CHILD SUPPORT ENFORCEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

JUNE 10, 1993

Serial 103-30

Printed for the use of the Committee on Ways and Means

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CHILD SUPPORT ENFORCEMENT

THURSDAY, JUNE 10, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room B–318, Rayburn House Office Building, Hon. Harold E. Ford (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
THURSDAY, MAY 27, 1993

PRESS RELEASE #5
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE HAROLD E. FORD (D., TENN.), CHAIRMAN, SUBCOMMITTEE ON HUMAN RESOURCES, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES AN OVERSIGHT HEARING ON CHILD SUPPORT ENFORCEMENT

The Honorable Harold E. Ford (D., Tenn.), Chairman, Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold an oversight hearing on child support enforcement. The hearing will be held on Thursday, June 10, 1993, beginning at 10:00 a.m. in room B-318 of the Rayburn House Office Building.

BACKGROUND

The child support enforcement program was enacted as Part D of Title IV of the Social Security Act in 1975 (P.L. 93-647). The States operate their own programs within Federal law and regulations and the Federal Government pays for 66 percent of the administrative costs. States are responsible for establishing paternity, locating absent parents, establishing child support orders, and enforcing child support. The Federal role includes monitoring and evaluating State programs, providing technical assistance, and in certain instances, helping States locate absent parents and collect child support payments.

The most recent attempt by Congress to reform the child support enforcement program was enacted under the Family Support Act of 1988. Some main elements were: (1) requiring State and local officials to use the child support guidelines established under the 1984 amendments; (2) requiring all parties to take genetic tests in a contested paternity case if requested by one of the parties and providing 90-percent Federal matching for the cost of paternity tests; (3) requiring States to implement automated tracking and monitoring systems by October 1995, with 90-percent Federal matching; and (4) requiring States to implement wage withholding against non-custodial parents under certain circumstances. By the beginning of fiscal year 1996, all of these changes will have gone into effect.

SCOPE OF THE HEARING

Members of the Subcommittee are interested in hearing testimony on the status of State child support enforcement programs, especially in relation to the implementation of the requirements of the Family Support Act of 1988.

In addition, Members are interested in various proposals for reform of the child support enforcement system, such as: the recommendations of the Interstate Commission on Child Support; the Child Support Enforcement and Assurance Proposal; and the proposals of the Clinton Administration described in A Vision of Change for America.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests by telephone to Harriett Lawler, Diane Kirkland, or Karen Ponzurick [(202) 225-1721] no later than close of business, Thursday, June 3, 1993, to be followed by a formal written request to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House

Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff [(202) 225-1025].

It is urged that persons and organizations having a common position make every effort to designate one spokesperson to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearing. **(See formatting requirements below.)** This process will afford more time for Members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear are required to submit 200 copies of their prepared statements to the Subcommittee office, B-317 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any persons or organizations wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statements by close of business, Thursday, June 24, 1993, to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public, they may deliver 100 additional copies for this purpose to the Subcommittee office, room B-317 Rayburn House Office Building, on or before the day of the hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

* * * *

Chairman FORD. The Subcommittee on Human Resources will come to order.

We are very delighted to have a panel of witnesses to testify today before the subcommittee. Six years ago, as chairman of the Subcommittee on Human Resources, I introduced the Family Welfare Reform Act of 1987. In less than 2 years, the bill evolved into the Family Support Act of 1988. This act emphasized many of the same themes President Clinton stresses today: reducing poverty, keeping families together, promoting parental responsibility and self-sufficiency, providing education, training and work incentives, assisting with day care and transportation, and enforcing child support obligations.

Today the subcommittee holds an oversight hearing on the child support enforcement program. Since 1988, program collections have grown by 45 percent. Paternities established have risen by 67 percent, and the number of parents located has tripled, but many problems still remain with the system.

This hearing will address these problems. They include problems with implementation of the Family Support Act, the various issues addressed by the Interstate Commission on Child Support, the proposals of the Clinton administration, child support assurance, and other proposals made by Members of Congress, interest groups, and citizens affected by this system.

I am pleased and encouraged by the response to the subcommittee's call for public witnesses on this vital subject. It is clear that the intent of this subcommittee, as well as the full committee, is to move in this area after hearing from the administration, hearing from colleagues in the Congress, and other experts and witnesses throughout this country. This legislation will probably coincide with welfare reform as we tackle these two major issues.

I am very delighted to join with my colleagues on the minority side as well as my colleagues on the majority side to work with them tirelessly to bring about needed changes, and to revamp child support enforcement if necessary.

I am also delighted to have testifying today one of our colleagues and a former member of this subcommittee, Ms. Kennelly, who has offered her leadership and has been a giant among giants in this area. I had the opportunity to work with her on the last child support enforcement legislation on this subcommittee.

And I want to you know, Ms. Kennelly, you were a true leader in this area, and I certainly look forward to working with you and seek your participation at every level as we move this legislation.

Before I recognize you, I would like to see if Mr. Grandy would have any opening statements from the minority side.

Mr. GRANDY. Thank you, Mr. Chairman, I do. And let me say at the outset that our ranking member, Mr. Santorum, is unavoidably delayed, and I am speaking on behalf of him and the rest of the minority members. I want to begin by thanking you, Mr. Chairman, for beginning this process which I hope will be ongoing and productive, and I assume it will.

I particularly want to welcome, as you did Ms. Kennelly, who of course was a former member of this committee and a member of the interstate commission and someone we have relied on, as well as Dr. Ellwood, who is now a member of the administration, but

prior to his service with the Clinton administration was a valuable resource to this committee involving issues such as time limitation of benefits, child support assurance and a variety of welfare reform initiatives in between.

I do want to make a couple of points about the procedure that we are about to undertake to consider legislation on child support enforcement and/or welfare reform.

Republicans probably within the next couple of weeks will be introducing a child support enforcement bill that we intend to use as a companion piece to our welfare reform initiative that we introduced at the beginning of this year, because we, like you, believe that the two issues are tied together.

But having said that, I think it would be a shame if child support enforcement legislation got tied into a welfare reform package which might be much more controversial and thereby delayed.

I think it is possible to move forward on a bipartisan effort on child support that might be able to be finished this year. The signals we are hearing from the administration are that welfare reform might be delayed until next year. I think that is a shame in itself, but I hope if that is true we will be able to move forward with some kind of bipartisan child support legislation.

The other point I want to make is that I hope also that we do not come to blows over the concept of child support assurance. This is a concept that I want to stress. Mr. Shaw, Ms. Johnson, and I introduced as a demonstration project last year and we have reincorporated it as a demonstration project into our welfare reform package. We support trying this innovative idea at a State level.

But I think at this point we would be reluctant and would probably oppose a Federal initiative toward taking child support assurance and shoehorning it into a welfare reform bill without any kind of test. I hope we would not be forced to divide over this issue, because we are supportive of the concept but want to try to before we pay for it at the level that, of course, a Federal initiative would require.

The last thing I want to say, Mr. Chairman, and I suppose I will take every opportunity to do that, with Dr. Ellwood here, I would plead to you individually and personally that you would begin to open a dialog with this side of the aisle with Republicans on welfare reform.

We are ready to go. We have got a bill. I think it is in keeping very much with what the President campaigned on and what he has said since he has become the President of the United States. And I think if there is one area where Republicans and Democrats agree, it will be on this whole initiative of making work pay and tying a benefit to some kind of responsibility in the workplace.

And I hope that we will begin to get some feedback from the administration, because quite honestly the silence has been somewhat deafening and discouraging. Just because we don't agree on the budget initiative and we have not been able to come to terms on taxes does not mean Republicans are digging in and just looking for ways to become obstructionist for this entire administration. Quite the contrary.

And I hope you particularly, Dr. Ellwood, will begin to open some kind of channel of communication with us, because we are very interested in getting this done. I think it can be done this year. I think this is one area where we can work together.

Having said that, Mr. Chairman, I want to thank you for beginning these discussions, and I welcome our colleague, Mrs. Kennelly, and Dr. Ellwood.

Chairman FORD. Thank you.

We will, from this side of the aisle, look with anticipation to working with the minority side. It certainly will be the intent of this subcommittee to try to move both welfare reform as well as child support enforcement. Whether they will move simultaneously, we don't know. But we certainly would look forward to working with the Republicans on the committee, and maybe reporting a bipartisan bill.

It was certainly the intent of this subcommittee in 1988 to support a bipartisan bill, and I must say that we certainly had members of your party who worked very closely with us to report legislation. I don't think we received the votes on the final passage. I hope that will not be the case in 1993 or whenever the bill is reported.

I, as chairman of this subcommittee, strongly look forward to working with you and others to make sure we can put the components together to report a welfare reform package as well as child support enforcement legislation.

At this time, if no other committee members have an opening statement, I am going to recognize Ms. Kennelly for her testimony.

Before you begin, I am going to say that without objection, I am going to ask that the written testimony of Senator Bill Bradley be made a part of the record. He is not going to be able to testify in person this morning.

[The prepared statement of Senator Bradley follows:]

Bill Bradley

TESTIMONY OF SENATOR BILL BRADLEY
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
HUMAN RESOURCES SUBCOMMITTEE
ON CHILD SUPPORT ENFORCEMENT
JUNE 10, 1993

MR. CHAIRMAN, thank you for the opportunity to testify this morning regarding reform proposals that have been made by the U.S. Commission on Interstate Child Support. I am especially honored to be able to testify here with my colleague on the Commission, Barbara Kennelly, a legislator who has done so much in this area. I very appreciate having worked with her and Representative Marge Roukema on this issue.

This is not the first time that we have attempted to tackle the problems of child support enforcement. In 1984, we mandated several reforms, including wage withholding if an absent parent is one month in arrears on his child support, state child support guidelines, and the establishment of federal and state income tax refund offsets to collect overdue support. In the Family Support Act, we expanded the use of genetic testing in contested paternity cases, increased the use of wage withholding, and made a number of other badly needed reforms. These changes have produced positive results. Total child support collections, which amounted to $2 billion in 1983, were up to $4 billion by 1988 and up to $6 billion in 1990. Paternity establishment increased 60 percent from 1986 to 1990.

Yet, even with these improvements, no one would suggest that we have solved all the problems, especially in interstate cases. That is why I worked to include legislation creating the U.S. Commission on Interstate Child Support in the Family Support Act. Since the Commission issued its final report to Congress last year, I have included a number of its recommendations in a comprehensive reform bill, S. 689, which I believe could significantly improve interstate enforcement. On the same day I introduced my bill, Representative Roukema introduced a companion measure, H.R. 1600, here in the House, showing that support for the Commission's recommendations cuts across party lines. I know that my colleague on the Commission, Representative Kennelly, has introduced a bill, H.R. 1961, which is also largely based on the Commission's report.

Our current system of interstate child support sends people who do not want to pay their child support the following message: If you want to avoid paying the money you owe your kids, just cross state lines. Just cross the state line and forget your responsibility to your kids! It is unconscionable that in a modern society, where people cross state lines every day, crossing a state line to live in a state different from the state where your kids reside can substantially reduce your chances of being caught for not paying child support.

Nationally, one out of every three child support cases is an interstate case, yet only $1 out of every $10 collected is from an interstate case. Behind this statistic are millions of families who are drowning in red tape trying to collect their child support.

Listen, Mr. Chairman, to some common problems that occur in interstate cases. Under current practice, if a custodial parent has a child support order (and only 60 percent do), she or he has to enforce that order in the state where the absent parent resides. This usually requires that the custodial parent file an action under the Uniform Reciprocal Enforcement of Support Act ("URESA"), an outdated and complicated law which allows non-uniform state laws and procedures to delay enforcement and collection in interstate cases.

Despite federal laws to the contrary, judges often allow for the reduction of fully valid child support orders from other states. Other problems, like staffing restrictions (the average case load per child support case worker is 1,000 cases per caseworker) and the lack of locate resources, add to the problem of enforcement across state lines.

If the custodial parent does not have a child support order, she or he must go to the state where the absent parent resides, find the absent parent, establish an order, and enforce that order against the delinquent parent. If the custodial parent has not established paternity, she must do so before establishing a support order. Finding the absent parent and his or her assets is a difficult and frustrating process. When absent parents are discovered at a particular job, they often quit. When their addresses are found, they often move. Because we have not put the proper resources toward locating absent parents, custodial parents are often one step behind them, frustrating their ability to receive child support.

I believe we must take a stand on this issue. We must send a clear message that the failure of many parents to take responsibility for their children is a national disgrace! We do not do a very good job now. For example, in many states it is now easier for a person's failure to pay his car note to appear on his credit report than it is for his failure to pay child support to appear. And delinquent parents come in all genders, races, and economic classes.

The bill I have introduced makes several changes to the current system. It promotes uniformity in the laws and practices of the states, encourages voluntary and quick paternity establishment, and enhances the capacity of the states to locate people who do not pay. The bill also takes tough enforcement measures against those who do not pay. Mr. Chairman, we are now sending the wrong message to delinquent parents. This bill sends the message, "we will find you and make you pay."

My bill requires all states to pass in substantially the same form the Uniform Interstate Family Support Act ("UIFSA"), a simpler, more expansive model act for interstate enforcement than the current law. It also requires the states to remove many of the legal barriers associated with interstate enforcement.

My bill requires the states to set up quick and accurate methods for determining paternity, and requires all states to have voluntary hospital-based paternity acknowledgement programs. I am pleased that the Ways and Means Committee passed a version of the bill's paternity establishment provisions in its Budget Reconciliation legislation. About eighty-five percent of all fathers are at the hospital or in contact with their kids during the first few days of their birth. Why not give them the opportunity to acknowledge paternity at that time? Voluntary paternity acknowledgement programs are working effectively in the states of Washington and Virginia, and should be expanded to every state in the country.

My bill establishes a system to better track those who owe child support when they start a new job. Under the current system, many absent parents leave their jobs before custodial parents can locate them. My bill requires employers to report all new hires within ten days to the child support agency in their state. Most of the reporting would be done by sending a copy of a new hire's W-4 form to the state child support agency. The state child support agency would then be required to compare the new hire information with information in its registry of child support orders to determine whether the new hire owes child support in the state. The state child support agency would also be required to broadcast the new hire information to other states over a national network so that those states could match the information with information they have in their registries. When fully operational, I expect this provision to save the federal government millions of dollars in welfare payments. Fourteen states currently operate some version of this reporting program, and I expect more to begin operating such a scheme in the future. We should borrow from successful state programs in forging a national reporting scheme.

Even with these changes, some parents still will pay child support. That is why I have included in my bill several strong enforcement provisions which should help force people to pay or at least negotiate the terms of payment with the proper authorities. If they ignore orders to appear at child support hearings, my bill makes it possible for delinquent parents to loose their driver's licenses and occupational licenses, hitting them in a sense where they feel it the most. Punitive measures such as these have been successful at getting those who are not identified through wage withholding to pay the money they owe their children.

My bill also requires the Office of Child Support Enforcement to conduct staffing studies of each state's child support program and report its findings to the states and Congress. I am certain that this information could be helpful in deciding the proper

number of staff necessary to effectively enforce child support. The bill also mandates training of child support staff to ensure that the people hired at the state level are equipped to do the job.

Mr. Chairman, by encouraging passage of tough child support legislation I do not want to suggest that there are not situations where absent parents simply cannot legitimately pay their child support. Obviously, courts and administrative agencies should be sensitive to changes in the economic circumstances of those who owe child support. In addition to tough enforcement, we must also be committed to programs which employ disadvantaged, absent parents. That is why I have included in a bill that I have recently introduced, the Neighborhood Reconstruction Corps Act, a provision giving people who owe child support a preference for jobs created by that program.

I recently met with a group of disadvantaged fathers in New Jersey who were identified by the state child support agency for not paying child support. They were participating in a job training and parenting course that I worked to fund as a demonstration program. In addition to providing basic skills training to these men, the program also put them back into contact with their children. Several of the men told me that they had not been in contact with their kids for many years until they were identified by the program. My conversation with these men convinced me that more is at stake here than just money. It is true that increasing child support payments will have a significant impact on family income and raise many children out of poverty. But it is also true that there are intangible benefits that flow from contact between a child and both his or her parents. I like to keep these issues in mind when thinking about child support.

Time does not allow me to discuss in detail all the provisions of my bill, but with your permission I would like to enter a detailed summary of it into the record. It is clear that something must be done to improve the system of child support enforcement in this country. The Commission has come up with a number of very workable reforms. I urge you to listen closely to what my colleagues on the Commission, Barbara Kennelly and Meg Haynes, have to suggest. I think you will find their suggestions timely, enlightening, and extremely practical.

Chairman FORD. Ms. Kennelly.

STATEMENT OF HON. BARBARA B. KENNELLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mrs. KENNELLY. Thank you, Mr. Chairman. I certainly appreciate the opportunity to testify before you, and may I say I miss being on this subcommittee far more than I anticipated. I am coming here today to talk about child support enforcement, knowing that many members of the subcommittee know so much about these problems that we are dealing with.

Sadly, too many children today lack something that all of us took for granted, and that is strong support from our parents. More and more children, as we know, are growing up in poverty, and the reason for that is that many of them are in single-parent families. In fact, we know that children in single-parent families unfortunately are six times more likely to grow up in poverty.

Finding solutions to child support enforcement has been a concern of mine since I came to Congress, and immediately became very involved in the 1984 child support enforcement amendments.

Mr. Chairman, one of my fondest memories and one of the better things that happened to me was working with you on the 1988 legislation. These laws, as you know, ensure that we have mandatory wage withholding, incentive payments to States and other improvements in the child support enforcement programs so that all children receive enforcement assurances regardless of their circumstances.

I also had the opportunity to be appointed by the Speaker of the House as a Commissioner on the U.S. Commission on Interstate Child Support. Senator Bradley and I served on that Commission with Congresswoman Marge Roukema. The Commission grappled with the specific problems we are facing. We had many, many meetings and deep research. The report has innovative recommendations that go a long way toward addressing many of the problems we face in securing enforcement of payments for children in need.

Today, Mr. Chairman, we have a great opportunity to build on the legislative gains we have made from 1984 to 1988 and the recommendations of the Interstate Commission. That is why I have introduced H.R. 1961, the Interstate Child Support Act of 1993. This bill implements a vast majority of the recommendations brought forth by the Interstate Commission. This legislation can make and continue to make, as past legislation has made, a difference in improving children's lives.

There are those who believe that the problems of the child support system are so big that they are beyond repair, and that we should have the Federal Government take over this whole system. I believe that federalizing the child support program by transferring the program responsibilities from the States to the Federal Government to the Social Security Administration or to the Internal Revenue Service is not yet the answer for stronger improved child support enforcement.

