establishes the executive branch of the Federal Government, through its civilian employees and Uniformed Services members, as a model employer in promoting and facilitating the establishment and enforcement of child support.

(b) Requires all Federal agencies, including the Uniformed Services, to cooperate fully in efforts to establish paternity and child support orders and to enforce the collection of child and medical support in all situations where such actions may be required.

(c) Requires each Federal agency, including the Uniformed Services, to provide information to its employees and members about actions that they should take and services that are available to ensure that their children are provided the support to which they are legally entitled.

#### **PART 2—DEFINITIONS**

For purposes of this order:

**Sec. 201.** "Federal agency" means any authority as defined at 5 U.S.C. 105, including the Uniformed Services, as defined in section 202 of this order.

**Sec. 202.** "Uniformed Services" means the Army, Navy, Marine Corps, Air Force, Coast Guard, and the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Public Health Service.

**Sec. 203.** "Child support enforcement" means any administrative or judicial action by a court or administrative entity of a State necessary to establish paternity or establish a child support order, including a medical support order, and any actions necessary to enforce a child support or medical support order. Child support actions may be brought under the civil or criminal laws of a State and are not limited to actions brought on behalf of the State or individual by State agencies providing services under title IV-D of the Social Security Act, 42 U.S.C. 651 *et seq.*

**Sec. 204.** "State" means any of the fifty States, the District of Columbia, the territories, the possessions, and the Commonwealths of Puerto Rico and of the Mariana Islands.

**PART 3—IMMEDIATE ACTIONS TO ENSURE CHILDREN ARE SUPPORTED BY THEIR PARENTS**

**Sec. 301. Wage Withholding.** (a) Within 60 days from the date of this order, every Federal agency shall review its procedures for wage withholding under 42 U.S.C. 659 and implementing regulations to ensure that it is in full compliance with the requirements of that section, and shall endeavor, to the extent feasible, to process wage withholding actions consistent with the requirements of 42 U.S.C. 666(b).

(b) Beginning no later than July 1, 1995, the Director of the Office of Personnel Management (OPM) shall publish annually in the *Federal Register* the list of agents (and their addresses) designated to receive service of withholding notices for Federal employees.

**Sec. 302. Service of Legal Process.** Every Federal agency shall assist in the service of legal process in civil actions pursuant to orders of courts of States to establish paternity and establish or enforce a support obligation by making Federal employees and members of the Uniformed Services stationed outside the United States available for the service of process. Each agency shall designate an official who shall be responsible for facilitating a Federal employee's or member's availability for service of process, regardless of the location of the employee's workplace or member's duty station. The OPM shall publish a list of these officials annually in the *Federal Register*, beginning no later than July 1, 1995.

**Sec. 303. Federal Parent Locator.** Every Federal agency shall cooperate with the Federal Parent Locator Service, established under 42 U.S.C. 653, by providing complete, timely and accurate information that will assist in locating noncustodial parents and their employers.

**Sec. 304. Crossmatch for Delinquent Obligors.** (a) The master file of delinquent obligors that each State child support enforcement agency submits to the Internal Revenue Service for Federal income tax refund offset purposes shall be matched at least annually with the payroll or personnel files of Federal agencies in order to determine if there are any Federal employees with child support delinquencies. The list of matches shall be forwarded to the appropriate State child support enforcement agency to determine, in each instance, whether wage withholding or other enforcement actions should be commenced. All matches will be performed in accordance with 5 U.S.C. 552a(o)-(u).

(b) All Federal agencies shall inform current and prospective employees that crossmatches are routinely made between Federal personnel records

and State records on individuals who owe child support, and inform employees how to initiate voluntary wage withholding requests.

**Sec. 305. Availability of Service.** All Federal agencies shall advise current and prospective employees of services authorized under title IV-D of the Social Security Act that are available through the States. At a minimum, information shall be provided annually to current employees through the Employee Assistance Program, or similar programs, and to new employees during routine orientation.

**Sec. 306. Report on Actions Taken.** Within 90 days of the date of this order, all Federal agencies shall report to the Director of the Office of Management and Budget (OMB) on the actions they have taken to comply with this order and any statutory, regulatory, and administrative barriers that hinder them from complying with the requirements of part 3 of this order.

