

APPENDIX A

LEGISLATIVE HISTORY OF CHILD SUPPORT ENFORCEMENT

1950 Congress passed the first Federal child support enforcement legislation requiring 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. 42 U.S.C. § 602(a)(11).

The National Conference of Commissioners on Uniform State Laws and the American Bar Association approved the Uniform Reciprocal Enforcement of Support Act (URESA) (amended in 1952 and 1958 and revised in 1968).

1965 Public Law (P.L.) 89-97—The Social Security Amendments of 1965 permit State or local welfare agencies to obtain from the Secretary of Health, Education and Welfare the address and place of employment of a noncustodial parent who owes child support under a court order for support.

1967 P.L. 90-248—Under the Social Security Amendments of 1967, States may obtain from the Internal Revenue Service the addresses of noncustodial parents who owe child support under a court order for support. In addition, each State must establish a single organizational unit to establish paternity and collect child support for deserted children receiving AFDC. States must work cooperatively with each other under child support reciprocity agreements and with courts and law enforcement officials.

1975 P.L. 93-647—After 3 years of Congressional attention to child support enforcement issues, the Social Services Amendments of 1974 created title IV-D of the Social Security Act, which was signed into law on January 4, 1975. 42 U.S.C. §§ 651 *et seq.* Under Title IV-D:

- The Secretary of Health, Education and Welfare, now the Secretary of Health and Human Services, is required to establish a separate organizational unit to oversee the operation of the Child Support Enforcement (CSE) program. Responsibilities include: (1) establishing a parent locator service; (2) establishing standards for State program organization, staffing, and operation to ensure 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 Internal Revenue Service (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 Congress.

- Primary responsibility for operating the CSE program is placed on the States. Each State must have an approved State plan indicating that: (1) the State has designated a single and separate organizational unit to administer the program; (2) the State will establish paternity and secure support for individuals receiving AFDC and for others who apply directly for CSE services; (3) child support payments will be made to the State for distribution; (4) the State will enter into cooperative agreements with appropriate courts and law enforcement officials; (5) the State will establish a State Parent Locator Service (SPLS) that uses State and local parent location resources as well as the Federal Parent Locator Service (FPLS); (6) the State will cooperate with any other State in locating an absent parent, establishing paternity, and securing support; and (7) the State will maintain a full record of collections and disbursements made under the plan.
- Specific procedures are required for distributing child support collections made on behalf of families receiving AFDC.
- States are to be paid incentives for collections made in AFDC cases.
- Monies due and payable to Federal employees are subject to garnishment for the collection of child support.
- To be eligible for AFDC, each applicant for, or recipient of, AFDC must make an assignment of support rights to the State; must cooperate with the State in establishing paternity and securing support; and must furnish his or her Social Security Number (SSN) to the State.

The effective date of these provisions was July 1, 1975, except for the garnishment provision, which was effective on enactment. Because several problems were identified before the effective date, Congress extended the effective date to August 1, 1975, in P.L. 94-46.

P.L. 94-88—In August 1975, States were allowed to obtain waivers from particular 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 CSE 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 because of implementation of the CSE program.

1976 P.L. 94-566—Effective October 20, 1976, State employment agencies were required to provide noncustodial parents' addresses to State CSE agencies.

1977 P.L. 95-30—Effective May 23, 1977, the Tax Reduction and Simplification Act of 1977 amended Title IV-D as follows:

- Provisions relating to 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 issuance of garnishment regulations by the three branches of the Federal Government and by the District of Columbia; and (4) define further certain terms used.
- The State plan was required to provide for bonding of employees who receive, handle, or disburse cash and to ensure that the accounting and collection functions be performed by different individuals. 42 U.S.C. § 654(14).
- The incentive payment provision was amended to change the rate to 15 percent of AFDC collections (from 25 percent for the first 12 months and 10 percent thereafter). 42 U.S.C. § 658(a).

P.L. 95-142—Effective October 25, 1977, the Medicare-Medicaid Anti-Fraud 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 CSE agency, for assistance with enforcing and collecting medical support obligations. Incentives were also available to localities making child support collections for States and to States securing collections on behalf of other States.

1978 P.L. 95-598—The Bankruptcy Reform Act of 1978, signed into law on November 6, 1978, repealed a section of the Social Security Act that had barred the discharge in bankruptcy of assigned child support debts. This section of the Social Security Act was restored in 1981. 42 U.S.C. § 656(b).

1980 P.L. 96-178—Federal financial participation (FFP) in expenditures for non-AFDC services was extended until March 31, 1980, retroactive to October 1, 1978.