I say "not yet," at least not at this time, because I think there are many aspects of State programs that work. I believe that we must build on what works, and correct what doesn't. I believe that

the current Federal-State program can work with more oversight and stronger legislative authority.

Having said that, and having been involved in this question as you and other members of the panel have, I really feel that we have a new opportunity. We have a new administration with a stated commitment to child support enforcement improvements in this country. We have Mr. Ford, with your history of commitment, as the chairman. I am committed to do something in this area, and hearing Mr. Grandy's statements I know this can be a bipartisan effort. Senator Bradley, too, is committed to this effort. The Interstate Commission did such deep and intense work. We know interstate enforcement is one of the greatest problems. When the parent who is not supporting moves to another State, the difficulties involved in collecting are great. I would have to tell you, Chairman Ford, that if this next effort does not result in child support enforcement being improved for the children of America, then I might have to be one of those who says, "maybe we have to go to a Federal system."

But I would say to you this morning, I think we should give it one last good effort to make the system as it is today better, and result in children getting child support.

May I just mention a few things that I do think have to be looked at. These are strengthening both the State and Federal programs individually, expanding computerized systems, and strengthening enforcement mechanisms across the board. We know what the barriers are; we have to get over the barriers. We have to establish and clarify State jurisdiction, and we have to implement the one-to-one State order. We have to establish voluntary, civil paternity, and we have to have consent programs concerning paternity that we know work.

We have to authorize demonstration programs for assurance systems, for revising Federal payment formulas to States, and for the development of support order establishment outreach programs. We have to study the feasibility of an employment program for noncustodial parents.

I would like to mention one aspect of this problem that I know is of great concern to many people, and that is deadbeat dads. The intent of my legislation is to help children and families, not to punish individuals. There are two types of people who fail to pay child support: Those who avoid payment because they do not want to pay, and those who want to contribute but do not have the means to pay.

From my experience in child support legislation, I also know there is a real problem involved when mothers do not want the father to see the child, and use that somewhat as a stick, making the whole situation so unhappy and so difficult.

I would like to say today that I understand that, but visitation and child support are two different issues. Mr. Chairman, you and I both know we have to address both issues. But I don't want to take away from what we are addressing today by just calling it deadbeat dads, as if that were the whole situation.

There are those who want to pay and those who don't want to pay. That is why this legislation includes a provision that recognizes the need for employment assistance, which is intended to

build upon the demonstration programs of the parents' fair share demonstration programs which developed as a result of the Family Support Act.

I am going to insert the rest of my testimony. But as I look at you and your committee members, I see individuals who clearly understand what we are trying to do. I think we can get over the barriers of not having child support for American children if we work together on getting new legislation to improve on what is on the books.

And I thank you so much, sir, for allowing me to be involved in this effort. Thank you, Mr. Chairman.

[The prepared statement follows:]

The Honorable Barbara B. Kennelly
Testimony before the Subcommittee on Human Resources
June 10, 1993

Mr. Chairman: Let me start by thanking you for allowing me the opportunity to testify today, as well as for holding this hearing to highlight the importance of child support enforcement.

Certainly the members of this subcommittee know the problems we are dealing with. The sad reality is that children are lacking something many of us took for granted when we were children -- strong support from their parents. More and more children are growing up in single parent homes, a situation which subjects far too many children to poverty. In fact, children in single parent homes are 6 times as likely to be poor and to stay poor than children in two parent families.

Finding solutions to child support enforcement problems has been a primary concern of mine since I came to Congress in 1982. Legislation that I introduced and fought for in 1984, and the Family Support Act which I strongly supported in 1988 helped to strengthen child support enforcement procedures. These laws ensure, through mandatory wage withholding, incentive payments to states, and other improvements in the child support enforcement program, that all children receive enforcement assurance regardless of their circumstances.

I also recently served as a Commissioner on the United States Commission on Interstate Child Support to address the specific problems of interstate cases. Issued in August 1992, the Commission's report contains innovative recommendations which can go a long way towards addressing many of the current challenges we face in securing child support payments for children in need.

Today, we have a great opportunity to build on the legislative gains we made in 1984 and 1988, and the recommendations of the Commission. That is why I have introduced legislation, H.R. 1961, The Interstate Child Support Act of 1993. My bill implements a vast majority of the recommendations of the Committee report, and some additional provisions. This legislation can make a real difference in improving children's lives.

There are some who believe that the problems in the child support system are so big that they are beyond repair; that we should have the federal government take over the system. I believe that federalizing the child support program by transferring the program responsibilities from the states to the federal government, to the Social Security Administration and/or the Internal Revenue Service, is not the answer for a stronger and improved child support enforcement program -- at least at this time. There are many aspects of state programs that work, and I believe that we must build on what works, and correct what doesn't. I believe that the current federal-state program can work with more oversight and stronger legislative authorities.

In general terms, my legislation calls for--

- o Strengthening both the state and federal programs;
- o Expanding computerized locate systems;
- o Strengthening enforcement mechanisms;
- o Establishing and clarifying state jurisdiction, and implementing the "one state-one order" principle;
- o Establishing voluntary, civil paternity consent programs;
- o Authorizing demonstration programs for an assurance system, for revised federal payment formulas to states, and for the development of support order establishment outreach programs; and
- o Studying the feasibility of an employment program for noncustodial parents.

If I may, I'd like to mention one aspect of this problem which I know is of great concern to many people. This issue has often been highlighted as an effort to get "deadbeat dads." However, using a label like this over simplifies the problem. The intent of my legislation is to help children and families, not to punish people. We must remember that there are two types of people who fail to pay child support: those who avoid payment because they do not want to pay, and those who want to contribute but do not have the means to pay. These situations must be dealt with differently. There is no question that those who have the means, but still refuse to accept their responsibility to their children must be dealt with seriously.

However, we must take into account those noncustodial parents who want to pay support but cannot because they lack employment, or lack the skills to get a job that will allow them to pay their support. This will benefit everyone involved. That is why my legislation includes a provision which recognizes the need for employment assistance which is intended to build upon the demonstration projects of the Parents Fair Share Demonstration Programs which developed as a result of the Family Support Act of 1988.

Again, Mr. Chairman, thank you for calling this hearing. This is clearly an issue that we all must pay attention to, and I look forward to working with the Administration, my colleagues in the House, and our friends in the other body to ensure that a high priority is placed on making changes to the child support enforcement system which will make the system work as efficiently as it possibly can. As citizens, we must place the highest emphasis on the responsibility we have to our families. As legislators, we have a responsibility to ensure that the we take every measure available to support the most vulnerable in this country -- children.

Thank you very much.

Chairman FORD. Thank you very much for your testimony, and thank you once again for your input.

You suggested there are two types of people who fail to pay child support. You mentioned those who avoid the payment, and those who want to pay but just can't afford to pay. What do you suggest? How do we address that.

Mrs. KENNELLY. I really made an effort in drafting new legislation to go out into the community and find out if what we think is happening is happening. Let me give you an example from Connecticut. This is a divorced woman with two children. The husband moved to Florida, has a small business, is known to travel quite extensively, has a new car every year, and lives very well. She is back in Connecticut and cannot get that child support. He moves constantly to avoid it. Here is a case where an individual doesn't want to pay his child support.

Then you can have another situation where the father would very much like to pay. By the way, sir, may I say, in most of these cases the male parent is not on the scene. He is not the custodial parent. We are getting some custodial male parents. Most of it statistically still is mostly female.

We have individuals who want very much to pay the child support, but who don't have the job skills or opportunity, and that is why we have this job program.

The third situation is where the custodial parent, often the mother, doesn't want the father to see the children. He says, "Why should I pay if I can't see that child?" And we have case after case like that, and that is why I emphasize, support and visitation rights are two different things. We should understand that the absent parent isn't always causing the trouble. No mother should use visitation as a hammer so she muddies up the waters so much that the child doesn't get the support and the family is still fighting. Divorce is never easy, but to involve the child in this situation makes it worse, and usually for the child.

So I think there are answers in job training. We can have, as Mr. Grandy knows, Mrs. Johnson worked on it, demonstration programs where there can be jobs.

Chairman FORD. What do you suggest for that father who moves from State to State to avoid payments? The Interstate Commission doesn't want to support the Internal Revenue in the collection process.

Mrs. KENNELLY. There are numerous suggestions on how we can improve on the system that we have right now. Sharing of information is terribly, terribly important. As usual it is that old bogeyman that you and I have dealt with, putting priority on child support enforcement within the individual States so that you could have sharing of information.

There are ways to do it within the courts; there are ways to do it within the State systems. There are documented improvements that we can do. The Interstate Commission has documented them and I think they should be tried.

Chairman FORD. Thank you.

Mr. Grandy.

Mr. GRANDY. Thank you, Mr. Chairman.

Barbara, could you just explain for the committee the reasons behind the Commission's decision not to include a Federal child support assurance program in your findings, and also the thought behind not federalizing the system? In other words, not using the IRS as the collection agency?

Mrs. KENNELLY. I think there is a feeling, Congressman Grandy, that many States have made a great deal of effort to make this system work. I come from one of those States, Connecticut. Obviously there are some States that make no effort whatsoever. Yet, the Commission felt that it would be very important not to do away with those States that have done a fairly decent job of getting child support enforcement orders come to fruition and start from scratch with a Federal system.

You and I both know that when you get into a Federal system, it is huge. I am not going to say it would be bureaucratized before it came into existence; we don't know. If it was done correctly, it should not happen. But it would be beginning from the ground floor and starting and building up again.

We also know the IRS is overworked right now, that new individuals would have to be hired to carry out this type of situation.

Mr. Grandy, before you and I knew each other, I was very active in the 1984 child support enforcement amendments. That resulted from Governor Campbell and me working very closely. I came from a State that had very good child support enforcement legislation. He came from a State that had none. When I say none, very little.

He wouldn't mind me saying this. He had a sister who was left with three children. The father was gone. He became so interested in this situation that we worked together taking the good ideas from States like Connecticut and putting them into the Child Support Enforcement Amendments of 1984. This was done on the old system of working from the State level.

As I said, if this effort by so many of us who have gone into the interstate suggestions should fail, I would have to look at the Federal system. But right now I think it is the idea that we don't want to start from scratch; we want to build from what works.

Mr. GRANDY. And one of the things we want to work is creating the uniform data base so we can track down the miscreants, isn't that correct?

It seems to me if we are going to have a uniform system, we have to begin with the information base before you can build the enforcement mechanism in at the Federal level, wouldn't you agree?

Mrs. KENNELLY. Absolutely. And that is why we have the matching legislation. That is why we have encouraged the States to do what they should do and could do.

But we know from the information from your own State and I know from my State, those States are strapped, too. However, I think they can build from the system rather than starting a whole new system.

Mr. GRANDY. The bill that we intend to introduce on our side is going to track very closely with the Interstate Commission's findings, and will probably cling very closely to your decisions.

Let me go now to that very controversial issue of visitation by male parents that don't pay support. We talked about this when you were on the subcommittee.

Is there any data, is there any demonstration project, is there any guidance we can get to try to figure out a way to solve this problem? Are we looking at demonstration projects that would impose binding alternative dispute resolution over these visitation rights?

I think we are kind of at a loss for really good information, are we not?

Everybody wants to do something about this. I agree with you that perhaps just tying it into a child support bill may slow the process down, because it is a weak link in a chain. What can we do?

Mrs. KENNELLY. Well, I have to tell you, Congressman, in my bill are some things I don't like to do. For one thing, I have been working on this subject for so long, I have gotten quite friendly with the Divorced Parents Association, and I know their problems.

What you have to do when you get really to the point of frustration that we are at right now is you have to look at situations like licenses. When you get a license to go into a certain business within the State, it is known whether you have back payments on child support.

People, who really are so mad they don't want to do something, aren't going to do it unless it further complicates their lives. If people aren't paying that child support, they then cannot do some other things they want to do and make their lives the way they should be.

So I think there is an irritant factor to some of the suggestions we are making. People should know that when you do specific things, and you do have back payments, that unless those back payments are paid up, you are not going to get this other good thing in your life. I don't like to do it; it is punitive, but we have gotten to the point where we have so many poor children in this country because someone is standing there with the child support enforcement order in their hands and getting no child support.

Mr. GRANDY. Is there a need to get some component in the legislation to try to at least address the problem with visitation rights?

Mrs. KENNELLY. Yes, I have said this time and time again, and this is something I think we should look at very definitely, because people on the other side get very frustrated. I'm talking about a parent who won't pay because he can't get visitation rights and says, "Why should I? When are you going to start thinking about me?" So I think that could be a dual piece of legislation.

However, having said that, I don't want to imply that because you don't get visitation rights, you don't have to get child support. That is wrong. That child deserves support whether those parents are fighting or not.

Mr. GRANDY. Do you feel as though if we can't come to some kind of closure on welfare reform, we ought to move this piece separately and try to get a Child Support Enforcement Act done as quickly as possible?

Mrs. KENNELLY. I really do, sir. The numbers just scream for attention. We are letting generations now grow up without that adequate support.

And, as you know, I am as committed, as you are, to welfare reform. I want to do that very definitely, as does the whole country.

But at the same time it is going to be a big piece of legislation. We are strapped with a deficit that is finally getting attention.

So I would say we know so much about child support enforcement that we should use that knowledge and go forward. If it could go in tandem, fine, but I wouldn't want to hold up the child support until we finish the welfare reform.

Mr. GRANDY. I agree with that.

Thank you, Mr. Chairman.

Chairman FORD. Mr. McDermott.

Mr. MCDERMOTT. I only have one question of Ms. Kennelly.

Coming from a State that has made a real effort on paternity establishment and child support enforcement, having been on the legislature and participated in that actively for a long time, my question for the commission is, how long are you willing to wait, to fiddle around and let it drift?

I have an awful lot of experience, thinking there ought to be a Federal system and using the IRS. I would like to hear the discussion that went on at the Commission. Are they willing to wait until 1995 or 2000?

Mrs. KENNELLY. I believe, Mr. McDermott, the answer is up to you, up to many people in this room, and up to Mr. Bradley. The Commission had extensive hearings. It was a good crosssection—lawyers and judges from the legal system, and consumer citizens. They were dedicated to building on the system as it is now.

But I am afraid that the answer to your question is up to you and me and our colleagues on the House side, and Mr. Bradley and others. If we can bring forth meaningful legislation that does make child support enforcement work, then we should do it. If we can't, we are going to have to go to the solution that you would like.

This reminds me, sir, very much of where you stand on the single payer and health care. If we can't make health care reform work, maybe your idea will come. But let's give it one last chance.

Mr. MCDERMOTT. I guess I listen to Mr. Grandy and I tend to think that systems are best developed at the State level. I like it done closer to home.

But in this one, I am at a level of frustration where I am not very patient anymore. I think that there is going to be an interesting debate here, about how long we are going to wait. Because clearly something needs to be done.

Mrs. KENNELLY. You are right. Because the interstate is one of the hardest nuts to crack. Once they go across that line, many of the problems begin. Statistically, it is huge.

Mr. MCDERMOTT. When you have the movement of labor in this country, it is very difficult for States to follow up on people moving from place to place. It is not so much that I think that parents are trying to avoid paying in many instances, but I think that it is often necessary to move for jobs. We have a situation where major employers in the State of Washington have placements all over the United States. It becomes more difficult to remain in one State when you work for a company that has people in Wichita and Alabama and Pennsylvania. I think there is a real practical problem of remaining at the State level with this issue. That will be a part of our discussion, I am sure.

Thank you.

Mrs. KENNELLY. Thank you, doctor.

Chairman FORD. Mr. Reynolds.

Mr. REYNOLDS. I want to thank you as well for your testimony.

Being a new member, this is one of the things I very much wanted to focus on when I came to Congress. I will be looking to see as well what kind of recommendations we can do to improve the system.

I, too, though, am wondering about some sort of uniform Federal system, bringing in the IRS to better enforce the collection of these payments. Could you tell me and the committee what are the considerations in having the IRS involved?

Mrs. KENNELLY. First of all, the IRS is already involved, on refunding. They have done a very good job and that has improved the system a great deal.

I well remember, though, when the Chairman and I were pushing so hard to have that involvement, how the IRS resisted. Once the statute said they had to get involved, they did the job they should do.

But once again, I go back that the IRS system right now. If you look at the statistics of auditing, the statistics of following through on cases that have to be tracked, they are incredibly overworked. And if we are really serious, as I think we all are, about making the system work, I don't know if overloading an area that already is overloaded, is the answer.

Now, Senator Bradley is not here yet, but he and I did not go on the exact same bill, so you can see this is a difficult situation. He has criminal penalties in his bill. He involves the whole health care system in his bill.

I have tried to keep mine less broad because I want to get the heart and soul of trying to make the system work, so we don't have to go through a Federal system.

States have agencies set up, many of them computerized and able to do what they are supposed to do if they can get this interstate help. If we go to the Federal system, it gets under Federal jurisdiction, and many of the State efforts that do work will be set aside and we begin all over again.

Mr. REYNOLDS. Would you just briefly comment on the criminal part of Mr. Bradley's bill or your ideas——

Mrs. KENNELLY. No, I won't. I will let his testimony do it.

How do I feel? I have seen both sides of this question as a woman of my age with four children and grandchildren. I know you don't get divorced because things are working out. Then you get into arguments over visitation, arguments over penalties or payment. We have let this system in this country not be rough enough or tough enough; there isn't enough stigma on not paying your payments. I think we can do some things before we go into criminal penalties.

I would rather keep this in the civil arena and make it more workable before I went into criminal penalties. But I will let you read Mr. Bradley's testimony because we disagreed on this.

Mr. REYNOLDS. Thank you very much.

Chairman FORD. Mr. Santorum.

Mr. SANTORUM. No questions.

Chairman FORD. Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman. I just have one.

I am interested in your statement that transferring program responsibilities to the Federal Government is not the answer. I believe the Commission on Interstate Child Support that you served on also came to that conclusion.

If you could just briefly set forth why that conclusion was reached.

Mrs. KENNELLY. The basic bottom line, Mr. Camp, is that we feel we have worked a number of years to improve the State system. We have an approach to doing interstate enforcement better, which was set out in the interstate study. There is a feeling we should give one final 100 percent effort to make the system we have now work. It is built on the States doing their thing and then having cooperation between the States for interstate collection. I think we should try it one more time with new legislation, written by a new administration.

If that doesn't work, as I said, I would have to say, "Go to a Federal system." But I just don't want to start a whole new department.

Mr. CAMP. Thank you. No further questions.

Chairman FORD. Mr. Levin.

Mr. LEVIN. Thank you, Mr. Chairman.