#### PART 4—ADDITIONAL ACTIONS

**Sec. 401. Additional Review for the Uniformed Services.** (a) In addition to the requirements outlined above, the Secretary of the Department of Defense (DOD) will chair a task force, with participation by the Department of Health and Human Services (HHS), the Department of Commerce, and the Department of Transportation, that shall conduct a full review of current policies and practices within the Uniformed Services to ensure that children of Uniformed Services personnel are provided financial and medical support in the same manner and within the same time frames as is mandated for all other children due such support. This review shall include, but not be limited to, issues related to withholding non-custodial parents' wages, service of legal process, activities to locate parents and their income and assets, release time to attend civil paternity and support proceedings, and health insurance coverage under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). All relevant existing statutes, including the Soldiers and Sailors Civil Relief Act of 1940, the Uniformed Services Former Spouses Protection Act, and the Tax Equity and Fiscal Responsibility Act of 1982, shall be reviewed and appropriate legislative modifications shall be identified.

(b) Within 180 days of the date of this order, DOD shall submit to OMB a report based on this review. The report shall recommend additional policy, regulatory and legislative changes that would improve and enhance the Federal Government's commitment to ensuring parental support for all children.

**Sec. 402. Additional Federal Agency Actions.** (a) OPM and HHS shall jointly study and prepare recommendations concerning additional administrative, regulatory, and legislative improvements in the policies and procedures of Federal agencies affecting child support enforcement. Other agencies shall be included in the development of recommendations for specific items as appropriate. The recommendations shall address, among other things:

(i) any changes that would be needed to ensure that Federal employees comply with child support orders that require them to provide health insurance coverage for their children;

(ii) changes needed to ensure that more accurate and up-to-date data about civilian and uniformed personnel who are being sought in conjunction with State paternity or child support actions can be obtained from

Federal agencies and their payroll and personnel records, to improve efforts to locate noncustodial parents and their income and assets;

(iii) changes needed for selecting Federal agencies to test and evaluate new approaches to the establishment and enforcement of child support obligations;

(iv) proposals to improve service of process for civilian employees and members of the Uniformed Services stationed outside the United States, including the possibility of serving process by certified mail in establishment and enforcement cases or of designating an agent for service of process that would have the same effect and bind employees to the same extent as actual service upon the employees;

(v) strategies to facilitate compliance with Federal and State child support requirements by quasi-governmental agencies, advisory groups, and commissions; and

(vi) analysis of whether compliance with support orders should be a factor used in defining suitability for Federal employment.

(b) The recommendations are due within 180 days of the date of this order. The recommendations are to be submitted in writing to the Office of Management and Budget.

**Sec. 501. *Internal Management.*** This order is intended only to improve the internal management of the executive branch with regard to child support enforcement and shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, or any other person.

**Sec. 502. *Sovereignty of the United States Government.*** This order is intended only to provide that the Federal Government has elected to require Federal agencies to adhere to the same standards as are applicable to all other employers in the Nation and shall not be interpreted as subjecting the Federal Government to any State law or requirement. This order should not be construed as a waiver of the sovereign immunity of the United States Government or of any existing statutory or regulatory provisions, including 42 U.S.C. 659, 662, and 665; 5 CFR Part 581; 42 CFR Part 21, Subpart C; 32 CFR Part 54; and 32 CFR Part 81.

**Sec. 503. *Defense and Security.***

This order is not intended to require any action that would compromise the defense or national security interest of the United States.

WILLIAM J. CLINTON

THE WHITE HOUSE,

February 27, 1995.



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## White House Press Release

### MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

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THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

June 18, 1996

June 18, 1996

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

SUBJECT: **Child Support Initiative**

I hereby direct you to implement the plan I am announcing today to strengthen the **child support** system and promote parental responsibility.

I direct you to exercise your legal authority to take the following steps to implement that plan:

- 1) issue proposed regulations relating to paternity establishment that:
  - (a) clarify the definition, under the Aid to Families with Dependent Children (AFDC) program, of "cooperation" with paternity establishment by requiring that a mother provide both the name of the father and other identifying information deemed appropriate by the State (except when there is good cause, such as being in danger of domestic violence, for not cooperating);
  - (b) require all applicants for assistance under the AFDC program to cooperate with paternity establishment efforts prior to the receipt of assistance; and
  - (c) require that applicants for assistance under

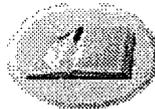
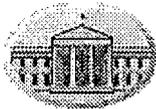
the AFDC program be referred to the State **child support** agency within 2 days of application, so that the agency can initiate a legal paternity action; and

- 2) implement a pilot program matching new-hire data collected by participating States with Federal Parent Locator Service data in order to better track parents owing **child support** obligations who have taken a job in another State.

The plan I have outlined will help strengthen **child support** operations by toughening the paternity establishment requirements for applicants for welfare and by enabling States to locate, and withhold wages from, **child support** obligors who have taken a job in another State. Its prompt implementation is integral to achieving our goal of promoting the American value of parental responsibility.

WILLIAM J. CLINTON

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