P.L. 96-265—The Social Security Disability Amendments of 1980, signed into law on June 9, 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 CSE agencies with access to wage information held by the Social Security Administration and State employment security agencies (SESAs) 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. FFP for non-AFDC services was made available on a permanent basis. States became eligible to receive incentive payments on all AFDC collections as well as interstate collections. As of October 1, 1979, States were required to claim reimbursement for expenditures within 2 years, with some exceptions. The imposition of the 5 percent penalty on AFDC reimbursement for States not having effective CSE programs was postponed until October 1980.

1981 P.L. 97-35—The Omnibus Budget Reconciliation Act of 1981 added five amendments to Title IV-D. The IRS was authorized to withhold all, or part of, certain individuals' Federal income tax refunds for collection of delinquent child support obligations. CSE agencies were required to collect spousal support for AFDC families. For non-AFDC cases, State agencies were required to collect fees from noncustodial parents who were delinquent in their child support payments. Child support obligations, which were assigned to the State, no longer were dischargeable in bankruptcy proceedings. States were authorized to withhold a portion of unemployment benefits from noncustodial parents delinquent in their support payments.

1982 P.L. 97-248—The Tax Equity and Fiscal Responsibility Act of 1982 was signed into law on September 3, 1982. The following provisions affected the CSE program:

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

- Beginning October 1, 1982, States could 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, effective September 8, 1982, provided for the disclosure of information obtained under authority of the Food Stamp Act of 1977 to various programs, including State CSE agencies.

P.L. 97-252—The Uniformed Services Former Spouses' Protection Act, signed into law on September 8, 1982, treated 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 required improvements in State and local CSE programs in four major areas:

Mandatory Practices

All States were required to 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. In addition, State law had to allow for the bringing of paternity actions any time before a child's 18th birthday, and all support orders, issued or modified after October 1, 1985, were to 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 FY1988 (to 68 percent) and another 2 percent in FY1990 (to 66 percent). Federal matching funds became available at the 90 percent rate for developing and installing 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 could increase to as much as 10 percent for both categories for very cost-effective States, but a State's non-AFDC incentive payments were limited by the amount of incentives payable for AFDC collections. The law further required States to pass incentives on to local CSE agencies where these agencies have participated in the costs of the program.

The requirement for an annual audit of State CSE agencies was dropped in favor of an audit once every 3 years. The focus of the audits was altered so that, beginning with the FY1986 audit period, a State's effectiveness would be evaluated on the basis of program performance as well as operational compliance. Graduated penalties of from 1 to 5 percent of total payments to the State under the AFDC program would be imposed if a State were found not to have complied substantially with Federal requirements over successive periods. The penalty could be suspended, however, if the State were to take corrective action, over a maximum period of 1 year, to come into substantial compliance.

Improved Interstate Enforcement

The proven enforcement techniques discussed above were to be applied to interstate cases as well as intrastate cases. Both States involved in an interstate case could take credit for the collection when reporting total collections for the purpose of calculating incentives. In addition, the law authorized OCSE to commission special State demonstration grants, beginning in FY1985, to fund innovative methods of interstate enforcement and collection. The Federal audits would focus on State effectiveness in establishing and enforcing obligations across State lines.

Equal Services for Welfare and Nonwelfare Families

Congress stated in the Social Security Act that, in creating the CSE program, it intended to aid both nonwelfare and welfare families. Several specific requirements were directed at improving State services to nonwelfare families. All mandatory practices had to be available to both types of cases; the interception of Federal income tax refunds was extended to nonwelfare cases; incentive payments became available for collections in nonwelfare cases; when families are terminated from AFDC, they automatically are to receive nonwelfare support enforcement services, without being charged an application fee; and States were required to publicize the availability of nonwelfare support enforcement services.

Other Provisions

In addition to the above, States were required to: (1) collect support in certain foster care cases; (2) collect spousal support, in addition to child support, when both were due in a case; (3) notify AFDC recipients at least yearly of the collections made in their individual cases; (4) establish a State commission to study the operation of each 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 with authority to establish obligation amounts; (6) offset the costs of the program by charging various fees to nonwelfare families and to delinquent noncustodial parents; (7) allow families whose AFDC eligibility was terminated as a result of the payment of child support, to remain eligible for Medicaid for 4 months; and (8) seek to establish medical support awards in addition to cash awards for support. In addition, the FPLS was made more accessible and more effective in locating absent parents. Sunset provisions were put in effect for the extension of Medicaid eligibility and Federal tax refund offsets for non-AFDC families.

1986 P.L. 99-509—The Omnibus Budget Reconciliation Act of 1986 required States to provide that support installments are vested as they fall due and, therefore, are judgments entitled to full faith and credit. It also allowed prospective modification from the date the opposing party received notice of the motion for modification.

1988 P.L. 100-485—The Family Support Act of 1988, enacted on October 13, 1988, made many important changes to the CSE program. The major provisions were:

Immediate Wage Withholding

For IV-D cases, States were to provide for immediate wage withholding in orders issued or modified on or after November 1, 1990, unless one of the parties demonstrates and the court finds that there is good cause not to require it or there is a written agreement between both parties for an alternative arrangement. In non-IV-D cases, immediate wage withholding was to apply to all orders initially issued on or after January 1, 1994.