Welcome. If this is kind of the last crack at it in terms of the present structure, relying on the States, what one portion of your bill would make the most difference?

Mrs. KENNELLY. Well, I think paternity is one, Mr. Levin. I think we have really come a great deal of the way scientifically. We can establish paternity through new and very simple methods. One program that works well for child support enforcement is to establish paternity at the hospital. It is proven statistically that the fathers do show up at the hospital.

I think I would use the programs that work now on paternity. I would use that information, including information on birth certificates as much as we can. Of course, there is always a question, as you well know, in certain cases.

Mr. LEVIN. I think that is helpful. It will help us to focus.

Mrs. KENNELLY. We are into much broader areas, let me tell you.

Mr. LEVIN. But I think that helps. It will help focus the discussion that follows. Thank you very much, and for all your efforts.

Mr. LEVIN. Thank you.

Chairman FORD. Mr. Kopetski.

Mr. KOPETSKI. No questions.

Chairman FORD. Ms. Kennelly, thank you very much.

I certainly think we can move this legislation, but I don't see any reason why we can't move welfare reform at the same time. Given the urgency and the need of this legislation, I think this subcommittee, the full committee and the Congress ought to be prepared to move both. In 1988, we did both.

Mrs. KENNELLY. You are the chairman, Mr. Chairman. You are the chairman.

Chairman FORD. I am going to need your help and support. I am even going to seek two members of the Ways and Means Committee, you and Ms. Johnson, to serve on a task force to look at the recommendations made by the Interstate Commission to really

keep us abreast of the recommendations and how we should place those components in the bill, and be active participants. But I certainly have the intent of moving welfare reform.

Mr. Grandy, I certainly look forward to participation from you and the Republicans, and hopefully we can have a bipartisan effort in this. But I want to move both. I don't see any reason why this committee cannot move both welfare reform and child support enforcement.

Mrs. KENNELLY. You know, Mr. Chairman, you and I have worked very closely over the years. I will work with you again.

Let me say this to you that welfare reform means many things, everything from job training to health support. The definition of welfare reform is so different in so many different people's minds.

In child support, I think we have done such a study. We know what is needed, and we could move very rapidly on child support as you and I did with the 1988 Family Support Act together. We sat in this room for hours. I say at home I dedicated 2 years of my life to it. We know right now even some of the things that were in the Family Support Act aren't being carried out at the State levels. There is so much we learned from that.

Welfare reform is so important to this country that I think it has to be done as that was done, hour after hour after hour, and I think child support enforcement can be done more rapidly.

So that is the only reason I hesitate to try to couple them. But we will talk further and I will take your lead, sir.

Chairman FORD. Thank you very much, Ms. Kennelly.

We are delighted to have Ms. Pat Schroeder from Colorado, someone who has shown leadership in this area, as our next witness.

We are delighted to have you before the subcommittee today. We recognize you at this time. I am sorry for the delay and the wait.

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mrs. SCHROEDER. No problem, Mr. Chairman. Thank you. I am so glad that you are here and pushing on this, because I know how dedicated you and members of your committee are. And it is also a great honor to follow Congresswoman Kennelly.

If you don't mind, I am going to ask unanimous consent to put my testimony in the record and just try——

Chairman FORD. Your full testimony will be made part of the record and you may summarize it or whatever you like.

Mrs. SCHROEDER. Thank you very much.

Let me try to target why I am here, although most of what we are talking about is parallel to what you have been looking at. First, in the Congressional Caucus for Women's Issues child support enforcement has been one of our main concerns, and we are frustrated up to the top of our earlobes with the fact that we pass bill after bill after bill and we still have lousy results.

Second, I used to chair the Select Committee on Children back when we had it, and child support enforcement was one of our main causes. We have all sorts of studies which, Mr. Chairman, I would like to give to your committee, because I think you can use them very well.

And we had some very, very interesting town hall meetings with the Family Law Bar to try to find out where the glitches were in all this legislation that we had passed and why more progress hadn't been made. The bill that I introduced really tries to pick up on several things we on the select committee learned from the Family Law Bar.

First, their feeling was most States felt that the Federal Government was primarily interested in child support enforcement as it related to AFDC, and not that it was a civic duty to pay your child support no matter what income level you were, and that this should be done, period. So it got targeted more into the AFDC area.

Second, it is very hard to get States very enthusiastic about collecting some other State's money to save another State money. I mean, why does Tennessee want to spend a whole lot of money going out and chasing someone down to send that money to Colorado so Colorado doesn't have to kick in and help support that family?

Every one of us agrees that child support enforcement is not a class issue. It cuts across the entire society. And child support enforcement has to be done across the entire society, or we miss it all.

One of the studies that haunts me the most was the Census Bureau's 1992 study of 52,000 children that were the subject of divorce. They found 4 months after that divorce, 37 percent less income went into those families. They found that of those children 19 percent of them were in poverty before the divorce, and 4 months later, 36 percent had moved into poverty.

But the most haunting of all is AFDC doubled in that period; the usage of food stamps by the custodial parent tripled.

So it is the same old thing, and this is 1992, after all of our wonderful attempts. So I think we have to go at this with much more vigor than ever before.

Our goal on the Select Committee was to say that children should be held harmless economically in a divorce as much as possible. There is no way we can legislate that they can be held harmless emotionally, and we know there is a lot of damage done there and there is no way we can hold that they are going to be held harmless in other ways, but at least economically we can try a whole lot better than we have been trying. I must say we don't find a lot of people volunteering to pay any bills they are asked to pay.

This bill, H.R. 915, covers one area that you haven't talked about here, because it is not in your jurisdiction, but I urge every one of you to become compassionate about, because if we don't it will become the new loophole. We are starting to see it emerge all over the place emerge, and it is the loophole that everybody will drive a truck through, and that is bankruptcy. If we do not put that you cannot use bankruptcy to get out of the your child support, if you don't get that in the Federal law, that is the new one. So that has to be a piece of anything that we do.

H.R. 915, which I am not going to go through chapter and verse because you have got too much you can read, includes 16 different points the bar told us we can work on the improve child support enforcement, such things as putting Social Security numbers on marriage licenses and divorce detection. There are any number of

other areas that would really help if we had this uniform system, very similar to what Congresswoman Kennelly was talking about and what the Commission on Interstate Child Support Enforcement did.

I will tell you what I think the debate between the Federal and the State issue is. We know the Federal Government isn't enforcing nine-tenths of the laws that we pass. We know IRS is overworked. We know Immigration is overworked. We know every agency we have is overworked.

When you look at child support enforcements at the State level, you find that there are caseworkers with over 1,000 cases. I don't care how well intentioned they are. How do you do 1,000 cases?

So we have to keep working to get the infrastructure. It is outrageous to me that we don't have computers out there that are all tied together in some kind of a network. Think about it. You could take your VISA card and run it in a machine and within seconds you know whether you have credit or not. Why can't we work out something much better on this, whether it is between the States or at a Federal level? I don't know, but it is really time we stop putting all this patchwork together and we move forward.

I also hope the gentleman from Washington can help us too, because when I look at the paternity issue, Congresswoman Kennelly is absolutely right, paternity is very critical. Washington State is number one in establishing paternity. Many other States have totally fallen off and not established paternity at all. And they tell us when we grill them in the select committee that it is because of the Federal Government that they are not pursuing paternity, because under some of the new health care standards, the woman doesn't stay in the hospital long enough to do that.

Now, if that kind of thing is going on, this is also a committee that can really say, "Wait a minute, wait a minute, do not use one regulation to hide behind the other," saying that you should establish paternity upon birth. If you don't get it then, good luck ever getting it.

So I think maybe the gentleman from Washington can help us sort that one out, too. But I thank you for letting me be here.

Those are some of my generic thoughts about loopholes to come, problems that have come along. And I just find it very, very troubling that we haven't made more progress. And I think wherever we leave it, we have got to make sure there are other resources there to enforce it.

I think we are afraid to take it federally for fear we won't commit the resources, and then we get stuck. So it is easier to leave it at the States and then blame them. And we are not going to give the States the resources to really do it either. So let's stop the blame game and let's get these children the type of support they are entitled to.

Thank you.

[The prepared statement and attachments follow:]

TESTIMONY OF REP. PATRICIA SCHROEDER (D-COLORADO)
before the
House Ways and Means Subcommittee on Human Resources
June 10, 1993

Mr. Chairman:

Thank you for allowing me to testify on behalf of my bill, H.R. 915 and about the dismal state of child support enforcement in America today. Paying child support is a fundamental civic responsibility. While those with child support obligations may choose to run, they should not be allowed to hide.

I salute my colleagues Rep. Barbara Kennelly and Senator Bill Bradley for trying to come up with a solution to the problem. I think my proposal dovetails nicely with their approaches.

It was just last year when I testified before you on the need to strengthen child support enforcement. Several changes have occurred since then.

First, and perhaps most importantly, there is a new Administration. As a former governor, President Clinton is familiar with the states' problems in collecting child support enforcement. As a presidential candidate, President Clinton campaigned on the promise of making our child support enforcement policies stronger and more coherent. Just this past February, the President Clinton outlined a broad welfare reform initiative with, as a key component, an aggressive assault on deadbeat dads. Thus, I think with this Administration we have an opportunity to drastically improve child support enforcement policies.

Second, Congress unexpectedly eliminated the House Select Committee on Children, Youth, and Families. With that committee went another voice for reform in child support enforcement. I had been looking forward to working with this committee in pursuing that goal.

The Select Committee closely followed the development of child support enforcement legislation and policy recommendations. The result of its research and analysis is my bill, H.R. 915, the Child Support Enforcement Security Act of 1993.

Specifically, the legislation contains 16 tools for states to use to improve child support collections. But it does not just ask more of states. It changes the federal payment structure to the states, providing them with the additional resources that are absolutely critical if we want this system to work.

Caseworkers lack essential training and are required to manage caseloads in excess of 1,000 families. Even highly trained caseworkers can't handle this type of workload. Simply put, the child support enforcement system needs new resources--trained staff who can use state-of-the-art computers--to bring the system into the 21st century.

In addition, H.R. 915 amends the bankruptcy code to ensure that noncustodial parents cannot use a declaration of bankruptcy to avoid their financial obligations to their children and former spouses.

I would like to submit for the record a summary of H.R. 915 that lists the detailed changes the legislation makes. The Select Committee last year compiled a fact sheet on child support enforcement. I would also like to submit the fact sheet, which outlines facts, statistics, and studies crucial to understanding the scope of the problem, into the record.

I would like to mention one of those studies because I think it emphasizes just how important a reliable source of income from a noncustodial parent is to these children.

A 1992 study from the U.S. Bureau of Census that followed nearly 52,000 children from October 1983 through May 1986 found that within 4 months of their parents' separation, the family income of the children declined by 37 percent. Even more disturbing, the percent of children living in poverty increased from 19 percent to 36 percent in the 4 months following their parents' separation. The number of these children relying on AFDC doubled, and the number of food stamps recipients nearly tripled during the first year of parental separation.

Mr. Chairman, the failure to pay child support is a national disgrace. The daily stories in the newspapers across America about deadbeat dads mirror the heartwrenching stories that flood my office. Custodial parents write of endless delays, some dragging on for years, before child support payments are withheld from wages of non-custodial parents. They write of thousands of dollars of unpaid child support. They write of their constant effort to locate the absent parent.

I do not fault the caseworkers on the front lines. They are trying the best they can to fight on behalf of custodial parents without modern-day equipment and without access to State records. We can make their jobs easier.

Congress has been trying since 1975 to improve the collection of child support. But unfortunately, the focus of federal efforts until recently has been on trying to recoup expenditures on AFDC, rather than trying to make it clear that failure to pay child support will not be tolerated. In the 102nd Congress, we took several small steps toward this goal. But much more is needed. It's time for both the federal and state governments to put their money where their mouths are when it comes to collecting child support. It's time to dedicate the resources and put some teeth in the program so that the program will work. Systematic reforms, more tools, less cumbersome procedures, and automation are needed to move the system into the 21st century.

I commend the work of the Commission on Interstate Child Support, which released its findings and recommendations to Congress last summer. Indeed, some of the measures contained in my legislation are included among the Commission's recommendations.

With this hearing, this subcommittee has shown it is ready to move on meaningful child support enforcement reform. I'm ready to go and will do all I can to help you.

It is time for the receipt of child support to be as automatic as the receipt of Social Security is to our nation's senior citizens. We owe this much to our children.

SUMMARY OF H.R. 915
"CHILD SUPPORT ECONOMIC SECURITY ACT OF 1993"

PURPOSE: To correct deficiencies in the child support enforcement system to ensure that children receive consistent support from their noncustodial parents.

TITLE I. Child Support Enforcement Amendments

Section 101. Requires states to have statewide, uniform rules of child support enforcement.

Section 102. Requires states to have on-line access to all data bases maintained by the state or any local jurisdiction.

Section 103. Ensures continuing child support until children complete high school and for disabled children beyond the age of 18.

Section 104. Requires that income from lotteries, insurance settlements, and legal proceedings be garnished to offset child support arrearages.

Section 105. Requires states to deny issuance of licenses to individuals unless a good faith effort has been made to pay any child support arrearages owed.

Section 106. Requires reporting of child support arrearages to consumer credit reporting agencies.

Section 107. Eliminates the statute of limitations with respect to collection of child support arrearages.

Section 108. Requires social security numbers on marriage licenses and child support orders.

Section 109. Clarifies that nonsupport and denial of visitation rights are to be treated as distinct issues.

Section 110. Requires timely response by states to interstate locate requests.

Section 111. Requires the Secretary of the Department of Health and Human Services to issue regulations for processing of interstate child support cases.

Section 112. Replaces federal incentive payments with an increased reimbursement rate of 90 percent.

Section 113. Requires states to adopt laws similar to the Uniform Interstate Family Support Act.

Section 114. Establishes a national commission to recommend national child support guidelines.

TITLE II. Bankruptcy Amendments

Sections 201-208. Amends the federal bankruptcy code to ensure that support owed to children and custodial parents is paid even when the noncustodial parent declares bankruptcy.

"CHILD SUPPORT ECONOMIC SECURITY ACT OF 1993"

A FACT SHEET

CHILDREN LIVING IN SINGLE-PARENT HOUSEHOLDS CONTINUE TO INCREASE

- More than ten million families -- almost twenty-nine percent of all families -- were headed by a single parent in 1991 compared with just thirteen percent in 1970. (U.S. Bureau of the Census [Census Bureau I], Household and Family Characteristics, 1992)

- While most single-parent families in 1991 were headed by women (8.7 million or 87 percent), the number of single-parent families headed by men (1.4 million or 13 percent) has increased since 1970 when ten percent of single-parent families were headed by men. (Census Bureau I)[1]

- The number of children living in single-parent families almost doubled from 1970 to 1990. In 1970, 8.2 million children lived with just one parent compared with 15.9 million in 1990. (U.S. Bureau of the Census [Census Bureau II], Marital Status and Living Arrangements, 1991)

FAMILIES HEADED BY SINGLE WOMEN FACE ECONOMIC PERIL

- In 1990, the poverty rate for single-parent families with children under 18 headed by women was 45 percent. (U.S. Bureau of the Census [Census Bureau III], Poverty in the United States: 1990, 1991)

- Women who are single parents rely on child support for economic assistance because their earnings are so low -- averaging $377 per week for full-time work during the first quarter of 1992. (Bureau of Labor Statistics, 1992)

- In a study of 21,000 divorced or separated families, the family income of the children declined by 37 percent within four months of their parents' separation. The proportion of children living in poverty increased from 19 percent to 36 percent by the fourth month after a family disruption. Nine percent of children were in families receiving AFDC benefits before family disruption. This population doubled to 18 percent in the months following separation and increased to 22 percent one year later. (U.S. Bureau of the Census [Census Bureau IV], Family Disruption and Economic Hardship, 1991)

- Home ownership is more difficult for single-parent families. In 1989, single parents were less than half as likely as married parents to be homeowners (35 percent versus 74 percent). (U.S. Bureau of the Census [Census Bureau V], Housing Characteristics of One-Parent Households 1989, 1992)

TOO FEW MOTHERS RECEIVE CHILD SUPPORT

- In 1990, only 58 percent of mothers who were single parents had been awarded child support. Of those awarded support, 51 percent received the full amount, 24 percent received partial payment, and 25 percent received nothing at all. (U.S. Department of Health and Human Services, Office of

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[1] According to the Census Bureau's Housing Characteristics of One-Parent Households, 1989, fathers maintained 21 percent of single-parent family households. This percentage differs from that calculated in the Marital Status report because the two surveys use different bases to calculate the percentage of families headed by single fathers. The Marital Status report calculated the percentage of single-father families as a percentage of of single-parent families. while the Housing Survey calculated the percent of single-parent households headed by fathers.

Child Support Enforcement [OCSE], Fifteenth Annual Report to Congress, 1992)

- In 1990, 68 percent of white single mothers received child support awards, compared with 35 percent of African-American single mothers and 41 percent of Hispanic single mothers. (Committee on Ways and Means [Ways and Means], Overview of Entitlement Programs, 1992)

- Only 43 percent of mothers involved in interstate child support cases reported receiving regular support and 34 percent reported never receiving any support, compared with 60 percent and 19 percent, respectively, of mothers in intrastate cases. (General Accounting Office [GAO I], Interstate Child Support. Mothers Report Receiving Less Support from Out-of-State Fathers, 1992)

- The less education a single mother has, the less likely she is to receive child support. In 1989, 67 percent of single mothers who were not high school graduates had been awarded child support, compared with 76 percent who were and 79 percent who had completed four or more years of college. (Ways and Means)

SERIOUS PROBLEMS PERSIST IN CHILD SUPPORT ENFORCEMENT

- On average, it takes states from 5 to 16 weeks to serve a child support order and from 12 to 26 weeks for states to respond to a request from another state. (General Accounting Office [GAO II], Interstate Child Support. Wage Withholding Not Fulfilling Expectations, 1992)

- State reliance on more than six different procedures for requesting interstate wage withholding creates a lack of uniformity in collection procedures resulting in unnecessary delays in processing withholding orders. (GAO II)

- Delays in responding to state requests for wage withholding are caused most often by missing or inaccurate information, noncustodial parents leaving an employer before a withholding order is served, caseload size, lack of computer automation, state central registries that do not screen and verify as much information as they could, and inadequate familiarity with appropriate interstate withholding procedures. (GAO II)

- During FY 1990, the Office of Child Support Enforcement notified six states that audits of their programs indicated that they were not in substantial compliance with Federal requirements. (OCSE)

CHILD SUPPORT LOWERS POVERTY RATE, BUT AMOUNT OFTEN IS INADEQUATE

- In 1990, single-parent families that received child support had significantly lower rates of poverty (24 percent) than families that received no child support payments (43 percent). (OCSE)

- African-American single mothers are less likely to be awarded child support than are white or Hispanic women. In 1989, the average amount of child support received by white women ($3,321) was 38 percent higher than that received by African-American women ($2,263). The amount received by Hispanic women was not significantly different from that of white women. (Ways and Means; OCSE)

- While approximately 43 percent of white mothers who received child support in 1990 had health insurance benefits included in their awards, only 21 percent of Hispanic women and 28 percent of African-American mothers received them. (OCSE)

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Chairman FORD. Thank you very much.

