

APPENDIX H: Federal Legislative History of Child Support Enforcement

1950

The first Federal child support enforcement legislation was Section 402(a)(11) of the Social Security Act [42 USC 602(a)(11)], which required State welfare agencies to notify appropriate law enforcement officials upon providing Aid to Families with Dependent Children (AFDC) with respect to a child who was abandoned or deserted by a parent.

Also that year, the National Conference of Commissioners on Uniform State Laws and the American Bar Association approved the Uniform Reciprocal Enforcement of Support Act (subsequent amendments to this Act were approved in 1952, 1958, and 1968).

1965

Public Law (P.L.) 89-97, the Social Security Amendments of 1965, allowed a State or local welfare agency to obtain from the Secretary of Health, Education, and Welfare the address and place of employment of an absent parent who owed child support under a court order for support.

1967

P.L. 90-248, the Social Security Amendments of 1967, allowed States to obtain from the Internal Revenue Service (IRS) the addresses of absent parents who owed child support under a court order for support. In addition, each State was required to establish a single organizational unit to establish paternity and collect child support for deserted children receiving AFDC. States were also required to work cooperatively with each other under child support reciprocity agreements and with courts and law enforcement officials.

1975

P.L. 93-647, the Social Security Amendments of 1974, created, inter alia, Part D of Title IV of the Social Security Act [Sections 451, et seq.; 42 USC 651, et seq.]. The key child support enforcement provisions, which reflect three years of intense Congressional attention, are as follows:

- The Secretary of the Department of Health, Education, and Welfare (now the Department of Health and Human Services or DHHS) has primary responsibility for the Program and is required to establish a separate organizational unit to operate the program. Operational responsibilities include (1) establishing a parent locator service; (2) establishing standards for State program organization, staffing, and operation to assure an effective program; (3) reviewing and approving State plans for the program; (4) evaluating State program operations by conducting audits of each State's program; (5) certifying cases for referral to the Federal courts to enforce support obligations; (6) certifying cases for referral to the IRS for support collections; (7) providing technical assistance to States and assisting them with reporting procedures; (8) maintaining records of program operations, expenditures, and collections; and (9) submitting an annual report to the Congress.
- Primary responsibility for operating the Child Support Enforcement Program is placed on the States pursuant to the State plan. The major requirements of a State plan are that (1) the State designate a single and separate organizational unit to administer the program; (2) the State undertake to establish paternity and secure support for individuals receiving AFDC and others who apply directly for child support enforcement services; (3) child support payments be made to the State for distribution; (4) the State enter into cooperative agreements with appropriate courts and law enforcement officials; (5) the State establish a State parent locator service that uses State and local parent location resources and the Federal Parent Locator Service; (6) the State cooperate with any other State in locating an absent parent, establishing paternity, and securing support; and (7) the State maintain a full record of collections and disbursements made under the plan.
- Procedures were set out for the distribution of child support collections received on behalf of families receiving AFDC.
- Incentive payments to States for collections made on AFDC cases were created.

- Monies due and payable to Federal employees became subject to garnishment for the collection of child support.
- New eligibility requirements were added to the AFDC program, which required each applicant for, or recipient of, AFDC to make an assignment of support rights to the State; to cooperate with the State in establishing paternity and securing support; and to furnish his or her Social Security number to the State.

The effective date of P.L. 93-647 was July 1, 1975, except for the provision regarding garnishment of Federal employees, which was effective upon enactment. However, several problems were identified prior to the effective date and Congress passed P.L. 94-46 to extend the effective date to August 1, 1975. In addition, P.L. 94-88 was passed in August 1975 to allow States to obtain waivers from certain program requirements under certain conditions until June 30, 1976 and to receive Federal reimbursement at a reduced rate. This law also eased the requirement for AFDC recipients to cooperate with State child support enforcement agencies when such cooperation would not be in the best interests of the child. It also provided for supplemental payments to AFDC recipients whose grants would be reduced due to the implementation of the child support enforcement program.

1976

P.L. 94-566, effective October 20, 1976, required State employment agencies to provide absent parents' addresses to State child support enforcement agencies.

1977

P.L. 95-30, effective May 23, 1977, made several amendments to Title IV-D:

- Provisions relating to the garnishment of a Federal employee's wages for child support were amended to (1) include employees of the District of Columbia; (2) specify the conditions and procedures to be followed to serve garnishments on Federal agencies; (3) authorize the issuance of garnishment regulations by the three branches of the Federal Government and by the District; and (4) define further certain terms used.
- Section 454 of the Social Security Act (42 USC 654) was amended to require the State plan to provide bonding for employees who receive, handle, or disburse cash and to

insure that the accounting and collection functions be performed by different individuals.

