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COMMENTS: Attached is a summary written by Paula Roberts at CLASP which we hope you will find helpful. We are eager to hear if there is a White House reaction.

Child Support -
IRS

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SUMMARY OF COMPASSION FOR CHILDREN AND CHILD SUPPORT ENFORCEMENT ACT OF 1999

Pursuant to Title IVD of the Social Security Act, every state has a program which provides child support enforcement services to families receiving public assistance as well as non-public assistance families which apply for such services. These child support agencies locate missing parents, establish paternity, obtain (and periodically modify) cash and medical support orders, and enforce those orders. In enforcement of orders, these agencies use a variety of mechanisms, but the primary tool is income withholding.

About half of all single parent families use the IVD system. The other half uses private attorneys or acts *pro se*. Fewer tools are available to these families to enforce their orders because many of the IVD enforcement tools are available only in IVD cases. However, these families can and do use income withholding as a primary means of support enforcement.

The broad use of income withholding involves almost all employers in the child support enforcement process. It is important to make the withholding as simple and uniform as possible so that these employers are able to carry out their role. Yet, under current law, employers are dealing with non-uniform procedures developed by each state's IVD agency as well as the individual needs of non-IVD families. This Act addresses this problem by creating one uniform national system for enforcement of child support obligations. It would also give the Internal Revenue Service (IRS) primary responsibility for this enforcement function. All other child support functions in IVD cases (e.g., establishing paternity, issuing support orders) would remain at the state or local level.

SECTION 1. SHORT TITLE. The Act is called the Compassion for Children and Child Support Enforcement Act of 1999.

SECTION 2. FINDINGS. The findings section establishes that the current child support enforcement system leaves the majority of children who are being raised in single parent families without regular, reliable child support. As a result these children are unable to have the kind of childhood that allows them to grow into healthy, productive citizens. To remedy this, especially in interstate cases where the problem is particularly acute, would take a serious commitment of judicial resources unless an alternative means of enforcing support orders can be found. The Department of the Treasury is uniquely positioned to provide such an alternative by using its resources to collect child support. This will be accomplished primarily through routine withholding in the way taxes and Social Security payments are now collected.

SECTION 3. ASSIGNMENT TO THE INTERNAL REVENUE SERVICE. To create the new system, the Act begins by providing a structure in which the IRS would be able to access information about existing and new child support orders and would be authorized to enforce those orders. IRS' legal authority to enforce orders would come from state law. In order to receive federal funding for their remaining child support (IVD) functions, states would have to enact laws creating a presumption that in every child support order issued or modified in the state, the

custodial parent has assigned her/his right to collect child support to the IRS. Parents who did not want to use IRS enforcement system could opt out, but they would have to take some affirmative action to do this. Moreover, if they opted out, they would be able to opt back in at any time they wished to do so. Those who use the IRS system would receive notice of how collections and disbursements would be made. They would also be given information about where any questions or complaints about collections and disbursements can be directed.

So that the IRS would know the terms of the orders it was to enforce, the Act builds on the Federal Case Registry of Child Support Orders created by the Personal Responsibility and Work Opportunity Act of 1996. Courts and administrative agencies which establish or modify child support orders would have to provide standardized abstracts of *existing* orders to the Federal Case Registry of Child Support Orders. Then every time they entered a *new* order or *modified* an old one, courts/administrative agencies would have to provide an abstract to the Federal Case Registry. The abstract would contain information about the parents, the amount of the order and any arrears owed.

SECTION 4. COLLECTION AND DISBURSEMENT OF CHILD SUPPORT BY THE INTERNAL REVENUE SERVICE. Unless the custodial parent opted out of the IRS system, the IRS would be responsible for collecting current support, arrears, and any fees or interest owed under the order.

Employee Obligations: Every employee now files a W-4 form with his/her employer. Once the IRS enforcement system was in place, the W-4 form would provide the employee the opportunity to declare that he/she owed child support, the amount of the obligation, and the tax identification number of the person to whom the support was owed. Unless the custodial parent had opted out of IRS enforcement, the obligated parent would be required to provide this information.¹ Thereafter, if a new order was issued or an old order was modified, the employee would be required to file a new W-4 form within 30 business days of the change. A covered employee who willfully failed to provide correct information could be prosecuted and fined up to \$1,00 and sent to jail for up to one year, or both.

Employer Obligations: If the W-4 indicated that the employee owed child support, the employer would be required (within the limits of the Consumer Credit Protection Act) to begin withholding child support from the employee's first/next paycheck. Within 30 business days, the employer would also send a copy of the original or revised withholding certificate to the IRS for comparison with information in the Federal Case Registry. The IRS would have 20 business days to compare the information provided by the employee with the information contained in the Federal Case Registry. If the W-4 declaration understated the amount of the child support obligation, within 20 days, the IRS would notify the employer of the correct amount of

¹ To bring existing cases into the new system, 90 days before the IRS takes over this function, every employee who has a child support obligation and whose partners has not opted out of IRS enforcement would be required to file a new W-4 form to each of his/her employers.

² Provision is made for dealing with situations where the employee has multiple employers. So long as the amount

withholding. The employer would then adjust the withholding accordingly. 2

The IRS's Obligations: Child support -- like income taxes -- once withheld from an employee's wages would be sent to the IRS. The employee's annual W-2 form would tell the employee how much child support had been deducted from his/her wages. This would be credited against the actual obligation. If the employee had overpaid, he/she would get a credit. If he/she had underpaid, any support still owed would have to be paid to the IRS along with any taxes owed by the employee. If an employee failed to pay all child support due on or before April 15, the IRS would proceed to collect the delinquent support using the same methods it uses to collect unpaid taxes. Moreover, the employee would face the same penalties and interest as apply to delinquent taxes.

For the self-employed, the IRS would collect child support along with estimated tax payments. Adjustments would be made for those who are also employees and are having support withheld from their wages.

Disbursement: Support would be disbursed as soon as practicable. The disbursement rules enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which are found at 42 USC Section 657 would be deleted from that section and (with some alterations) be moved to the Internal Revenue Code. One major difference is that the special rules for disbursement of monies collected through the federal income tax intercept program would be deleted so that the same distribution rules would apply to all collections.

SECTION 5. ELIMINATION OF STATE RESPONSIBILITIES FOR ENFORCING CHILD SUPPORT OBLIGATIONS EXCEPT MEDICAL SUPPORT. Since the IRS would be collecting support, states would no longer be required to provide this service and the federal government would no longer fund state collection efforts. Therefore, all language contained in Title IVD of the Social Security Act relating to a state's responsibility to collect and distribute child support would be removed. The only enforcement obligation left to the states would be for medical support. Also eliminated from Title IVD would be the state incentive payment system.

In addition, states would no longer be under a mandate to have certain state laws relating to the collection of child support. Gone would be the requirement that state law must provide for immediate wage withholding, state income tax refund intercept, liens, bonds, or credit reporting.

SECTION 6. IMPLEMENTATION PLAN. Not later than 6 months from the date of enactment, the Secretary of the Treasury would be required to submit to Congress a plan for implementing these changes.

SECTION 7. EFFECTIVE DATE. The provisions of the Act would become effective on the 1st day of the first calendar month that begins two years after the date of enactment.

owed is paid, an employee can have some of the support withheld from one paycheck and the rest withheld from another.