You mentioned in your written testimony recommending change in the Federal matching rates. Have you looked into any cost factors that might be involved in changing the rates from 66 to 90 percent?

Mrs. SCHROEDER. Absolutely, and it will be more costly, but that is my point. If we are going to opt, as the Commission said we should, to leave it with the States. And if we now look at the States and find there are many States where caseworkers have 1,000 cases, if we don't increase that, we are kidding ourselves.

There is no cheap way to do this. You have got to have people. You have got to have people and you have got to have the tools in their hands to do it. And that has been, I think, the big shortfall in Federal legislation. We have federally asked them to do it and we have never federally funded them to do it. And it has gotten harder.

Chairman FORD. They have failed to promote cost effectiveness?

Mrs. SCHROEDER. I think that your actions in 1988 were helpful as you tried to get these computers that were interactive. I don't know how many States have really brought that up. We asked I think a year and a half ago and got a statistic. I have not asked since then. That would be an interesting question.

But it is surprising to me that VISA and MasterCard and American Express and everybody else can figure out how to do that, but not the Federal Government. Maybe we should contract it out to them, I don't know.

Chairman FORD. Mr. Santorum.

Mr. SANTORUM. Thank you, Mr. Chairman.

Thank you for your testimony. There are a lot of things in your bill that I feel very strongly about and agree with you on. Just a couple of questions as far as the scope of your bill is concerned, and the same questions really were directed to Ms. Kennelly.

You don't have in this bill anything about child support assurance.

Mrs. SCHROEDER. That is right.

Mr. SANTORUM. You feel it is the best approach at this point to move forward with a clean bill on child support enforcement and not complicate matters by trying to put a new entitlement program in here? What are your feelings?

Mrs. SCHROEDER. My feelings on the child support assurance is I am a little uncomfortable about it because I think unless we really make sure that there are the resources at the State level to do this, there will be a real temptation to just say we can't find them and plug into the child support assurance.

That pains me to say that because I still want the child to get their care, their fair amount. But the issue becomes, it is still so much better for the father. I used to practice family law and it was the most painful thing I ever did. I would do anything other than practice family law. It is a nightmare. Nobody wants to do it.

If you can keep the pay issue entirely separate from the visitation rights, I honestly think you are going to have a lot more father involvement or absent parent involvement, or the mother, too. When people just say this is totally decoupled, there is absolutely

no connection with this, support is support is support, if we can decharge that, I think that is helpful.

Mr. SANTORUM. Can you explain why you feel that way? Because most of the arguments you hear are that if you couple them that might actually——

Mrs. SCHROEDER. Because what you find is that when people—— maybe they get remarried, maybe they move, maybe they have just gotten in great trouble financially. We are a country where you can do that not only in Washington but individually very well. But then you have to start thinking about where do I cut?

There is this notion that if you could find some way that you are not allowed visitation rights, then you shouldn't have to pay. Somehow in an awful lot of people's minds, you only pay if you get to visit. So if you find some reason that you are not allowed to visit, then you have got an excuse not to pay. They have made it into a fairness issue.

To me, they should be totally separated, because I think if people knew you have to pay, this is the most important thing you have ever done, brought a child into the world, and you are liable, male or female, to sustain that, then I think you will get a lot more interested in visiting, because you will be paying no matter what.

That is not true for all people. I realize there are some things very serious and very different.

Mr. SANTORUM. That is where I am losing the argument. I would assume that the reason they are not visiting is because they are not being allowed to visit. That is not necessarily the case?

I think you can find studies that show that in all cases that is not necessarily the case. In some cases that is very true. But you are making great generalities about 50 States and hundreds of thousands of people. There are some people who use that as an excuse as to why they don't pay. And it becomes the fight among the parents again.

The bottom line is—what I would ask you to do is no matter what you end up supporting, the bottom line continually has to be, how do you do the best job of holding the child harmless?

Mr. MCDERMOTT. If the gentleman will yield, I concur with you, having been on the other side of child family law. In the no-fault divorce situation in this country you no longer have to prove why you got a divorce, you take off the table the question of property, which makes it pretty simple. In most States they figure out how to divide up the property. The only place left where the anger comes out is over the custody of children. Attorneys and psychiatrists get involved in great detail about who wants the custody for what reasons. They claim, "If I don't get the visitation, then I am not going to pay."

The real principle here is the one Mrs. Schroeder is raising, the holding harmless of the kids. The kids didn't choose these two parents to fight over their heads. They didn't choose to go into poverty because their mom and dad are in a big fight.

Our job, at least my drive in this kind of bill, is to try to get the kid protected against the stupidity of adults, fathers and mothers, who use child support as the place to get even with their ex-spouse.

That is really what happens. That is why it is very difficult to extract the economic issue. This is from the practical experience of

sitting on way too many cases. And I agree with you, it was the hardest part of my practice. I wanted to get out of family law as quickly as I could, because often you feel like neither parent should have the kid.

Mrs. SCHROEDER. Exactly. You want to take it home and you are going to protect the child.

Mr. MCDERMOTT. That is the real dilemma here of support enforcement and the money issue.

Thank you.

Mr. SANTORUM. I thank the gentleman for his comments. Just one further question on visitation. Do you see any Federal role?

Mrs. SCHROEDER. I don't think it is very possible for the Federal Government to have any role in visitation, to be perfectly honest. Family law is at the State and local level. That is where it belongs. That is where they can make the choices about is the child be molested or not and so forth.

Mr. SANTORUM. What about interstate enforcement?

Mrs. SCHROEDER. Interstate enforcement—of visitation rights? I don't have any problem with that, and I think we should be doing that. I thought you meant the interpretation of all that.

Mr. SANTORUM. No. I am just saying, is there any role for the Federal Government in visitation?

Mrs. SCHROEDER. I think we should be working for obviously uniform laws and family law across the border with respect to each court, each State, according to the other State court's orders.

Mr. SANTORUM. So something similar to the proposal you put forward that laws for States would be proposed for visitation rights?

Mrs. SCHROEDER. Absolutely. You should be able to enforce those over interstate lines.

Mr. SANTORUM. Thank you, Mr. Chairman.

Chairman FORD. Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman.

As a former family law practitioner myself—this hearing is sort of like family law practitioners anonymous—I have often witnessed the children being caught in a tug of war between the parents.

Is it your point that the debt should simply be not dischargeable in bankruptcy at all?

Mrs. SCHROEDER. You got it. Absolutely. I really think when you undertake parenthood, there is no way you should be able to dislodge this through Federal law, bankruptcy law, or anything else. You are a parent, and it is a heavy responsibility. But bankruptcy laws are being used very creatively all across the board. But I think to allow it to discharge your family's support responsibilities is just outrageous.

Mr. CAMP. I also agree with your comments that in terms of determining custody and joint legal custody and visitation, those issues are best made where the caseworkers are hopefully visiting the home and meeting with the parents. And I think that really lends itself to a State and local approach there. But I appreciate your comments.

Mrs. SCHROEDER. Thank you very much.

Mr. CAMP. Thank you, Mr. Chairman.

Chairman FORD. Mr. Kopetski.

Mr. KOPETSKI. Thank you, Mr. Chairman.

I was chair of the judiciary subcommittee back home when we did the 1984 amendments, and I had a bill in, because I had a constituent that had this problem, which related to the mentally handicapped or developmentally disabled people. In Oregon we extended forever, for the life of the child, the support obligation because we saw that the custodial parent, there is no magic to turning 18 or 21 in this area. Often these individuals are living with their parents until they are 50 or 60, until their parent dies.

How common is that kind of law? I see that you have a section of your proposal addressing this nationally.

Mrs. SCHROEDER. It isn't as common as we had hoped for it to be. We ran into the same thing on the age of 18. If a young person goes to college or—the expenses of precollege look pretty cheap by comparison. Unfortunately, not many States have moved to extend it beyond 18, either.

So that troubles me as exactly where we should go on that. But I would hope both of those things we could make uniform, if at all possible.

Mr. KOPETSKI. Could I also ask you, following up on Mr. Camp's question on bankruptcy, does your provision on bankruptcy allow a restructuring of that back payment?

Mrs. SCHROEDER. I have found, and I may be wrong, Mr. Camp probably practiced a little more currently than I have, but most courts obviously continue to hold that jurisdiction, and whenever there is a changed circumstance, the parties can go into court, and I think every State in the Union, correct me if I am wrong, can plead their case and it can be lowered temporarily. The courts have been very good about this.

If there are some States that don't, let me know. But most of them have been fairly flexible if there is a real issue. But to allow you to say, "Oh, things got bad, let's take bankruptcy and drop the whole thing and cut it off," I don't think we want to do that.

Mr. KOPETSKI. I understand that, but my question goes to, as the debt accumulates, let's say it is $20,000 or $30,000, which isn't hard to do, does your bill suggest the restructuring of that arrearage?

Mrs. SCHROEDER. No.

Mr. KOPETSKI. Or that would continue as well?

Mrs. SCHROEDER. I would like the arrearage to continue, too. We really shouldn't have statute of limitations on that.

Mr. KOPETSKI. I saw that part as well. I was going to question you on that.

Mrs. SCHROEDER. I feel very strongly that, again, we don't want some legalism out there that people can use to get rid of this.

It really is an obligation, and it is an obligation that I think every parent would try to make. We understand there could be extenuating circumstances, but there is a court that is most familiar with it, that retains jurisdiction, unlike so many other things, and let that court decide that rather than federalize it.

Mr. KOPETSKI. I guess I have to think this through. It seems to me that if you had a parent that—a noncustodial parent who stopped paying after a year or two, and went away for 5 to 10 years, and then felt bad, came back, tried to reestablish a relation-

ship there, that if it builds up so high, it might be a deterrent for that.

Mrs. SCHROEDER. But you could go back into the court and try to work something out, or try and work something out in that manner. It is not like there isn't any agency left that has any jurisdiction. But I think you also don't want to encourage that as a way to get out of it for a while.

Mr. KOPETSKI. I need to think through and read through some of these arguments on the statute of limitation issue. The last one, Mr. Chairman, if I might, has to do with an expedited process for change of circumstances, especially where the noncustodial parent has to pay, and suddenly becomes unemployed, and is, whether it is aerospace or timber workers, et cetera, we are looking at long-term unemployment changes in this country.

It is my experience that these people are unemployed. They have to go hire an attorney to get into court to make this change. It is my understanding, and, you know, there is time involved and, of course, all this time is going on for the court docket systems. The arrearage amount is building. And has there been thought given to an expedited process for these kinds of circumstances?

Mrs. SCHROEDER. I think that best belongs at the State level for that. I mean, I would hope any State legislature would be mindful of that situation and would try to make their courts much more user friendly, and also have the expertise in their courts. I know many of the courts you don't have to go get a lawyer, you can represent yourself in that situation, because basically what do you have, you have your W–2 statements, your unemployment statements. Judges aren't stupid. What else do you need? Everything else has been tried.

So that becomes a very easy issue for them to look at. But I think that belongs at the local level, and maybe——

Mr. KOPETSKI. I am not so sure, because if we do it at the Federal level, direct payment schedules.

Mrs. SCHROEDER. Obviously that could be worked out for model Federal uniform legislation to try and move the States toward. But I think that that is the way that you would want to move it as you see more turbulence in the work force, yes, you should be allowing more flexibility in your family court system, should people get caught in that turbulence.

Mr. KOPETSKI. Thank you.

Thank you, Mr. Chairman.

Chairman FORD. Thank you.

One final question, Mrs. Schroeder. Under the current law, it says that a child support obligation assigned to the State as a condition of AFDC eligibility is not dischargeable in bankruptcy. Does your bill go beyond saying it is not dischargeable after bankruptcy?

Mrs. SCHROEDER. I am not quite sure I understand your question. I think you are saying currently it says you can't——

Chairman FORD. If you go through the court system.

Mrs. SCHROEDER. But you can——people can get rid of back arrearages, they can get rid of all sorts of other obligations through bankruptcy, is my understanding.

Chairman FORD. Which you would apply to all child support cases?

Mrs. SCHROEDER. You bet. Absolutely.

I mean, see, that is where I think we have made a mistake. For some reason, States have read what we have said here is that we are only concerned about child support vis-a-vis AFDC. And I don't think there is a person on this panel or a person in this room that feels that way. I think we are concerned about all child support, period.

Chairman FORD. Because all cases don't go to the court.

Mrs. SCHROEDER. Exactly. And I just think it is very important that whatever we do this time, we communicate to the States that they are not just going to go try to find child support vis-a-vis AFDC. They are going to get all child support across the board.

And I think the same with the bankruptcy. You don't just protect it on the one. You protect all child support.

Chairman FORD. So it would not be discharged?

Mrs. SCHROEDER. You cannot discharge absolutely.

Chairman FORD. Thank you very much, Mrs. Schroeder.

I think that is the last member.

Thank you very much.

I would like to congratulate the next witness for being confirmed as the Assistant Secretary for Planning and Evaluation.

We are very delighted to have you before the subcommittee. We look forward to working with you in the months and years ahead. You have given a clear direction, not only in your writings, but as a spokesperson for children in this country, in areas of public assistance, and in areas of work programs. We are very delighted to have you.

As chairman of this subcommittee, I certainly look forward to working with you over the coming months on welfare reform, child support enforcement, and many, many other issues which will fall within the jurisdiction of this subcommittee. I am delighted to have you, and I speak on behalf of the other members of this subcommittee.

STATEMENT OF HON. DAVID T. ELLWOOD, PH.D., ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. ELLWOOD. Thank you very much, Mr. Chairman.

I, too, am really quite delighted to be here. Of course, I had the opportunity as a private citizen to speak often in front of this subcommittee, and now I am very excited to be a part of this administration.

With your permission and the other members' of the committee, I would like to ask that my written testimony be submitted into the record and I will simply summarize that.

Chairman FORD. Your written testimony will be made a part of the record and you may summarize.

Mr. ELLWOOD. Thank you very much.

Child support is an absolutely critical and essential issue as we have heard from the Members of Congress. This committee has been in the forefront in really trying to reform our child support enforcement system.

Of course, there's a long way to go, and part of what I would like to talk about today is how far we have to go. I also will talk briefly

about the fact that we do see this as a component in a larger strategy that is designed to protect our children and designed to restore dignity and control to the lives of low-income and middle-income people around this country.

The President has been very clear on the elements that he sees in the welfare reform package. First, to make work pay so that when people go to work, they are not poor, they can adequately support their family.

Second, to drastically improve the child support enforcement system, and that is what I am spending most of my time on here today.

Third, to provide education and training and other services so that people can realistically support themselves and get off welfare.

And finally, to create a time-limited transitional support system followed by work.

Now, I would like to concentrate on child support enforcement. In my testimony, I provide a variety of background information that I am sure is familiar to most members of this committee about the dramatic changes in family structure that have been going on in this country over the last several decades.

We are now at the point where 14.5 million children are in single-parent families. But even more dramatic than that, the typical child born today will spend time in a single-parent home. And the poverty rate for children in single-parent homes is 56 percent.

This is not about low income or high income or anything else overall. It is not about rich and poor. It is not about white versus nonwhite. It is about our children. It is a middle-class problem as well as a working-class problem, and all the groups in between.

One other disturbing trend in these figures is that divorces have really leveled off. The number of children becoming part of single-parent families through divorce has remained unchanged for about the last decade. What is continuing to skyrocket is the number of children born out of wedlock. We have had very dramatic increases over the last decade.

Having said all that, where do we find single parents in this country? We often find them in a nearly impossible position, largely because one parent is expected to do the jobs of two. We ask our single parents to be super moms, to both nurture and provide for our children. A large part of the problem is that noncustodial parents, commonly fathers but sometimes mothers, typically provide no child support payments.

The median child in a single-parent family in a year receives no child support at all. Only one-third receive any, and the average amount is very, very small. It is not surprising under those circumstances that poverty rates are so very, very high.

I would like to say a couple of words about the history of the child support enforcement system, because I think understanding that history is actually quite important in understanding why we are where we are and why the system has both its complexities and some of its peculiarities.

Child support enforcement was always treated, until very recently, as a private matter between two parties who are engaged in a difficult problem. So as a result we used the private court sys-

tem and we used private enforcement mechanisms as best we could.

Paternity, or fathering a child out of wedlock, was a criminal offense in most cases, and therefore we needed criminal statutes and criminal protections to keep people from getting stuck in a court system. And, of course, at the time, there was very little technology for determining paternity through scientific means, and so it was his word against hers. So we needed an elaborate adjudicative system to see who seemed to be telling the truth and what was the likely outcome. The role of government in these things was primarily to try to collect money from people where we were paying money out in the form of child welfare or AFDC.

So the government got into this system primarily because it was paying out dollars to low-income kids. It wasn't about the right and wrong. It was about trying to get our money back. I think fundamentally those propositions now have changed and we need to move forward.

Let me say a little bit about where the current child support enforcement system stands. Before I do so, though, I would really like to emphasize one point. Coming into this administration, going around the country, talking to child support enforcement officers around the country, I have really been struck by the high caliber of people I see throughout the child support enforcement system. They are doing their best, often under very, very difficult circumstances, and in some cases under circumstances where very few of the States seem to care about it, or in others, where there is a lot of State pressure and a lot of concern.

None of my remarks should be interpreted as doing anything other than being supportive of the people in the street trying to make things work.

Similarly, with fathers, many, many fathers pay child support not because it is required, not because it is forced on them, but because it is the right thing, because they believe and they count on their children in spite of enormous frustrations. They, too, I think deserve our praise and our congratulations.

Having said all that, let's take a look at the current state of child support enforcement. There are roughly 10 million women who are potentially eligible for child support. I have a chart over here. It is also reproduced as table 3–B in my written testimony. But I think it can give you some sense of what the problem is.

Of the women who are potentially eligible—we are looking at the women who are not living with the father of at least one of their children—how many of them are receiving awards and the like? You will see on the blue pie chart that 42 percent have no awards at all. Another, smaller fraction have awards, but they weren't due yet in 1989 because they are new cases. This lighter blue shows that 12 percent were awarded support and received nothing. Another group was awarded something but received less than the full amount.