- The incentive payment provision, under section 458(a) of the Social Security Act [42 USC 658(a)], was amended to change the rate to 15 percent of AFDC collections (from 25 percent for the first 12 months and 10 percent thereafter).

P.L. 95-142, the Medicare-Medicaid Antifraud and Abuse Amendments of 1977, established a medical support enforcement program, under which States could require Medicaid applicants to assign to the State their rights to medical support. State Medicaid agencies were allowed to enter into cooperative agreements with any appropriate agency of any State, including the IV-D agency, for assistance with the enforcement and collection of medical support obligations. Incentives were also available to localities making child support collections for States and for States securing collections on behalf of other States.

1978

P.L. 95-598, the Bankruptcy Reform Act of 1978, repealed section 456(b) of the Social Security Act [42 USC 656(b)], which had barred the discharge in bankruptcy of assigned child support debts. (Note: this section of the Social Security Act (now 546(h)) was restored by P.L. 97-35 in 1981.)

1980

P.L. 96-178 extended Federal Financial Participation (FFP) for non-AFDC services to March 31, 1980, retroactive to October 1, 1978.

P.L. 96-265, the Social Security Disability Amendments of 1980, increased Federal matching funds to 90 percent, effective July 1, 1981, for the costs of developing, implementing, and enhancing approved automated child support management information systems. Federal matching funds were also made available for child support enforcement duties performed by certain court personnel. In another provision, the law authorized the use of the IRS to collect child support arrearages on behalf of non-AFDC families. Finally, the law provided State and local IV-D agencies access to wage information held by the Social Security Administration and State employment security agencies for use in establishing and enforcing child support obligations.

P.L. 96-272, the Adoption Assistance and Child Welfare Act of 1980, contained four amendments to Title IV-D of the Social Security Act. First, the law made FFP for non-AFDC services available on a permanent basis. Second, it allowed States to receive incentive payments on all AFDC collections as well as interstate collections. Third, as of October 1, 1979, States were required to claim reimbursement for expenditures within two years, with some exceptions. The fourth change postponed until October, 1980, the imposition of the 5 percent penalty on AFDC reimbursement for States not having effective child support enforcement programs.

1981

P.L. 97-35, the Omnibus Reconciliation Act of 1981, added five amendments to the IV-D provisions. First, IRS was authorized to withhold all or a part of certain individuals' Federal income tax refunds for collection of delinquent child support obligations. Second, IV-D agencies were required to collect spousal support for AFDC families. Third, for non-AFDC cases, IV-D agencies were required to collect fees from absent parents who were delinquent in their child support payments. Fourth, child support obligations assigned to the State no longer were dischargeable in bankruptcy proceedings. The law imposed on States a requirement to withhold a portion of unemployment benefits from absent parents delinquent in their support payments.

1982

P.L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, included the following provisions, affecting the IV-D program:

- FFP was reduced from 75 to 70 percent, effective October 1, 1982. Incentives were reduced from 15 to 12 percent, effective October 1, 1983. The provision for reimbursement of costs of certain court personnel that exceed the amount of funds spent by a State on similar court expenses during calendar year 1978 was repealed.
- The mandatory non-AFDC collection fee imposed by P.L. 97-35 was repealed, retroactive to August 13, 1981. States were allowed to elect not to recover costs or to recover costs from collections or from fees imposed on absent parents. Another provision allowed States to collect spousal support in certain non-AFDC cases.
- As of October 1, 1982, members of the uniformed services on active duty are required to make allotments from their pay when support arrearages reach the equivalent of a 2-month delinquency.

- Also beginning October 1, 1982, States were allowed to reimburse themselves for AFDC grants paid to families for the first month in which the collection of child support is sufficient to make a family ineligible for AFDC.

P.L. 97-253, the Omnibus Budget Reconciliation Act of 1982, provided for the disclosure of information obtained under authority of the Food Stamp Act of 1977 to various programs, including State child support enforcement agencies.

P.L. 97-252, the Uniformed Services Former Spouses' Protection Act, authorized treatment of military retirement or retainer pay as property to be divided by State courts in connection with divorce, dissolution, annulment, or legal separation proceedings.