Disregard of Child Support

The child support disregard was to be applied to a payment made by a non-custodial parent in the month it was due even though it was received in a subsequent month.

Guidelines for Child Support Award Amounts

Judges and other officials were required to use State guidelines for support awards, unless the decision-maker entered a written finding that applying the guidelines would be unjust or inappropriate in the case. States were to review their guidelines every 4 years.

Beginning 2 years after enactment, if a State determined, under its plan for review and adjustment of orders, that an order being enforced under the program should be reviewed, the State must, at the request of either

parent or of the CSE agency, initiate a review of the order and adjust it, if appropriate.

Beginning 5 years after enactment, States were to begin to review and adjust individual case awards every 3 years in AFDC cases, unless it is not in the best interests of the child and neither parent has requested review.

In other IV-D cases, the review and adjustment process had to be available every 3 years if a parent requests it.

States were required to notify each parent subject to an order in effect in the State that is being enforced under Title IV-D: (1) of any review of the order, at least 30 days before the commencement of the review; (2) of their right to request a review; and (3) of any proposed adjustment or determination that there should be no change to an order, allowing the parent at least 30 days for challenge.

Notice of Support Collected

Beginning January 1, 1993, States were to inform families receiving AFDC of the amount of support collected on their behalf on a monthly basis, rather than annually as previously required. States could provide quarterly notice if the Secretary of HHS determines that monthly reporting imposes an unreasonable administrative burden.

Performance Standards for Paternity Establishment

States were required to meet Federal standards for establishing paternity beginning in FY92. A State's paternity establishment percentage had to (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 FY1988 to FY1991 and by 3 percentage points each year thereafter.

States had to require all parties in a contested paternity case to take a genetic test at the request of any party. States could charge individuals not receiving AFDC for the costs of genetic tests to establish paternity.

States were encouraged to adopt a simple civil process for voluntarily acknowledging paternity and a civil procedure for establishing paternity in contested cases.

The Federal matching rate for laboratory testing to establish paternity was set at 90 percent.

Standards for Providing Services and Distributing Collections

The Secretary of HHS was required to issue regulations establishing time standards that States must meet in responding to requests for establishing and enforcing support orders, locating absent parents, establishing paternity, and collecting support. The standards must include time limits governing distribution of amounts collected as child support under the CSE State plan.

Mandatory Automated Systems

Each State that did not have a Statewide automated tracking and monitoring system in effect was required to submit an advance planning document that met Federal requirements by October 1, 1991. By October 1, 1995, each State had to have an approved system in effect. The Federal matching rate of 90 percent for this activity expired after September 30, 1995.

Additional Information Source for Parent Locator Service

The Secretaries of Labor and HHS were to enter into an agreement to give the FPLS access to wage and unemployment compensation claims information useful in locating absent parents.

Use of Social Security Number to Identify Parents

Each State, in the administration of any law involving the issuance of a birth certificate, was to begin requiring each parent to furnish his or her Social Security Number (SSN), unless the State found good cause for not requiring the parent to furnish it. The SSN cannot appear on the birth certificate, and the use of the SSN is restricted to CSE purposes, except under certain circumstances.

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 provision allowing States to ask the IRS to collect child support arrearages of at least \$ 500 out-of-income tax refunds otherwise due to non-custodial parents in non-AFDC cases. The minor child restriction was eliminated for adults with a current support order who are disabled, as defined under OASDI or SSI. The IRS offset was allowed to 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 was to be a fine of up to \$5,000 and/or imprisonment for not more than 6 months; for a second conviction, a fine of not more than \$250,000 and/or imprisonment for up to 2 years was to be imposed.

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. It included a provision that forbade health insurers from denying 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 (FFCCSOA), required each State to enforce, according to its terms, a child support order by a court (or administrative authority) of another State. FFCCSOA offered conditions and specifications for resolving issues of jurisdiction.

P.L. 103-394, the Bankruptcy Reform Act of 1994, protected child support from being discharged in bankruptcy. Among many provisions, the new law provided that filing a bankruptcy petition does not operate as an automatic stay for an action to establish paternity, or to establish or modify a child support or spousal support order. Under the law, a bankruptcy debtor may not avoid a judicial lien securing a support debt. It also provided protection against trustee avoidance, facilitated access to bankruptcy proceedings, and assigned child support a priority for collecting claims from debtors.