When the dust settles, just over a quarter, 26 percent of all women potentially eligible for some sort of child support award, receive an award and receive the full amount.

No private business could survive on something like this. No conscionable society, I think, can ultimately survive in this situation.

Single mothers are receiving very little, and as a result, our children are at grave risk.

Remember, this is the typical child born in the United States today.

Now, let me talk briefly also about how the situation varies by type of family. This is particularly relevant given the changing nature of single parents and families in our country.

This is a chart that shows by different type of family situation whether there is an award in place, that is the blue, and what fraction would actually receive some money from the absent parent. The married column is probably better called remarried. That is the situation where people typically were divorced and have gotten remarried.

You can see in cases of married and divorced, close to 80 percent at least have an award, although only half actually receive money. By contrast, when we go all the way over to the never married group, this group that is growing so dramatically, only 24 percent actually have an award and only 15 percent get any money. The average amount for those lucky 15 percent is $1,800 or $1,900.

Clearly a critical thing we have to look at is, in all those levels, getting them close to 100 percent. But it is a particularly disturbing trend for the never marrieds.

Now, we clearly have to redesign our child support system. We have to rethink how we do it. Payment must be seen as inescapable. We have to create a sense of responsibility so that all parents realize the importance of providing adequate support to their children.

I ask you, what is the message we are sending? What are the signals? What are the values we seem to be sending with our child support enforcement system, when it has this kind of performance?

I think the answer is straightforward. We are saying if you parent a child and leave home, it is not your responsibility anymore. We are saying that two parents, when they split apart, if there is struggle, if there is pain, too bad, the problem and the burden is often on the mother.

I think it is time we really tried to transform things and move to a better situation.

One thing you might ask is, what could we theoretically achieve, how far could we really get if we really did it right?

Now this is a chart that shows the potential gap based on some frankly rather old data because there isn't good recent information. And indeed I think it understates the situation. But the potential, if it really were the case that every parent in the system got a reasonable award, is that we'd collect up to $36, close to $40 billion. Now we are only collecting $11 billion. That is money that is properly due, that ought to be part of protecting our children, and in fact it oftentimes is left uncollected.

So let me concentrate very quickly on two or three items that I think desperately deserve our attention. I have talked about paternity and out-of-wedlock childbearing.

The simple reality is that only about one-third of all our children born out of wedlock get paternity established right now. We have made some real progress, but we are in a situation where over 1 million children each year are born out of wedlock and we establish

paternity in only 30 percent of those cases. That is a statement of an enormous problem. If we don't get paternity established, nothing else can follow. Without paternity we cannot possibly collect child support.

I think it is important to ask why paternity establishment has been so low and ineffective. I think there are a number of reasons. One is there has been enormous growth in out-of-wedlock births, so even as we have done better at establishing paternity, we have in fact been trying to catch a very fast moving train. But I think there are more things than that.

A lot of it has to do with an arcane system that has failed to take account of the changing realities and what we know. We do know that a vast majority of fathers are actually present at the birth of their child. In-hospital programs get very large numbers of people to agree to paternity at that point. Why? Because fathers often believe that it is their proper role in connection with the child.

Another basic problem is we generally only go after paternity establishment cases when someone comes under the welfare system. That can often be 2 or 3 years later after the birth of the child, or maybe not at all. In such circumstances, waiting a couple years makes it vastly harder to find the father because often the relationship has broken down at that stage and people are no longer interested in pursuing it.

One question that often arises that I think this committee ought to be aware of is: What can absent fathers, especially the never-married fathers, realistically contribute? After all, many of them are poor themselves.

This chart shows an age earnings profile of what people earn. For teen parents it is the dotted line that ends at the very top. That is the earnings of absent teenage fathers—just the teenagers, now.

If you will notice, it is true, in their teenage years under 18, their income is typically $2,000 or $3,000. It is not very high. So it is very true that the moment when they become parents, they don't have a lot of income.

Look at what happens to that income as they get into their 20s and even into their 30s. Remember, these are men who had children born out wedlock in their teenage years. The income grows dramatically.

So if we fail to get to them early because they don't have money as teenagers, we lose all of our chances. And more importantly, the child loses his or her chance to have some support from that absent parent.

That brings us to a second set of issues: Inadequate awards and insufficient updating. Here, too, we have made some real progress. Now all States are expected to use guidelines to determine the amount of the support obligation. That is a big improvement. I still think we have some work to do there, but we are very far along. The question of updating, however, is still mired in huge problems.

If we set an award once for that teenage father and never update it, we will never collect any money. That is not appropriate. We also have situations where the fathers' incomes go down, and we make no adjustment for that situation. Simple fairness requires that as circumstances change, awards must change.

Too often awards are set at a fixed, nominal amount, not even adjusted for inflation, and we leave it there for the life of the child. An award that might have made sense when the child was 1 year old and the absent parent was fairly young may not make any sense 10 or 15 years later. In the meantime, once again, children suffer.

A couple of other points. Enforcement is neither tough enough nor fast enough. We clearly need to do a far better job of enforcing the awards once they are in place.

We saw the gaps already in what I showed you. States have often been very slow to adopt the new techniques that we are finding available out there, automatic wage holding, medical support awards. The Interstate Commission provided a number of very, very good and powerful ideas, including reporting of new hires. A variety of other measures, license checks and so forth, are possibilites.

I think it is very, very straightforward to say that the system is broken down and we need to use the new systems that we currently have and create new ones to make it work.

Let me emphasize, however, when I talk about getting tough, we have to recognize the millions of fathers that really are doing the right thing. The point here is not to be angry, it is not to penalize; it is rather to say that both parents have responsibilities, and we as government will help make sure those responsibilities are met.

A couple of other points, and then I will open to your questions. Another major problem is fragmentation. We have a system of child support that involves all levels of government and involves every branch of government. We have the Judiciary, the Executive and the Legislative involved in every single State. We have a Federal system, a State system, a local system, and county systems. And not surprisingly, we are getting enormous fragmentation.

Exactly how we remedy that is not entirely clear, but some degree of centralization as recommended by the Interstate Commission, at least in terms of collecting information and the like, is clearly essential.

We also have a system that distinguishes far too much between people on welfare and people not on welfare. This is about people and children in our society, about right and wrong. Ultimately I think the distinction needs to be taken away that this is a welfare or nonwelfare problem.

Finally, we simply have not put enough State and staff resources into child support enforcement. We had testimony earlier about 1,000 persons per worker. That is no way to run a railroad. If we are serious about making changes in our child support system, we are going to have to recognize it is going to require some resources.

That said, however, we also have to recognize that if we have a dramatically improved child support system, we should also save money. That is not the reason to do it, though. The reason to do it is because it is right, because it is what our children deserve.

Let me say one final word about child support enforcement assurance which has been talked about a lot. It is certainly an approach that has received a lot of attention. Those of you who know my past work know I have talked a lot about it.

A number of States are already trying various parts of this approach. This administration intends to look seriously at these issues and explore the logic, the cost implications and so on.

I am very gratified by the extent to which members on both sides of the aisle have shown an interest in exploring and improving our child support enforcement provisions in all dimensions. I look forward to working closely with you.

We have made real progress over time. The Family Support Act had many, many important recommendations. The Interstate Commission has dozens of absolutely essential recommendations. I really believe this is one of those areas where there can be a genuinely bipartisan effort.

I look forward to working closely with all the members of the committee.

Thank you.

[The prepared statement and attachments follow:]

STATEMENT BY
DAVID T. ELLWOOD
ASSISTANT SECRETARY FOR
PLANNING AND EVALUATION
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEFORE THE
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

JUNE 10, 1993

Good morning, Mr. Chairman and members of the Subcommittee. Thank you for your invitation to appear before you today. I am encouraged by the Committee's long-standing interest in improving the nation's child support system and I look forward to working with you as we develop the President's welfare reform proposal.

Child support is a critical component in ensuring economic stability for millions of middle and low-income single-parent families. However, the current state of the nation's child support system is poor, at best. While many substantial improvements have been made in recent years as the result of the 1988 Family Support Act and the efforts of a number of committed states, we still have a long way to go.

Child Support Enforcement and Welfare Reform

President Clinton, underlying his pledge to "end welfare as we know it," has developed a vision for reform which is guided by the following four principles:

Make Work Pay -- People who work should not be poor. They must get the support they need so they can both work and adequately support their families. Incentives must be made available through the economic support system that encourage families to leave welfare by making work pay.

Dramatically Improve Child Support Enforcement -- The message is simple. Both parents have a responsibility to support their children. One parent should not have to do the work of two. However, only one-third of single parents currently receive any court-ordered support. In his speech before the National Governor's Association in February, President Clinton stated that we need to make sure that parents who owe unpaid child support pay it. This money would cut welfare rolls, help to lift single parents and their children out of poverty, and contribute to controlling government expenditures and reducing the debt.

Provide Education, Training, and Other Services to Help People Get Off and Stay Off Welfare -- To reduce the need for welfare support, people should have access to basic education and training necessary to get and hold onto a job. Existing programs encouraged by the Family Support Act of 1988 need to be expanded, improved and better coordinated.

Create a Time Limited Transitional Support System Followed by Work -- Combined with the first three elements, assistance through welfare can be made truly transitional as it was originally intended. Those who are healthy and able to work will be expected to move off welfare quickly and those who cannot find jobs should be provided with them and expected to support their families.

President Clinton is clearly right in making child support enforcement a high priority. We are examining a vast array of options and enforcement techniques to improve the existing system.

I know that the goal of improving child support enforcement is also a high priority of many members of Congress. A number of notable bills are currently pending in both the House and the Senate. We would very much like to work with Congress on addressing this problem during this next year. I look forward to working closely with this Subcommittee in particular on this issue.

Background

The last three decades have witnessed an increasing number of children living in single-parent families. Most of these families -- 86 percent -- are headed by women. In fact, as Table I (attached hereto) shows, 14.5 million children under age 18 lived in a female-headed family in 1991 -- a number which has more than doubled since 1960. More than half of these children live in poverty.

Recent estimates now indicate that about half of all children born in the 1980s will spend some time in a single-parent family. The numbers are even higher for certain children -- at least 80 percent of all African American children and 43 percent of all Mexican-American children, compared to 36 percent of all white children will spend at least some time in a single-parent home before reaching age 16.

While female-headed families are formed either by divorce or by births to unwed mothers, much of the increase in female-headed families is due to the unprecedented growth of out-of-wedlock births during the 1980s. Table II shows the annual additions from both divorce and unwed births. Currently more than one million children are born to unwed mothers -- a 64 percent increase from 1980. Of all babies born in the United States, more than one out of every four births will be to a single mother. Contrary to what many believe, however, most of these births are not to teen mothers. The number of births to unmarried teens, age 19 and younger, was only 360,645 in 1990.

The number of children who become part of a single-parent family due to divorce has actually fallen over the last decade. When remarriages are taken into account, the number of children in single-parent families due to divorce has dropped since the mid-seventies, a sharp contrast to the growing number of out-of-wedlock births.

The most disturbing aspect of these trends is that children in single-parent families are much more likely to be poor. In 1991, 56 percent of children in female-headed families lived in poverty compared to only 11 percent of children in families with a male present.

Household characteristics greatly affect the income status of families. According to the National Commission on Children, three out of every four children growing up in a single-parent family will live in poverty at some point during their first 10 years of life.

The low income status of female-headed families is not surprising when one parent is expected to do the job of two. Single parents are expected to fulfill the difficult and dual role as both nurturer and provider. As Table III a shows, 91 percent of the fathers in husband-wife families contribute more than $2,500 in earnings annually and 64 percent have earnings greater than $20,000. But in female-headed families only 5.5 percent of all fathers contribute more than $2,500 annually. So the mothers in many cases are the sole contributors to the income of the family. A typical single mother only receives a total of $1,070 annually in child support and alimony. The result is often a life of poverty for the children in that female-headed family.

The Child Support Enforcement System

Child support enforcement was historically a function solely of the states. The government's interest in child support was minimal and chiefly based on a desire to reduce or eliminate the public burden of supporting the child when the father failed to do so. Apart, from this desire, however, it was often given a low priority by the states and the court system. It was not a major concern of the federal government because of the low percentage of births to unwed mothers and the low divorce rate and the fact that little federal support was provided for the children in the cases that did exist.

As the number of AFDC recipients grew in the 1960s and 1970s, the desire to collect from the absent parent also grew. Since the motivation stemmed from the desire to reduce welfare costs while leaving other cases unregulated, a dual system of support emerged. One system was for welfare recipients and was compulsory. Beginning in 1967, Congress took action to push states to collect support. But it was in 1975 that the federal government began to seriously influence state laws in the areas of paternity establishment and child support enforcement. Legislation in 1975 added a new part D to title IV of the Social Security Act which required the states to establish state offices for child support enforcement (called IV-D agencies) and implement a child support enforcement system as a condition of receipt of federal funds for AFDC. The legislation also created a national Office of Child Support Enforcement to monitor the states, and provide technical assistance and funding.

Cases that were not IV-D cases, that is, not welfare cases, were mostly left in the private sphere. This changed somewhat when the Child Support Enforcement Amendments of 1984 pushed states to "offer" IV-D services to non-AFDC parents as well. Perhaps as much as one half or more of all collections now come through the IV-D (government) collection system (30 percent of these are AFDC collections). We don't know for sure because there is no tracking of cases outside the IV-D system. Still, the focus remains clearly on welfare recipients and, according to many observers, the present funding and incentives are heavily weighted towards the AFDC cases, so that non-AFDC cases get less attention.

For the most part, the system is reactive rather than proactive. The custodial parent (usually the mother) often has the burden to secure enforcement. Thus, she has the burden of initiating enforcement actions when the father fails to pay. In many cases, especially non-AFDC or non-IV-D cases, nothing is done until the mother takes action. In non-IV-D cases there is generally no monitoring of payments at all by the government or courts. Mothers are not infrequently in an unequal power relationship and they can be subject to intimidation, threats and abuse if they assert their right to support. As a result, they often go without rather than taking the chance of rocking-the-boat.

Child Support Enforcement and the Family Support Act

The Family Support Act in 1988 was clearly a step in the right direction. It contained a number of significant provisions to improve child support enforcement. A recognition of the paternity establishment problem and a focus on measuring paternities established through the IV-D system has helped. Requiring guidelines as a rebuttable presumption is generally felt to have resulted in higher and more equitable awards. Wage withholding is being increasingly implemented and now constitutes about 50 percent of the collections within the IV-D system. The requirement that states have automated systems is a clear step towards a more efficient system. Some states have already met the 1995 deadline for automated systems though ten or more states may have serious difficulties.

In some cases, such as periodic review and adjustment of support orders and extension of immediate wage withholding to cases outside the IV-D program, the statutory requirements of the Family Support Act are not effective until later this year or the beginning of 1994. When fully implemented, the child support provisions in the Family Support Act will likely lead to further increased collections. Yet, we probably can't expect the improvements to significantly alter the picture of non-payment. More fundamental change in addressing the problems outlined below is required.

Through the Family Support Act, Congress also created the U.S. Commission on Interstate Child Support. Its charge was to report to Congress on recommendations to improve the interstate establishment and enforcement of child support awards. In August, 1992 it submitted a 446 page report to Congress, entitled, "Supporting Our Children: A Blueprint for Reform", detailing 120 recommendations. The majority report took a comprehensive approach that made recommendations that impact on intrastate cases as well as interstate cases. The Commission should be commended with producing an excellent set of recommendations upon which we can build.

The Current State of Child Support Enforcement

Given the increasing number of children potentially eligible for child support, more and more families will face a need for adequate and consistent child support payments from non-custodial parents. Notwithstanding the significant forward movement achieved by the Family Support Act and prior legislation, the record of enforcement can still be greatly improved. While some progress is being made in terms of gross numbers, we are really only treading water. As table III b indicates, very few eligible women report receiving consistent child support payments. Of the 10 million women potentially eligible for support, 42 percent have no child support award at all. Only 26 percent had an award in place and received the full amount they were due, while 12 percent actually had an award but received nothing. Over half of all women potentially eligible for a child support award receive no support. This picture has not substantially changed in recent years.

Child support awards, and support actually received, vary dramatically by marital status. Among never-married mothers, the fastest growing segment of the single-parent population, only 24 percent had awards, 15 percent received child support and the average amount received (of those that received support) was only $1,888 annually. Divorced women fare much better, but still only 77 percent had an award in place, only 54 percent actually received support and the average amount received was only $3,322 annually.

The lack of adequate support enforcement means that there is an immense gap between what is currently due in child support and what is actually received -- 5 billion dollars annually. The potential gap, if all those eligible received an adequate award which was updated to reflect the non-custodial parents' current ability to pay, is estimated to be 25 billion dollars annually. (See Table V a).

I want to be clear that I am not critical of people working in child support enforcement at either the federal or state level. For the most part, they are highly dedicated people trying to do the best they can at a very difficult task. The problem is with the child support enforcement system itself - a system that thwarts the best efforts of the staff to make progress. In relative terms, the numbers show that progress has really only been modest. As table V b shows, total child support collected by the child support enforcement agencies has risen dramatically, but primarily because more people are availing themselves of the government collection service rather than passing the child support privately.

Problems With the Child Support Enforcement System

Improving the child support enforcement system will take more than slight incremental changes. The problems are imbedded in the very way we think about the nature of the child support obligation. Child support must come to be seen as a central element in social policy, not because it will save welfare dollars, though it will, but because it is the right thing to do. It is central to a new concept of government, one where the role of government is to aid and reinforce the proper efforts of parents to provide for their children, rather than the government substituting for them. Child support is an essential part of a system of supports for single parents that will enable them to provide for their family's needs adequately and without relying upon welfare.

We have to rethink the way we do enforcement. Payment of child support must be seen as inescapable. And we have to create a new sense of responsibility so that all parents realize the importance of providing adequate support for children. Changing the way we think about child support requires that we understand some of the fundamental problems with the current system.

Lack of Paternity Establishment

There are over one million children born to unwed mothers in this country every year and yet we are only establishing paternity for about 30 percent of them. In the past this was because paternity establishment was a low priority. Recently, however, we have begun to pay more attention. The Family Support Act in 1988 set paternity establishment rates for states. As a result of the increased attention, they are establishing more paternities. In 1991 the child support system established 479,066 paternities, up from 269,161 in 1987. Yet, the percentage of paternities established increased only modestly. (See Table VI)

The rise in unwed births is only part of the reason we still establish paternity for only about a third of unwed births. Another major factor is the nature of the current paternity establishment process, including timing, legal process and incentives.