1984

P.L. 98-378, the Child Support Enforcement Amendments of 1984, featured provisions that required critical improvements in State and local child support enforcement programs in four major areas:

- Mandatory Practices

All States must enact statutes providing for the use of improved enforcement mechanisms, including (1) mandatory income withholding procedures; (2) expedited processes for establishing and enforcing support orders; (3) State income tax refund interceptions; (4) liens against real and personal property, security or bonds to assure compliance with support obligations; and (5) reports of support delinquency information to consumer reporting agencies. State law must allow for the bringing of paternity actions any time prior to a child's 18th birthday and all support orders issued or modified after October 1, 1985, must include a provision for wage withholding.

- Federal Financial Participation and Audit Provisions

To encourage greater reliance on performance-based incentives, Federal matching funds were reduced by 2 percent in FY 1988 (to 68 percent) and another 2 percent in FY 1990 (to 66 percent). Federal matching funds at 90 percent became available for the development and installation of automated systems,

including computer hardware purchases, to facilitate income withholding and other newly required procedures.

State incentive payments were reset at 6 percent for both AFDC and non-AFDC collections. These percentages can increase to as much as 10 percent for both categories for very cost-effective States, but a State's non-AFDC incentive payments are limited by the amount of incentives received for AFDC collections. The law further required States to pass incentives through to local child support enforcement agencies where these agencies have participated in the costs of the program.

Annual State audits were replaced with audits conducted at least once every 3 years. The focus of the audits was altered to evaluate a State's effectiveness on the basis of program performance as well as operational compliance. Penalties for noncompliance are from 1 to 5 percent of the Federal share of the State's AFDC funds. The Federal government may suspend imposition of a penalty based on a State's filing of, and complying with, an acceptable corrective action plan.

- Improved Interstate Enforcement

The proven enforcement techniques discussed above must be applied to interstate cases as well as intrastate cases. Both States involved in an interstate case may take credit for the collection when reporting total collections for the purpose of calculating incentives. Special demonstration grants were authorized beginning in FY 1985 to fund innovative methods of interstate enforcement and collection. Federal audits will focus on States' effectiveness in establishing and enforcing obligations across State lines.

- Equal Services for Welfare and Nonwelfare Families

The Social Security Act was amended to show that Congress intended the Child Support Enforcement Program to aid both nonwelfare and welfare families. Several specific requirements were directed at improving State services to nonwelfare families. All of the mandatory practices must be made available for both classes of cases; the interception of Federal income tax refunds is extended to nonwelfare cases; incentive payments for nonwelfare cases became available for the first time;

when families are terminated from the welfare rolls, they automatically must receive nonwelfare support enforcement services without being charged an application fee; and States must publicize the availability of nonwelfare support enforcement services.

- Other Provisions

States were required to (1) collect support in certain foster care cases; (2) collect spousal support in addition to child support where both are due in a case; (3) notify AFDC recipients, at least yearly, of the collections made in their individual cases; (4) establish State commissions to examine, investigate, and study the operation of the State's child support system and report findings to the State's governor; (5) formulate guidelines for determining appropriate child support obligation amounts and distribute the guidelines to judges and other individuals who possess authority to establish obligation amounts; (6) offset the costs of the program by charging various fees to nonwelfare families and to delinquent absent parents; (7) allow families whose AFDC eligibility is terminated as a result of the payment of child support to remain eligible to receive Medicaid for 4 months; and (8) seek to establish medical support orders in addition to monetary awards. The Federal Parent Locator Service was made more accessible and effective in locating absent parents. Sunset provisions are included in the extension of Medicaid eligibility and Federal tax offsets for non-AFDC families.

P.L. 98-369, the Tax Reform Act of 1984, included two tax provisions pertaining to alimony and child support.

- Under prior law, alimony was deductible by the payor and includible in the income of the payee. The 1984 law revised the rules relating to the definition of alimony. Generally, only cash payments that will terminate on the death of the payee spouse qualify as alimony. Alimony payments, if in excess of \$10,000 per year, generally must be payable for at least 6 years and must not decline by more than \$10,000. The prior law requirement that the payment be based on a legal support obligation was repealed and payors are required to furnish to the IRS the social security number of the payee spouse. A \$50 penalty for failure to do so will be imposed. The provision is effective for divorce or separation agreements or orders executed after 1984.

- The 1984 law also provided that the \$1,000 dependency exemption for a child of divorced or separated parents generally will be allocated to the custodial parent unless the custodial parent signs a written declaration that he or she will not claim the exemption for the year. Each parent may claim the medical expenses that he or she pays for the child, for purposes of computing the medical expense deduction. The provision is effective for taxable years beginning after 1984.

1986

P.L. 99-509, the Omnibus Budget Reconciliation Act of 1986, included one child support enforcement amendment prohibiting the retroactive modification of child support awards. Under this new requirement, State laws must provide for either parent to apply for modification of an existing order with notice provided to the other parent. No modification is permitted before the date of this notification.