P.L. 103-403, the Small Business Administration Reauthorization and Amendments Act, required 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, required State CSE agencies to periodically report parents, who are at least 2 months delinquent in paying child support, to credit bureaus. It modified the benchmarks under the paternity establishment percentage formula used to determine the States' substantial compliance, and it required HHS to provide free access for the Justice Department to the FPLS 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 title of this law is the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

This law dramatically changed the nation's welfare system into one that required work in exchange for time-limited assistance. The law contained strong work requirements, a performance bonus to reward States for moving welfare recipients into jobs, State maintenance of effort requirements, comprehensive child support enforcement provisions, and supports for families moving from welfare to work.

Under the law, each State was to operate a CSE program meeting Federal requirements to be eligible for Temporary Assistance for Needy Families (TANF) block grants. Provisions included:

National New Hire Reporting System

PRWORA established a Federal Case Registry of Child Support Orders (FCR) and a National Directory of New Hires (NDNH) to track delinquent parents across State lines. It also required that employers report information on all new hires to State agencies for transmittal to the NDNH.

Streamlined Paternity Establishment

The law streamlined the legal process for establishing paternity, making it easier and faster to establish paternities. It also expanded the voluntary in-hospital paternity establishment program, and required the use of a State form for voluntary paternity acknowledgment.

Uniform Interstate Child Support Laws

PRWORA provided for uniform rules, procedures, and forms for interstate cases.

Computerized Statewide Collections

The law required States to establish central registries of child support orders as well as centralized collection and disbursement units. It also required expedited State procedures for child support enforcement.

Tough Enforcement Penalties

Under PRWORA, States could implement tough child support enforcement techniques. The law expanded wage garnishment, allowed all States to seize assets, permitted States to require community service as a penalty in some cases, and enabled States to revoke drivers' and professional licenses for parents who owe delinquent child support.

Families First

Under a new "Family First" policy, families no longer receiving assistance were given priority in the distribution of child support arrears.

Access and Visitation Programs

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

1997 P.L. 105-33, the Balanced Budget Act of 1997, made a number of amendments to the Social Security Act, including creating the Children's Health Insurance Program in Title XXI to help provide medical coverage to children of working poor families, who are not eligible for private health insurance and who are earning too much to receive Medicaid. The Balanced Budget Act also amended section 454 of the Social Security Act regarding cooperation/good cause, and the FPLS language in section 453 to clarify the authority permitting certain re-disclosures of wage and claim information. Also, this Act authorized, for the first time, the direct funding of Tribal support programs, with Congress giving OCSE greater flexibility in providing direct funding for such programs and requiring OCSE to promulgate regulations before issuing grants directly to Tribes.

P.L. 105-34, the Taxpayer Relief Act of 1997, amended the Social Security Act by requiring, beginning October 1, 1999, that the Federal Case Registry of Child Support Orders include the names and Social Security Numbers of children on whose behalf child support is owed, and that such information also be included in State case registries. Furthermore, the Secretary of the Treasury shall have access to the Federal Case Registry of Child Support

Orders for the purpose of administering the tax provisions that grant tax benefits based on support or residence of a child.

P.L. 105-89, the Adoption and Safe Families Act of 1997, made the Federal Parent Locator Service available to child welfare services for enforcement of custody and support orders.

1998 P.L. 105-200, the Child Support Performance and Incentive Act of 1998 (CSPIA), generally provided for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, and it reformed Federal incentive payments for effective child support performance. The law also required the creation of a Medical Support Working Group to identify any impediments to effective enforcement of medical support and to recommend appropriate remedies. [The Medical Support Working Group's report was issued in August of 2000.].

P.L. 105-306 included technical amendments to CSPIA that reduced, by 20%, the penalty for State failure to meet the deadline for compliance with child support data processing and information retrieval requirements. This law also amended the effective date for State enactment of certain medical support requirements.

P.L. 105-187, the Deadbeat Parents Punishment Act, established felony violations for the willful failure to pay legal child support obligations in interstate cases.

1999 P.L. 106-113, Consolidated Appropriations Act, 2000, contained several provisions affecting child support. Section 454A of the Social Security Act is amended by requiring State child support automated data processing and information retrieval systems to disclose to Private Industry Councils certain information on noncustodial parents for the purpose of contacting them regarding their participation in the welfare-to-work program. The Act also provided that if a State plan would be disapproved for failure to establish a disbursement unit for child support payments, but the State had submitted, by April 1, 2000, a corrective compliance plan acceptable to the Secretary, then the Secretary shall not disapprove the State plan for spousal and child support (but the amount otherwise payable to the State will be reduced as a penalty). The Act also required the Secretary of State, in consultation with the Secretary of Health and Human Resources, to submit a report to Congress on the feasibility of lowering the threshold amount of an individual's support arrearage, from \$5,000 to \$2,500, before the Secretary of State must refuse to issue a passport to such an individual.

P.L. 106-169, the Foster Care Independence Act of 1999, narrowed the hold harmless provision for State share distribution of collected child support.

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