One reason that the paternity establishment rate is so low is that paternity establishment does not generally begin until the mother applies for welfare. As a condition of receipt of AFDC a mother has to assign her right to support to the state so that the state can seek reimbursement for the financial support provided to the mother. In many instances, however, the child is several years old or older by the time the mother applies for welfare. Finding the father is then much harder. Time is of the essence in establishing paternity so that the longer the delay after the birth, the less likely it is that paternity will ever be established.

Evidence strongly suggests that paternity establishment ought to begin at the birth of the child. That is when the ties between the mother and father are the closest and there is a real desire to acknowledge the connection with the father. Research shows that two thirds of fathers in cases of unwed births actually come to the hospital at birth and a large percentage of fathers and mothers in these cases feel it is important that the fathers' name appear on the birth certificate. These ties between the unwed mother and father often diminish after birth. Contact between the mother and the father falls off rapidly so that the further removed from the time of birth the more difficult it is to establish paternity. Yet, only in a few states, such as Washington and Virginia, is any effort made to establish paternity at birth.

One question people often ask is whether it does any good to establish more paternities when most young fathers are poor themselves. While it is true that many young fathers have low

income, a surprising percentage can contribute something towards the support of their child. Most importantly, recent research has shown that young fathers' incomes generally increase after the birth of the child so that in a few years their incomes nearly match that of other fathers. Table VII shows this increasing ability to contribute to support. It is important to establish paternity quickly and to set some support obligation, even if initially it is a small amount, so fathers realize they have a responsibility for the child that begins at birth. Then the child support obligation can be increased when the father's income increases. Concern about poor fathers should be directed towards helping them increase their earnings, not to escape their obligations to their children.

Another problem is that paternity establishment laws and procedures are deeply rooted in archaic laws that have not kept up with changes in genetic testing technology. With current technology it is possible to either exclude the alleged father or test to a level of 99 percent or higher in virtually every case. The deliberative aspects of paternity establishment are now minimal, yet the procedures to establish paternity have not kept pace. In many cases, several court hearings are necessary even for simple paternity cases. These problems, combined with poor incentives for the mothers and agencies to seek paternity establishment, means that too many fathers escape their obligations.

We would like to congratulate the Committee for their fine work to include in reconciliation a provision making the first steps in improving paternity.

Inadequate Awards/Insufficient Updating

Child support awards are often inadequate. In most states until very recently, the amount of the child support award set was largely discretionary with each judge. Now every state uses guidelines to determine the amount of the child support obligation. This is a big improvement, but we need to continue to assess the adequacy of the present guidelines which vary from state to state. The major problem, however, is the failure of awards to be updated to reflect changed circumstances. Guidelines are used to determine a "fair" amount of support at the time that the support is set, based, in large part, upon the non-custodial parent's income at the time. Circumstances of the parents and child change over time, however. The non-custodial parents' income typically increases after the award is set and inflation also reduces the value of awards. Yet, many awards are never increased once they are set.

Periodic updating of child support awards would generally increase awards so that they reflect the current ability of the non-custodial parent to contribute to the support of their child. In most cases this means much more support becomes available for the child, but where the non-custodial parent's income has declined, the award needs to be adjusted downwards. Updating would increase the integrity and fairness of the system. Non-custodial parents would not be faced with obligations they cannot pay, and there would be less enforcement problems because less people would be in arrears.

The Family Support Act addressed the issue of updating awards through a requirement that beginning in October, 1993 all orders must be updated every three years for AFDC cases and at the request of the parties in non-AFDC cases. This was a good start at addressing the problem although it falls short in two regards. First, it did not deal with the issue of how states are going to implement the requirement given court-based systems that will have difficulty handling the volume of cases. Complying with this requirement may be troublesome for some states unless they dramatically change their procedures for updating and move to more streamlined, administrative systems. Second, non-AFDC parents will

have to "request" review. This puts the burden on the custodial parent, usually the mother, to initiate the review process. Many simply go without an increase because of fear of upsetting the other parent or because the present process is so adversarial.

Enforcement is Not Tough Enough or Fast Enough

Enforcement of child support obligations is often totally lacking or inadequate. This leads to a perception that the system can be beat. There are a number of reasons why enforcement is weak: States are often slow to adopt or use necessary enforcement procedures and techniques. Automated systems are only being slowly adopted. There is poor medical support enforcement. Wage withholding is not fully used and it is often not instituted immediately at time of hire.

There are a myriad of ways that the system can eliminate loopholes and get tough so that payment of support becomes as inescapable as death and taxes. These range from increased use of liens and reporting to credit bureaus to publishing lists of the ten most wanted for child support. A system of reporting of new hires, which has been tried successfully in the state of Washington, could be used to start wage withholding at the first paycheck. We need to implement many such changes in order to change the perception of the system.

Let me say a word about this business of getting tough, however. We should also recognize and commend the fact that millions of non-custodial parents do pay their child support obligations regularly. The focus should be positive wherever possible. We need to stress the fact that the child support is ultimately to improve the lives of children. It does little good to label all non-custodial parents as "deadbeat dads". And children need the love and caring of the non-custodial parent as well as the financial support, so we should also work towards improving child visitation and amiable relationships of parents.

Fragmentation

The present child support enforcement system involves every level and branch of government. It involves fifty separate state systems for paternity establishment, setting awards and collection. Each state has its own unique laws and procedures. Since thirty percent of the cases are interstate cases, enforcement across state lines poses severe collection problems.

There is a further lack of centralization at the state level and some programs are county based. Payment, collection and disbursement is rarely centralized. Cases are treated differently depending upon whether they are IV-D cases or non-IV-D, AFDC cases or non-AFDC. Because of the present incentive system, non-AFDC cases often receive second-class treatment. As a result, many women do not enter the IV-D system at all and either go without or handle the matter privately.

Over-reliance on an overburdened court system also means that many of the establishment and enforcement steps are slow and inefficient. A very few states, such as Michigan, have a court-based system that has, in the past, done a good job in enforcement. But, many of these court-based systems have long delays and are inefficiently run. Most are ill equipped by their nature to deal with the expanding volume of cases. Table VIII shows the steps necessary to just establish a support order in a paternity case in a court-based system. Clearly, the complexity involved is enormous. States that use administrative processes, such as Oregon and Washington, feel that the process makes their collection efforts much more efficient than a court-based system. Many IV-D agency directors reportedly would prefer a similar simple administrative process or expanded administrative procedures.

Lack of State Staff and Resources

Child support enforcement agencies and custodial parents seeking help in getting their support both cite the lack of staff and resources as a major reason why service is so poor. The lack of staff and resources is blamed, in part, on the fiscal problems of states. But, under the present federal-state funding arrangement, virtually every state makes a profit on child support enforcement. The contributing problem seems to be that states often look toward the immediate year's impact on the budget rather than investing in improving the program which would pay dividends in the long term. It is essential that we find a means to ensure that enforcement agencies have adequate staff and resources to provide the necessary level of service.

Child Support Enforcement and Insurance

One approach that has begun to receive more and more attention is Child Support Enforcement and Insurance (or Child Support Assurance, as it is also called).

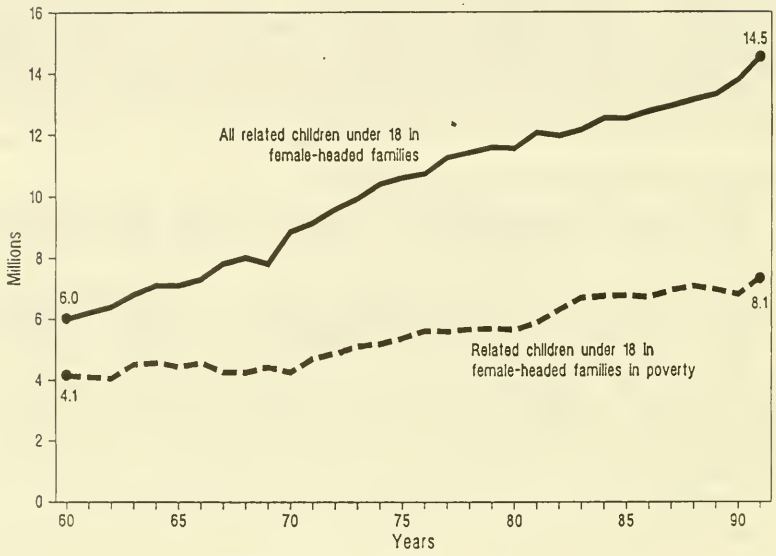
The program has received much attention from members of Congress, academics, and many advocacy groups. A number of states are very interested in trying such an approach. However, this is an area that needs more study and careful analysis and has significant cost implications. The President has not taken a position on this subject. As part of the welfare reform effort, we will be taking a careful look at this idea as well as many other possibilities. I look forward to working closely with Congress and, in particular, this Subcommittee as we proceed.

Thank you Mr. Chairman and members of the Subcommittee.

Table I

Children in Female-Headed Families

"All Related" and "In Poverty"



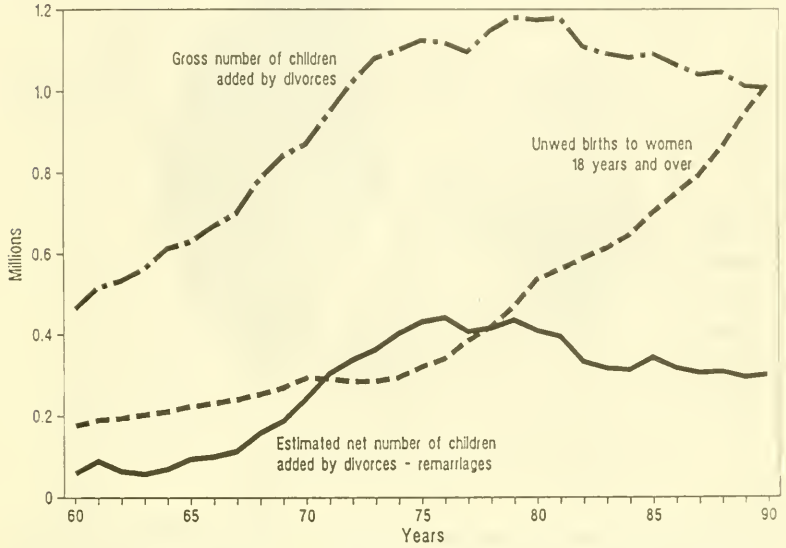
SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 181 and earlier reports.

- There is a large and increasing number of children in female-headed families
- A substantial proportion of the children in female-headed families is poor

Table II

Gross Additions to Children in Mother-Only Families

Annual Additions from Unwed Childbearing and Divorce Net of Remarriage



SOURCE: National Center of Health Statistics, Vital Statistics of the United States, annual and Monthly Vital Statistics Report, Vol. 41, No. 9, Supplement, February 25, 1993.

- Female-headed families are formed by divorce and by birth to unmarried mothers, but in recent years births to unmarried mothers have become the major contributor to the growth of female-headed families

- The trend is even more dramatic when remarriage is taken into account

Table III a

Distribution of Financial Contributions by Fathers & Mothers in Families with Children by Type of Family

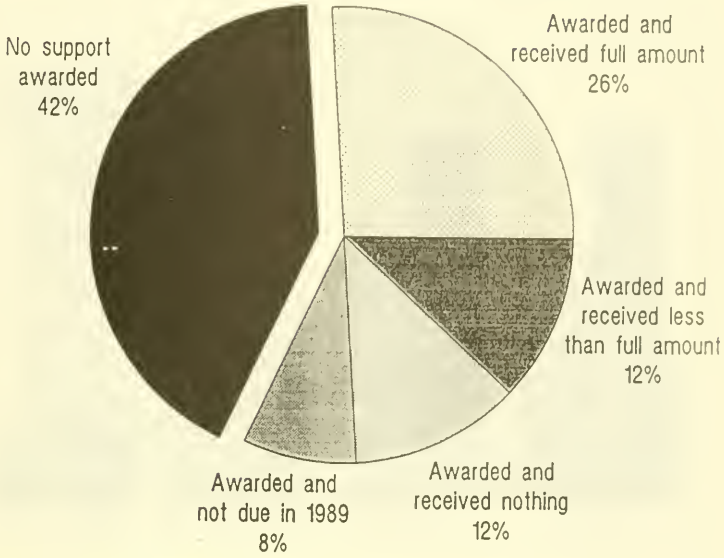
In Some Cases, The Husband, Wife, or Female-Head Will Not Be the Biological Parent of the Children

Contribution	Father's earnings in husband-wife families		Child support and alimony in female-headed families		Mother's earnings in husband-wife families	Mother's earnings in female-headed families
None	5.3%		65.4%		30.1%	31.4%
$1 - $2,499	1.9%		21.0%		11.2%	8.9%
$2,500 - $4,999	1.9%		8.0%		7.4%	5.5%
$5,000 - $9,999	5.8%		3.8%		14.2%	11.5%
$10,000 - $14,999	10.1%		1.0%		12.9%	13.1%
$15,000 - $19,999	11.1%	91.1%	0.3%	5.5%	9.7%	10.3%
$20,000 - $24,999	12.5%		0.2%		6.4%	7.1%
$25,000 or over	51.6%		0.2%		8.0%	12.2%
Total	100.0%		100.0%		100.0%	100.0%
Overall average	$27,983		$1,070		$8,696	$10,462

- A primary reason for the low income status of female-headed families is that income is coming basically from only one parent

Table III b

Award and Recipiency Rates of Women



10 million women in 1989 lived with children and the father was not present

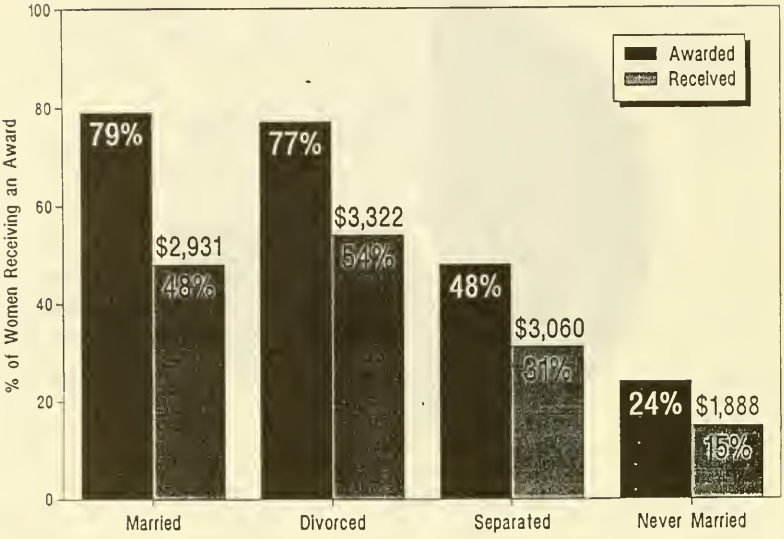
SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173

Of the 10 million women theoretically eligible for child support

- 42% had no award
- Only 26% had an award in place and received the full amount due

Table IV

Child Support Payments Awarded and Received by Marital Status



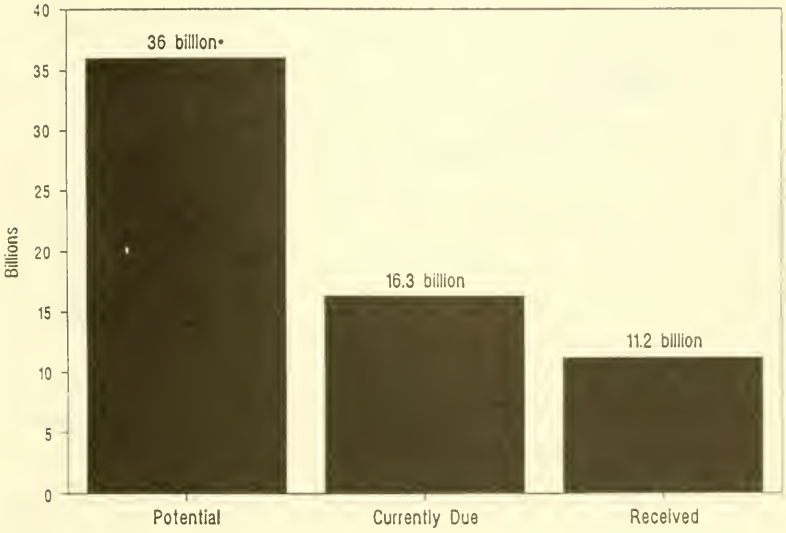
Women 15 years and older with own children under 21 years of age present from absent fathers as of spring 1990

SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173

- Child support awards and amounts received vary dramatically by marital status
- Among never married mothers, the fastest growing segment of the single parent population, only 24% had awards, 15% received support and the average amount received was only $1,888

Table V a

The Collection Gap



• 1983 estimate adjusted by CPIU

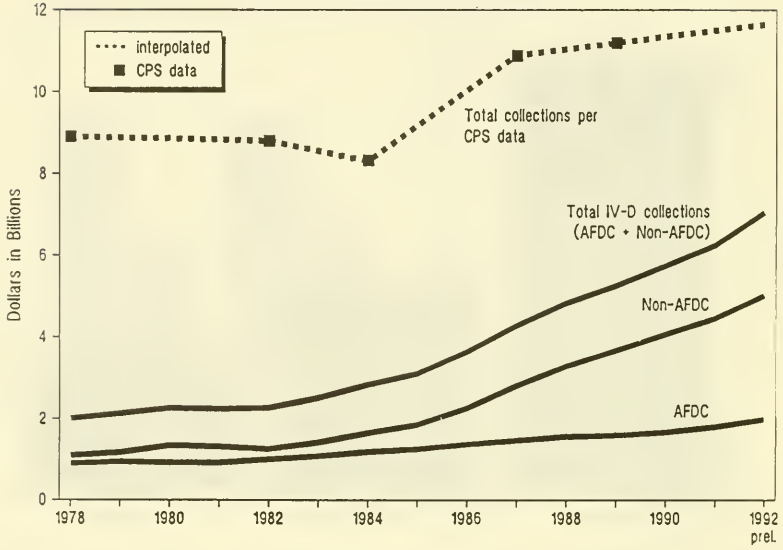
SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173

■ The potential for increased child support is very large

Table V b

Total Distributed Collections

Total & IV-D Collections (1989 dollars)

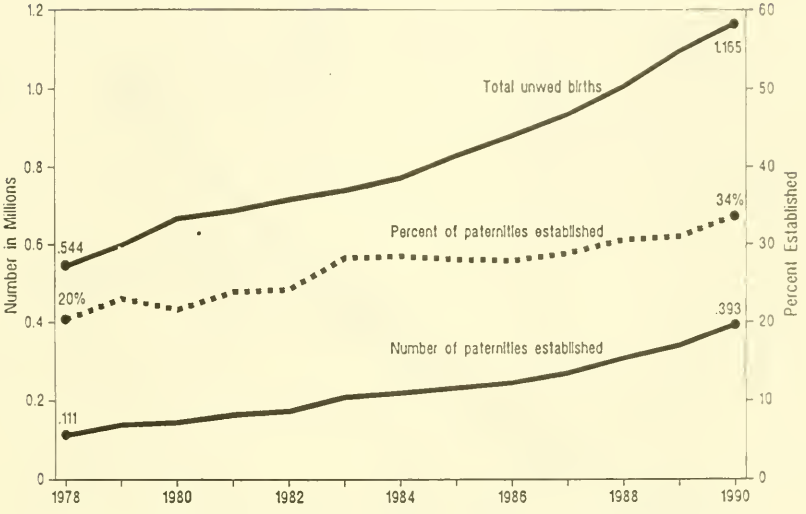


SOURCE: U.S. Bureau of the Census, Current Population Reports, series P-60, No. 173.