1987

P.L. 100-203, the Omnibus Budget Reconciliation Act of 1987, required States to provide child support enforcement services to all families with an absent parent who receives Medicaid and have assigned their support rights to the State, regardless of whether they are receiving AFDC.

1988

P.L. 100-485, the Family Support Act of 1988, emphasized the duties of parents to work and support their children and, in particular, emphasized child support enforcement as the first line of defense against welfare dependence. The key child support enforcement provisions, in brief, include:

- Guidelines for Child Support Awards

Judges and other officials are required to use State guidelines for child support unless they are rebutted by a written finding that applying the guidelines would be unjust or inappropriate in a particular case. States must review guidelines for awards every four years. Beginning five years after enactment, States generally must review and adjust individual case awards every three years for AFDC cases. The same applies to other IV-D cases, except review and adjustment must be at the request of a parent.

- Establishment of Paternity

States are required to meet Federal standards for the establishment of paternity. The standard relates to the percentage obtained by dividing the number of children in the State who are born out of wedlock, are receiving cash benefits or IV-D child support services, and for whom paternity has been established by the number of children who are born out of wedlock and are receiving cash benefits or IV-D child support services. To meet Federal requirements, this percentage in a State must: (1) be at least 50 percent; (2) be at least equal to the average for all States; or (3) have increased by 3 percentage points from fiscal years 1988 to 1991 and by 3 percentage points each year thereafter.

States are mandated to require all parties in a contested paternity case to take a genetic test upon request of any party. The Federal matching rate for laboratory testing to establish paternity is set at 90 percent.

- Disregard of Child Support

The child support enforcement disregard authorized under the Deficit Reduction Act of 1984 is clarified so that it applies to a payment made by the noncustodial parent in the month it was due even though it was received in a subsequent month.

- Requirement for Prompt State Response

The Secretary of DHHS required to set time limits within which States must accept and respond to requests for assistance in establishing and enforcing support orders as well as time limits within which child support payments collected by the State IV-D agency must be distributed to the families to whom they are owed.

- Requirement for Automated Tracking and Monitoring System

Every State that does not have a Statewide automated tracking and monitoring system in effect must submit an advance planning document that meets Federal requirements by October 1, 1991. The Secretary must

approve each document within nine months after submission. By October 1, 1995, every State must have an approved system in effect. Federal 90 percent matching rates for this activity expire September 30, 1995.

- Interstate Enforcement

A Commission on Interstate Child Support was created to hold national conferences on interstate child support enforcement reform and to report to Congress no later than October 1, 1990 on recommendations for improvements in the system and revisions in the Uniform Reciprocal Enforcement of Support Act.

- Computing Incentive Payments

Amounts spent by States for interstate demonstration projects are excluded from calculating the amount of the States' incentive payments.

- Use of INTERNET System

The Secretaries of Labor and DHHS required to enter into an agreement to give the Federal Parent Locator Service prompt access to wage and unemployment compensation claims information useful in locating absent parents.

- Wage Withholding

With respect to IV-D cases, each State must provide for immediate wage withholding in the case of orders that are issued or modified on or after the first day of the 25th month beginning after the date of enactment unless: (1) one of the parties demonstrates, and the court finds, that there is good cause not to require such withholding; or (2) there is a written agreement between both parties providing for an alternative arrangement. Prior law requirements for mandatory wage withholding in cases where payments are in arrears apply to orders that are not subject to immediate wage withholding. States are required to provide for immediate wage withholding for all support orders initially issued on or after January 1, 1994, regardless of whether a parent has applied for IV-D services.

- Work and Training Demonstration Programs for Noncustodial Parents

The Secretary of DHHS is required to grant waivers to up to five States to allow them to provide services to noncustodial parents under the JOBS program. No new power is granted to the States to require participation by noncustodial parents.

- Data Collection and Reporting

The Secretary of DHHS is required to collect and maintain State-by-State statistics on paternity establishment, location of absent parent for the purpose of establishing a support obligation, enforcement of a child support obligation, and location of absent parent for the purpose of enforcing or modifying an established obligation.

- Use of Social Security Number

Each State must, in the administration of any law involving the issuance of a birth certificate, require each parent to furnish his or her social security number (SSN), unless the State finds good cause for not requiring the parent to furnish it. The SSN shall not appear on the birth certificate, and the use of the SSN obtained through the birth record is restricted to child support enforcement purposes, except under certain circumstances.