- Child support is collected both inside and outside the IV-D system
- Total child support collections have risen, but only modestly in the last few years
- Child support collections through the IV-D system have risen dramatically, but that appears to result mostly from a movement of non-AFDC cases into the system

Table VI

Unwed Births & Paternities Established

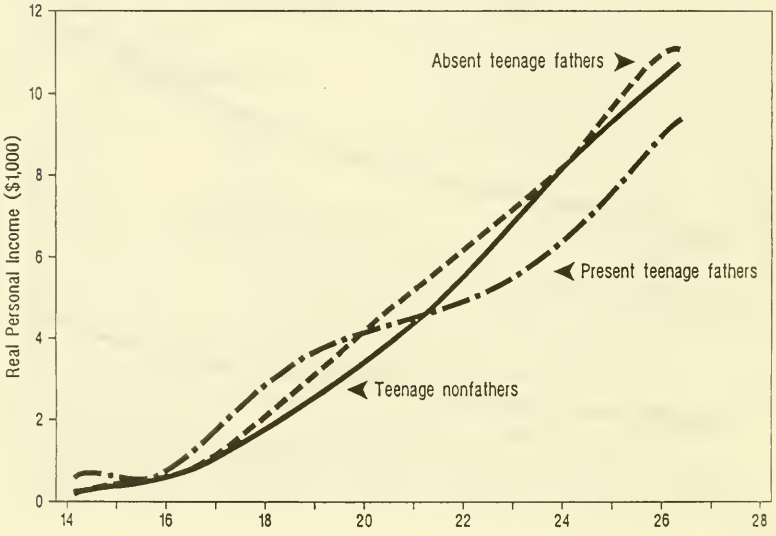


SOURCE: National Center for Health Statistics, Vital Statistics of the United States, annual and Monthly Vital Statistics Report, Vol. 40, No. 8, Supplement, December 12, 1991; Committee on Ways and Means, Overview of Entitlement Programs, 1992 Green Book

- A major problem in child support is the establishment of paternity in cases of births to unmarried mothers
- Currently, paternity is established for only about a third of unmarried births; the percentage has risen only modestly in the last few years

Table VII

Age-Earnings Profile for Teen Fathers

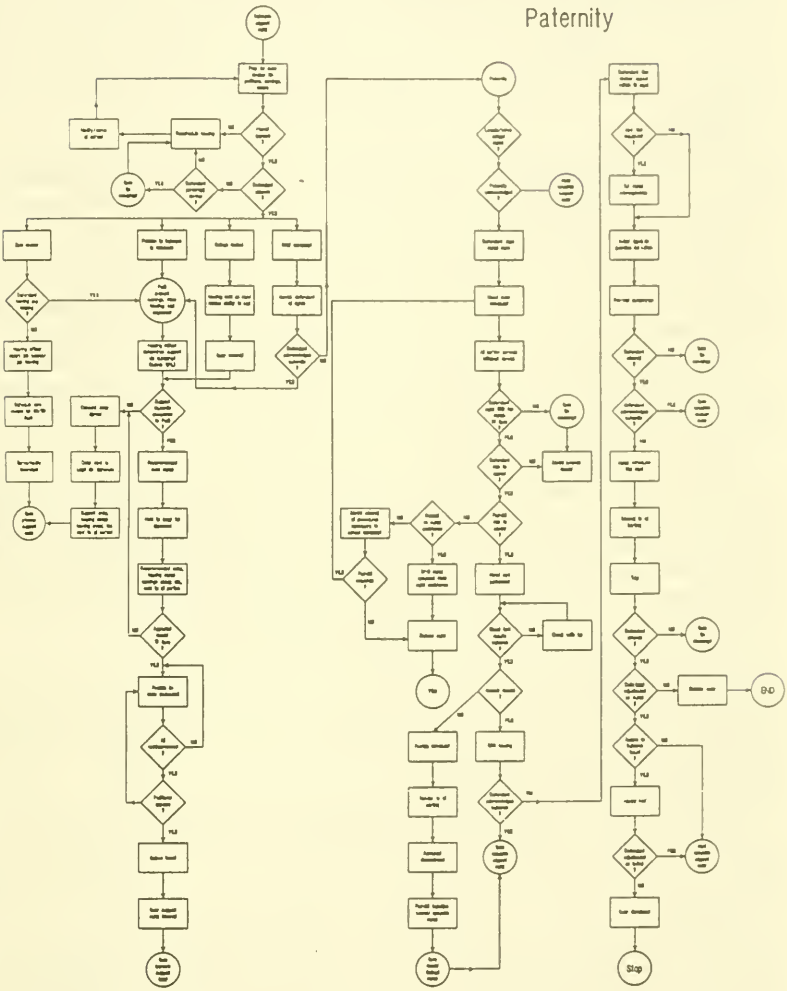


SOURCE: Maureen A. Pirog-Good, "Teen Fathers and the Child Support Enforcement System" (1992)

- The child support system has historically paid little attention to unmarried fathers, especially teen fathers, because current earnings are so low
- Over time, however, even teen fathers develop the earning capacity to make contributions

Table VIII

Establish Support Order



Chairman FORD. Thank you.

I, too, agree with you. I think we can work closely together and report a bipartisan bill.

One of the questions I would like to start off by putting before you is in talking about what Mr. Grandy mentioned earlier, and I guess Ms. Kennelly has talked about the child support enforcement system, and legislation moving out of this subcommittee. Is it possible, do you think, from the administrative perspective, to move welfare reform and child support enforcement out of this subcommittee?

Mr. ELLWOOD. I sure hope so. I think your leadership in this regard is very important. I think the notion that child support enforcement is unrelated to welfare or unconnected to welfare reform is in fact contradicted by the facts we see all around us.

Remember, the child support enforcement system, the IV–D system is managed in most places by the welfare department. It is fundamentally and inextricably tied to the welfare system. That is one of the problems. It is one of the things we need to change.

Furthermore, as we begin to change the nature of the welfare system, we need to be sure that the child support enforcement system is in place, works effectively, and can be a greater source of support for single parents.

I think in the Family Support Act, these two did move together. I think part of what we need to do is think about our children, think about the pieces that are necessary that change a welfare system, that many people find quite dissatisfactory, and instead find a new set of procedures—making work pay, child support enforcement, training and transitional welfare, that really will provide a genuine alternative to the welfare system.

Without an alternative to the welfare system, welfare reform will be much more difficult and harder to understand. It is as a combination that they make sense. That is not to say that we would not like to work very closely and very hard with members of the committee to work on each of these separate elements. But ultimately they must work together.

For too long we have had a fragmented system of trying this, trying that, not recognizing these things are really interconnected. Our goal in this administration is to make those connections work more effectively.

Chairman FORD. The urgency of moving this bill coupled with the fact that welfare reform will be forthcoming from the administration, I want a bipartisan bill to be reported from this committee and we certainly would like to have one soon. But I certainly don't want to put welfare reform on the back burner and say we can move a welfare reform package next year and this is the time we want to move child support enforcement. I want to make sure I am getting the appropriate signals from the administration.

Mr. ELLWOOD. That is exactly the signal we are trying to send. We believe this is interconnected in many different ways. Welfare reform is not on the back burner. We want very much——

Chairman FORD. We are going to have two separate bills, we understand, like we did in 1987 and 1988, but I don't think we ought to focus all of the attention on child support enforcement without

knowing that there is a welfare reform bill that we ought to move from this subcommittee as well.

Mr. ELLWOOD. I certainly agree with you, Mr. Chairman.

Chairman FORD. Thank you.

One other thing. Later today a witness will testify that Federal and State outlays on the child support system now exceed the collections, and that that has been true for some 3 years, I think 1989, 1990 and 1991.

Is that statement true, first, Dr. Ellwood?

Mr. ELLWOOD. No, I heard of that statement and I can't quite understand it. If you will look at the chart I showed you earlier, the total collection chart, which was table 5–A, our collections are in the range of $11.2 billion. The total amount of expenditures in the Federal and State system, as I understand it, are in the range of about $2 billion.

So I am quite unclear about what the nature of that assertion is, and unfortunately I can't say more than that, except to say that it is certainly not remotely close to true.

By the way, this is also an example where, because we have such a fragmented system, because we have a lack of simple and uniform procedures in many States, we probably are spending more on administration than we should per dollar that we collect. Part of going to a much more dramatically improved system ought to be that we can work smarter as well as collect more money.

Chairman FORD. Let me ask you, is there a task force within Health and Human Services that will be making all of the recommendations in this child support enforcement area?

Mr. ELLWOOD. We hope to be soon announcing a working group or set of activities throughout the administration that is going to be working on these issues. The President has been clear and others hope to have a plan and set of activities done by the end of the year. So I hope soon that we can announce a set of activities that is ongoing. In the meantime, there is a lot work going on on an informal basis throughout the administration to look at these issues.

Chairman FORD. One final question. Are you going to submit the proposals on welfare reform and child support enforcement at the same time, or will one come before the other?

Mr. ELLWOOD. Our general expectation at this stage is that they will come together.

Chairman FORD. Are we still looking at target dates of—I don't want to put you on the spot—September, October?

Mr. ELLWOOD. I cannot at this time—the President will have to commit to whatever the timing is. Obviously we have to be cognizant of the many other things that are on the agenda. Right now it is the budget. We have health reform coming through. But we are deeply committed to moving forward with this this year.

Chairman FORD. I understand. I am certainly not trying to put you on the spot. But in regard to child support enforcement, will we have anything prior to welfare reform?

Mr. ELLWOOD. Again, our goal is that we move these together. There is no reason we can't do lots of work, work together on bills, all those sorts of things, but we do see them as a combination, a package, that needs to understand and reinforce each other as opposed to be seen as separate.

Chairman FORD. In your written testimony you talked about the four main components of the child support enforcement and welfare reform: make work pay, drastically improve child support enforcement, provide training and other services to help recipients get off and stay off welfare, and create a time-limited transitional enforcement system.

In looking over your testimony last night, Dr. Ellwood, it became clear that child support enforcement and welfare reform will coincide at some given point, because the two are very much tied together.

Mr. ELLWOOD. And we intend to work on them together as part of the administration. Again, I think the goal is to avoid the kind of fragmentation, the disconnects, that are currently in a system that seems to only want to collect child support as part of collecting money to reduce welfare costs. Increasingly we are moving away from that, and I think a more comprehensive plan does that.

I should also emphasize there are some elements that are in our current budget that you have already passed on. We have tried to improve paternity establishment through in-hospital paternity programs and some medical support. But the large, the really comprehensive changes that are needed in each State to make this system work effectively, they need to be thoughtful, they need to be bold. We need to meet the challenge of our children. I think that larger set of issues is best done in a more comprehensive way.

Chairman FORD. Thank you very much.

Mr. Santorum.

Mr. SANTORUM. Thank you, Mr. Chairman.

Just to clarify the numbers discussion, the Federal Government loses money on child support enforcement. We will be happy to provide a chart with the supporting information. What these numbers indicate is that according to the way CBO would score Federal expenditures on child support enforcement the Federal expenditures exceed the money the Federal Government collects in the system. Dr. Ellwood, you are counting all collections, most of which go to the families. I am talking about whether the Government in fact loses money from it. And the Federal Government does. The States, from our numbers, actually make money under the system, and the Federal Government has been losing money.

What the chairman was asking about is that 1989, I believe, was the first year that the combined State surplus and the Federal deficit was negative. That is the clarification of that point.

Mr. ELLWOOD. Can I just comment on that? Again, I don't have the specific figures in front of me, but let me again emphasize why I think the Government should be involved in this. The Government should be involved in this because it is right, not because it saves welfare dollars. It is precisely because we have been preoccupied with saving welfare dollars that we have done a terrible job.

When we get into the short term, does it pay off today, we often decide we are not going to ask absent parents to pay their fair share. And the signal we send is: We don't care unless you go on welfare.

Mr. SANTORUM. I couldn't agree with you more. All I am suggesting is that there might be a better way to construct a system so

the revenue lost to the Federal Government isn't as exaggerated as it is today.

Mr. ELLWOOD. I think those issues are definitely worthy of serious attention.

Mr. SANTORUM. Just a couple of general questions first. I appreciate your testimony. It was filled with lots of——

Mr. MATSUI. Will the gentleman yield?

It is my belief that we will take a vote, and this is on the housekeeping matter, and I believe, Mr. Chairman, you will ask Dr. Ellwood to come back, or not leave, is that right?

Would the gentleman just allow me to ask one question? Because I am not going to be able to come back.

Mr. SANTORUM. Sure.

Mr. MATSUI. Dr. Ellwood, there has been speculation that there is going to be some effort on the Senate side to perhaps bring some welfare reform proposals in this current reconciliation bill, and also perhaps some child support enforcement matters in this reconciliation bill.

It is my hope and belief that the administration certainly would not appreciate that and would oppose that vigorously, both on the floor of the Senate, but more importantly on the House-Senate conference, should it get in.

Is that the position of the administration at this time, and can you assure us that you will make every effort to ensure that they don't put something on the reconciliation bill?

Because we are trying to cooperate on this side of the Congress. We want to do whatever we can to make a successful administration and a successful welfare program. But the other body hasn't shown that kind of discipline.

Will you make some comment? Maybe assure us that we are going to feel confident tonight when we go to sleep we are not going to be blind-sided by those folks on the other side who all want to be President?

Mr. SANTORUM. Only half of us want to be President.

Mr. ELLWOOD. I am sorry—or perhaps happy—to say I am not privy to the negotiations that are ongoing throughout this Congress, both on the House side as well as on the Senate side, to these kinds of issues.

There is already, of course, within this bill, a number of things designed to forward the administration's welfare reform goals. The dramatic expansion in the earned income tax credit is very important, a central part.

Mr. MATSUI. I don't want to take too much time, but I understand that. Will you just give us some assurance that we will not have to worry about the Senate going beyond what we have already done.

Mr. ELLWOOD. We are certainly not going to see an alternative to the welfare reform kinds of things—welfare reform is a long process of which obviously there are some elements already in place. The major fundamental welfare reform proposals are yet to come, and will be deeply and closely worked on in this committee. It will not be done as part of a reconciliation.

Mr. MATSUI. And will you stick with whatever you propose?

Mr. ELLWOOD. I don't feel comfortable without knowing all the specifics talking about that, but the notion here is that welfare reform is not the primary part of this vehicle. Where there are specific negotiation issues going on, I just really can't talk about that.

Mr. MATSUI. I wasn't asking if you knew of some negotiations going on. I was asking if any additional welfare reform provisions were attached, would you oppose them? And would you give us some assurance that you are not going to——

Mr. ELLWOOD. Unfortunately, until I see it and understand it, if the notion——

Mr. MATSUI. It is just the point, even if you like it, we won't be privy to it, then. You see what I mean? This committee won't have any action because it will be done in a House-Senate conference. That is what my problem is.

Mr. ELLWOOD. Again, I apologize that I cannot——

Mr. MATSUI. They are going to do the energy tax over again. We will have to redo it in the House-Senate conference, OK?

Now, I will tell you, you won't get much cooperation for the rest of the 2 years if in fact we see a welfare bill or a child support enforcement bill come out of that conference or come off the floor with your approval. I can just assure you that this will make many of us very unhappy, because that means that the Senate will write the bill with the administration just as they are doing on the energy tax now, and we won't have a role in it.

Mr. ELLWOOD. Congressman, I very much hear you, and I will be sure and pass on those views in the strongest possible terms that I can.

Mr. MATSUI. Thank you.

Mr. SANTORUM. Thank you, Mr. Chairman.

Again, I was commenting that you provide a lot of information, and yet you don't have any specific proposals here on child support enforcement or on welfare reform or anything else. Can we get some time lines? Maybe Mr. Matsui asked my question. Maybe your time line is next week. But——

Mr. ELLWOOD. The time line is definitely not next week.

Mr. SANTORUM. Do you folks have a time line for when you would put forward child support enforcement/welfare reform or separate pieces of legislation?

Mr. ELLWOOD. Our expectation is that we do it by end of the year. The exact timing we have not made a commitment to, in part because we have learned from the experience of the first 100 days that timing is hard to judge. But our expectation is to do it this year.

Mr. SANTORUM. To introduce a bill this year?

Mr. ELLWOOD. We expect to have a detailed plan available and out by the end of the year. Whether that will be legislation or not, I simply do not know.

Mr. SANTORUM. My understanding from Secretary Shalala was there was going to be some sort of committee or commission, something like that task force that is going to be formed to look at this. Is that accurate?

Mr. ELLWOOD. My expectation is there will be some sort of working group, and I would hope that would be announced very shortly.

Mr. SANTORUM. I haven't just missed the article in the paper; there has been nothing announced as far as that being formed?

Mr. ELLWOOD. You have not missed any articles, to my knowledge.

Mr. SANTORUM. And that would be the group based out of her shop that would be doing that?

Mr. ELLWOOD. My expectation is this is a Presidential initiative, it will require the interaction of all the departments or most of the departments in the Federal Government, including Agriculture, HUD, Department of Labor, the Justice Department, Treasury. All of these are—again, part of the problem is we have had this fragmented system.

So my expectation is any sort of working group that would be formed would be throughout the administration. Obviously, HHS would play a central role in that.

Mr. SANTORUM. My question is, you have the chairman here telling you we are ready to roll on welfare reform. As you know, we introduced H.R. 741 which you probably are familiar with, which was our attempt to reach out to the administration and say, Mr. President, we have your bill here, this is the bill you asked for when you ran for President, this is your time limitation on welfare and work requirements and transition programs, and we even provided money, which is not an easy thing for a group of Republicans to do.