- Notification of Support Collected

Each State required to inform families receiving AFDC of the amount of support collected on their behalf on a monthly basis, rather than annually as provided under prior law. States may provide quarterly notification if the Secretary of DHHS determines that monthly reporting imposes an unreasonable administrative burden. This provision is effective 4 years after the date of enactment.

1989

P.L. 101-239, the Omnibus Budget Reconciliation Act of 1989, made permanent the requirement that Medicaid benefits continue for 4 months after a family loses AFDC eligibility as a result of collection of child support payments.

1990

P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990, permanently extended the Federal provision that allows States to ask the IRS to collect child support arrearages of at least \$500 out of income tax refunds otherwise due to noncustodial parents. The minor child restriction is to be eliminated for adults with a current support order who are disabled, as defined under OASDI or SSI. The IRS offset can be used for spousal support when spousal and child support are included in the same support order.

P.L. 101-508 also extended the life of the Interstate Child Support Commission from July 1, 1991 to July 1, 1992, required the Commission to submit its report no later than May 1, 1992, and authorized the Commission to hire its own staff.

1992

P.L. 102-521, the Child Support Recovery Act of 1992, imposed a Federal criminal penalty for the willful failure to pay a past-due child support obligation with respect to a child who resides in another State that has remained unpaid for longer than a year or is greater than \$5,000. For the first conviction the penalty is a fine of up to \$5,000 and/or imprisonment for not more than six months; for a second conviction, a fine of not more than \$250,000 and/or imprisonment for up to two years.

P.L. 102-537, the Ted Weiss Child Support Enforcement Act of 1992, amended the Fair Credit Reporting Act to require consumer credit reporting agencies to include in any consumer report information on child support delinquencies provided by or verified by State or local CSE agencies, which antedates the report by 7 years.

1993

P.L. 103-66, the Omnibus Budget Reconciliation Act of 1993, increased the percentage of children for whom the State must establish paternity and required States to adopt laws requiring civil procedures to voluntarily acknowledge paternity (including hospital-based programs).

P.L. 103-66 also required States to adopt laws to ensure the compliance of health insurers and employers in carrying out court or administrative orders for medical child support and included a provision that forbids health insurers to deny coverage to children who are not living with the covered individual or who were born outside of marriage.

1994

P.L. 103-383, the Full Faith and Credit for Child Support Orders Act, requires each state to enforce, according to its terms, a child support order by a court (or administrative authority) of another state, with conditions and specifications for resolving issues of jurisdiction.

P.L. 103-394, the Bankruptcy Reform Act of 1994, protects child support from being discharged in bankruptcy. Among many other provisions, the new law includes child support as an exception to automatic stays, for judicial liens, and to discharge of debts in bankruptcy. It also provides protection against trustee avoidance, facilitates access to bankruptcy proceedings, and assigns child support a priority for collecting claims from debtors.

P.L. 103-403, the Small Business Administration Reauthorization and Amendments Act, requires that recipients of financial assistance not be more than 60 days delinquent in paying child support.

P.L. 103-432, the Social Security Amendments of 1994, requires state IV-D agencies to periodically report parents who are at least two months delinquent in paying child support to credit bureaus, modifies the benchmarks under Paternity Establishment Percentage formula used to determine the states' substantial compliance, and requires DHHS to provide free access for the Justice Department to the Federal Parent Locator Service in cases involving the unlawful taking or restraint of a child and/or the making or enforcing of a child custody determination.

1996

P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

On August 22, President Clinton signed into law "The Personal Responsibility and Work Opportunity Reconciliation Act of 1996," a comprehensive bipartisan welfare reform plan that will dramatically change the nation's welfare system into one that requires work in exchange for time-limited assistance. The bill contains strong work requirements, a performance bonus to reward states for moving welfare recipients into jobs, state maintenance of effort requirements, comprehensive child support enforcement, and supports for families moving from welfare to work.

The new law includes the child support enforcement measures President Clinton 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:

- o 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.

- o Streamlines paternity establishment. The new law streamlines the legal process for paternity establishment, making it easier and faster to establish paternities. It also expands the voluntary in-hospital paternity establishment program and requires a state form for voluntary paternity acknowledgement.

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

- o 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.

- o Tough new penalties. Under the new law, states can implement tough child support enforcement techniques. The new law expands wage garnishment, allows all states to seize assets, allows states to require community service in some cases, and enables states to revoke drivers and professional licenses for parents who owe delinquent child support.

- o Families First. Under a new "Family First" policy, families no longer receiving assistance will have priority in the distribution of child support arrears.

- o 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.