We said, Mr. President, let's go. And you have a chairman of this subcommittee here in the House who is saying, Let's go, and you haven't even appointed the working group yet.

Mr. ELLWOOD. Again, I understand your frustration. I certainly—needless to say, I, as one who cares deeply on this issue, think it is critical. On the other hand, I also believe we are talking about dramatic changes in the current system, things I think are desperately needed, but I also believe they are worthy of careful and thoughtful deliberation.

Mr. SANTORUM. One of the things that I believe the President was very, very articulate on during the campaign, and rather specific, in many instances, was the welfare issue. It seemed to me he articulated during the campaign that he had a plan. We are 6 months into this administration and haven't even had a discussion of it within the administration, from what you are telling me.

Mr. ELLWOOD. We have certainly had discussions——

Mr. SANTORUM. But not putting anything on paper at this point.

Mr. ELLWOOD. Certainly nothing is on paper. We are trying to take our time in looking carefully and thoughtfully on it. Some of these things are sequential, not simultaneous. If we haven't found a way to make work pay, if we are not moving forward with health reform, it is much more difficult to provide a genuine alternative to welfare.

I think it is both logical and appropriate that the administration not try and do every single item on its agenda at once.

This is very, very central to what the President believes, what this administration cares about. He says it repeatedly. So our goal is in fact to move forward, but to have a thoughtful and careful program that is in concert with the kinds of issues that emerge from the budget process and everything elimination.

Mr. SANTORUM. Do you have an opinion on H.R. 741?

Mr. ELLWOOD. H.R. 741 clearly has very important elements in it. I think that it is, however, focused only on the fourth of the four elements that we think are central to the President's plan. The four elements are making work pay, child support enforcement, transitional supports in terms of employment training, and then time-limited transitional welfare.

Mr. SANTORUM. It addresses two of the four, because we do have transitional programs in the bill.

Mr. ELLWOOD. There are also some limits on how much work you offer for people. One of the critical things the administration is committed to is making sure people aren't just cut off, they are given a chance to work. But my goal is——

Mr. SANTORUM. We have work programs in the bill. They are articulated in the bill. There is a certainty of work at the end of the 2 years in our bill.

Mr. ELLWOOD. Again, part of the logic here is to try and provide a genuine alternative to the welfare system. The goal is not simply to talk about making welfare time limited.

But I would very much like to work closely with you and other members of the committee, because I really agree with the sentiments that you have offered, that Congressman Grandy—and again, members of this committee know I have worked very closely with them in the past. I have worked closely with Republican governors as well as Democrat. I think this is an area where we ought to be able to find some common ground, and I really hope that we can.

Mr. SANTORUM. We hope so, too.

I have been a bit rigorous here but I do so only because I would like to see something done to move quickly, as the Chairman has articulated.

Mr. Chairman, if I could reserve a few more questions before we break.

Chairman FORD. It will probably be 20 minutes before we get back, so I didn't want to tie him up that long.

Mr. SANTORUM. I will just ask them another time.

Chairman FORD. We may submit some questions in writing to you. We would hope you would respond back.

I would like to announce for the other panelists, there are two votes. It was not the intent of the Chair to have a break. We were going to work right through. But I want to recess until 20 minutes after, giving us a chance to make both votes rather than trying to come back and having to leave again.

Thank you very much. I certainly hope that within the next few days we will have an opportunity to sit down and to discuss some of these matters, and to see where we are, look at a closer timetable on both child support enforcement as well as welfare reform.

And as Mr. Matsui said earlier, we are going to be looking at very closely what might transpire on the Senate side. We hope the administration, if they want to move right away on welfare reform, will give us a bill right away and we will move it. We certainly would not want it to be compromised in the Senate tax package.

Again, thank you very much for coming. I look forward again to working with you.

The committee is going to stand in recess until 12:20. Thank you. [Recess.]

Chairman FORD. The subcommittee will come to order.

Let me apologize to this next panel and the other panels that will be appearing. I am sorry to be late coming back into the subcommittee. We were detained on the House floor.

At this time we will call the Child Support Council, Darryll W. Grubbs, president; the National Child Support Enforcement Association, Michael R. Henry, director, Division of Child Support Enforcement; the American Public Welfare Association, Larry D. Jackson, chair, National Council of State Human Service Administrators, and Commissioner of the Virginia Department of Social Services.

Let me personally welcome the panel for the subcommittee. We are delighted you have taken time from your schedules to share with us your testimony today, which will help enable us to draft and pass legislation in this child support enforcement system. Again, thank you very much.

I will recognize the panel in the order in which I have called your names. I am sorry, the American Bar Association, Marshall J. Wolf, the chair of the section on family law, partner, Wolf & Akers, Cleveland, Ohio.

Mr. Grubbs.

STATEMENT OF DARRYLL W. GRUBBS, PRESIDENT, CHILD SUPPORT COUNCIL

Mr. GRUBBS. Thank you, Mr. Chairman and subcommittee members. I am Darryll Grubbs, president of the Child Support Council. We are a nonprofit association of private child support professionals and businesses.

One of the goals of our association is to try to encourage something which you don't hear a lot about today—the involvement of the private sector in some of the solutions to the child support problem we are facing. As I listened to the testimony this morning, it struck me that again the answers seem to focus on: We either need to turn this over to the IRS or we have got to load more mandates on State IV–D programs. I would like to suggest that there may be other options the subcommittee might want to consider.

I came to the conclusion after working in a IV–D program in Texas for a number of years that we needed to do something dramatically different. No matter what we did in the IV–D program in the course of 3 or 4 years, during which time our program was recognized by this subcommittee and the National Child Support Enforcement Association as the most improved program, including tripling our staff, doubling our budget, and significantly improving our system to handle IV–D cases, we nonetheless were no further ahead at the end of 4 years of growth than we were when we began.

It was at that point that a number of us in the IV–D agency decided we needed to make some pretty radical changes in Texas or we weren't going to be able to serve anyone very well. So we started formulating some recommendations through the Child Support Council, of which I am the president. We have looked at solutions based on two assumptions.

One is that the IV–D agencies themselves could not solve this problem alone; and second, we could not look to the Federal and State Government totally to fund the solutions to the problems. We needed to do something differently.

So we set about really to present some new alternatives that would take into consideration those two initial assumptions.

I do want to mention just very briefly that we certainly commend the Clinton administration and this subcommittee on the initiatives that went through here in the Budget Reconciliation Act. We also commend the Interstate Commission on Child Support Enforcement for a great deal of work in trying to identify specific issues that could improve the IV–D program.

However, with all due respect to the Interstate Commission, my concern is that to implement all of those recommendations, which would certainly get you a better program, the commitment by the Federal and State Government to the IV–D program would also have to increase significantly.

There are 167 recommendations in the Interstate Commission's report, 80 of which are new mandates on State IV–D agencies. And instead of adding new mandates to this program, perhaps what should occur is we should revisit some of the original foundations of this program, identify the top five, six or seven key objectives of this program, which would certainly include paternity establishment, and redirect the focus of the IV–D program on those key objectives.

The second part of that, then, would be to try to encourage the private sector to play an even greater role in child support enforcement. There are a number of innovative activities going on around the country. There are some major firms that have decided child support is an area they want to be involved with. Lockheed, IBM, and Deloitte Touche, for example, are among the larger companies now involved in child support enforcement, both through supporting IV–D agencies' efforts, as well as providing direct non-IV–D child support enforcement services.

During the past 10 years, we have basically made IV–D enforcement the only game in town, and the improvement in the IV–D program over the last few years has come from some very sound new ideas and concepts. Unfortunately, these ideas were only in terms of ways to improve the IV–D program.

As a result of that, we have not only eliminated some options for custodial parents seeking enforcement of their orders, but we have also overloaded the IV–D system to the point where if there are any more new mandates the system, I believe, will break down completely.

The second primary problem facing this program is, as Mr. Ellwood mentioned, we have failed to timely establish paternities and set up systems that immediately enforce any delinquent child support obligation. Those are both activities that do not necessarily take a massive infusion of Federal and State dollars to implement.

Certainly the IV–D program should continue playing a role in paternity establishment and enforcement of a great many of all the cases out there, but there are ways this program can be reinvented to include the private sector in efforts to enforce child support and

we would like to see those recommendations acted on by this committee.

I have identified in my written testimony some specific recommendations. They begin with a prioritization of the objectives of the IV–D program, and then move into some other recommendations about how the Congress and State legislatures can look at alternatives to the IV–D program for helping solve the child support problem.

With that, I will end my testimony.

Thank you very much, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF DARRYLL W. GRUBBS
CHILD SUPPORT COUNCIL

I am Darryll Grubbs, President of the Child Support Council. Chairman Ford and members of the Human Resources Subcommittee, it is a pleasure to be here today and to offer my views and those of the Child Support Council. I appreciate the invitation.

The Child Support Council (CSC) is a non-profit association of private child support professionals and businesses. Our goal is to encourage a public-private sector partnership to improve child support establishment and enforcement.

BACKGROUND

My perspectives about the child support enforcement program result from my experience in child support enforcement that began six years ago. From 1987 through 1991, I was an Assistant Attorney General in the Child Support Enforcement Division of the Texas Attorney General's office. As you may know, Texas was, and is still, unique in being one of only a couple of states to administer its IV-D program through the attorney general, who in Texas is also an elected official.

As a result of the innovative leadership of the Texas Attorney General's office during the period from 1987 to 1991, the Texas IV-D program was recognized as the "most-improved" program by both the National Child Support Enforcement Association (NCSEA) and this Subcommittee. Since leaving the Attorney General's office early in 1992, I have established the non-profit Child Support Council and continue working on, writing about, and promoting solutions to the child support problem.

GOVERNMENT ALONE CANNOT SOLVE THE PROBLEM OF UNPAID CHILD SUPPORT

As the members of this Subcommittee know, the fact that billions of dollars of child support goes unpaid each year, and hundreds of thousands of children will never receive child support because paternity will never be established, is a national tragedy.

One reason I left the IV-D program to establish the Child Support Council was because I reached the conclusion that the problem of unpaid child support in the United States could not be solved by the efforts of federal and state IV-D agencies alone. I also came to recognize that in an era of growing budgetary deficits in Washington, and in almost every state capital, it was unrealistic to expect the federal and state government to pay the entire cost of fixing the child support enforcement program.

Accordingly, based upon these two conclusions, the Child Support Council has set out to develop recommendations to improve child support enforcement without relying exclusively on IV-D child support enforcement agencies to establish paternity and enforce support orders for everyone, as the IV-D program essentially is required by law to do today.

Second, we wanted to develop recommendations for an effective national child support program that would not totally rely on taxpayer dollars, as would some proposals being considered in Congress today, such as those to totally federalize the Tide IV-D child support enforcement program through placing it within the Internal Revenue Service. I will comment on this proposal a bit later in my remarks.

Before discussing our specific recommendations, I would like to note that I had the privilege several months ago to appear before this Subcommittee and to present testimony on President Clinton's child support initiatives and some of the recommendations of the U.S.

Commission on Interstate Child Support. While I do not want to repeat that testimony again, I would like to again acknowledge and commend both President Clinton and the members of the Interstate Commission for their sincere interest in and efforts at solving the tragedy of unpaid child support. The Interstate Commission and its members, including Senator Bradley, Congresswomen Kennelly and Roukema, its chairwoman, Meg Haynes with the American Bar Association, Geraldine Jensen, with the Association of Children for the Enforcement of Support (ACES), and others, worked very hard. The fact that a majority of the Commission were able to arrive at consensus on a great many issues as identified in their report is no small accomplishment. As this Subcommittee has already learned, a consensus among child support professionals on almost any child support related issue is often a very difficult and rare occurrence.

Not only was the Commission able to reach a consensus on many issues, but the recommendations that flowed from the consensus are generally very good ones. In fact, if all the dozens of recommendations contained in the Interstate Commission's report could be fully implemented, there is no doubt in my mind that the record of child support establishment and enforcement would significantly improve.

However, with all due respect to the majority of the Commission's members, I do share some of the views about the Interstate Commission's report that are articulated by its dissenting members. Primarily, that the recommendations focus too heavily upon new mandates for state and local IV-D agencies. The implementation of many of these new mandates will substantially increase the workloads of state IV-D agencies. That will require notable increases in staffing and other resources, which of course means more federal and state funding.

In fairness, implementation of some of the Interstate Commissions recommendations would likely result in cost savings to federal and state government through recovery of AFDC and Medicaid dollars. Nonetheless, as I have witnessed first hand from working in a large IV-D program, and as the Congressional Budget Office has acknowledged in its cost savings estimates for some of the Commission's proposals, it is extremely difficult to know with any real degree of accuracy how much money really will be saved once additional program initiatives are established and operating. This is especially true when dealing with any added program initiatives for the IV-D agencies, many of which are still continuing to struggle to implement the mandates resulting from the last batch of federal program improvement initiatives enacted through the 1988 Family Support Act.

What I had hoped the Interstate Commission would do, and would still like to see included in the legislation to implement the recommendations of the Commission is a phased-in implementation of the Commission's recommendations, that would come following a thorough planning process to target the most important objectives for the IV-D program. By simply dropping additional mandates on IV-D agencies, without any sense of priority and importance, will, I fear, quite literally break the back of the IV-D program.

Rather than mandating a laundry list of new requirements and responsibilities to state IV-D agencies, it may be better simply to identify proposals that appear to work well and encourage state and local IV-D agencies to adopt them as quickly as they can within their fiscal and physical capabilities. Already, in fact, that is occurring as states study the recommendations of the Interstate Commission and voluntarily have begun implementing some of the Commission's ideas that the states believe will work.

To their credit, the Clinton Administration and this Subcommittee, through your recent work on the Budget Reconciliation Act, have proposed just a few key changes focusing one or two key IV-D objectives, notably those intended to increase the paternity establishment rate and to enhance the ability of state IV-D agencies to enforce health insurance and medical support requirements.

I would now like to turn to some recommendations of the Child Support Council. In formulating these recommendations our goal was not just to add new layers to the existing

IV-D enforcement program, but to offer some basic structural alternatives for addressing some of the systemic problems that have permitted only limited success of the IV-D program. Addressing these systemic problems will require some bold initiatives, but not necessarily, new programs and activities that will require more federal spending or more federal bureaucracies.

TWO FUNDAMENTAL REASONS FOR THE POOR RECORD OF ESTABLISHMENT AND ENFORCEMENT OF CHILD SUPPORT

From studies of the child support program, and through discussions with those at the state and local level who perform child support enforcement activity, the Child Support Council has identified two basic and fundamental situations that exist in the United States that must be changed if the child support enforcement problem is to be solved.

The first situation is that, for millions of custodial parents who are owed tens of billions of dollars in unpaid child support, there are too few effective options available to them today from which to seek help in establishing or enforcing child support orders. Certainly, state and local IV-D agencies exist in every state to help almost anyone who applies (or who is automatically referred because they are receiving AFDC). Unfortunately, the reality is that this means most custodial parents will wait many months to be served because so many others are doing the same thing.

There are reasons the IV-D agency has become almost the "only game in town" and that custodial parents pursue few if any other options. One reason is that government policies over the past ten years have made the IV-D program the primary source through which most new legal enforcement tools are available. Another reason is that IV-D enforcement services are available at no cost (or nominal cost) to everyone, without regard to income or need.

The result is predictable. There are huge volumes of cases facing every IV-D agency. According to the General Accounting Office, the average IV-D worker has 1,000 cases. This means, as custodial parents know too well, that establishment and enforcement activity by IV-D agencies on most individual cases leaves a lot to be desired. Where the Child Support Council differs from some advocacy groups is that we do not believe the tardiness and lack of thoroughness in the way IV-D cases are worked is because state and local IV-D personnel are lazy or incompetent. Instead, they are functioning with a siege mentality. They are like assembly line workers with parts to be assembled coming down the assembly line at a faster and faster pace. It means they can only afford to devote a very small amount of time to any given case.

As an example, if a IV-D agency's automated locate process does not result in a good address to be used to locate an absent parent, that case may be passed over, even though an address could be obtained through other manual (more labor intensive) locate processes. Instead, only those cases where an address is obtained using the automated locate process make it to the next level of enforcement activity. Because of the increasing volume of cases, and the pressure of complying with federal case processing time frames, IV-D cases must be moved quickly through the "assembly line" enforcement process. The only exceptions to this assembly line process are when a IV-D agency may pursue a more rigorous, hands-on, enforcement effort because there is a significant likelihood of obtaining a support payment (or an AFDC recovery), or otherwise when a custodial parent becomes a "squeaky" wheel and writes letters of complaint to legislators and newspapers.

The second undesirable, but basic situation that exists today, is the failure to timely establish paternities as early as possible and to automatically enforce any delinquent support payment. Under the current system, the first attempt at establishing paternity may not occur until several years after a child is born out of wedlock. Likewise, most efforts to enforce a delinquent child support payment do not begin until the custodial parent initiates a complaint. According to one study, almost 70% of custodial parents waited more than one year before

taking action and 25% waited more than five years. This situation means that, by the time a client comes to a IV-D agency (or is referred if she is an AFDC client), she may no longer know, or have forgotten, important information that could be used to identify or locate an absent parent.

Especially in non-AFDC cases (which are the majority of IV-D cases today), by waiting until a custodial parent decides to seek establishment of parentage, or to initiate a complaint after not receiving child support, effectively guarantees that a substantial number of paternities will never be established and support never paid.

A TWO-STEP APPROACH TO "REINVENT" CHILD SUPPORT ENFORCEMENT

Step One: Opening the Doors of Enforcement to Non-IV-D Entities

According to the U.S. DHHS Office of Child Support Enforcement, there is an estimated $23 billion in unpaid support, and the amount grows daily. As child support advocates often complain, while funding and staffing of state and local IV-D agencies continues to increase, the percentage of cases in the IV-D program in which collections are made remains relatively low (17.9%) and, unfortunately, quite constant (increasing from only 15.7% in FY 1986).

Nonetheless, Congressional and state legislative efforts continue to focus on solutions that provide additional enforcement tools, new staffing and increased funding for the IV-D program and IV-D agencies. This solution simply has not worked effectively and will not, by itself, improve child support establishment and enforcement in the future.

By illustration, in Texas, between 1987 and 1991, we successfully worked to increase funding for the IV-D agency from about $25 million to $100 million. The staff more than doubled from 600 to almost 1300. And, while performance increased significantly during this time, the caseload increases in subsequent years (from less than 200,000 to more than 700,000 today) has almost erased earlier program gains.

All around the country, even after obtaining new funding, additional staff and better enforcement laws, most IV-D agencies merely end up "running in place" because these gains are offset by the staggering increase in IV-D caseloads and the requirements for providing additional services to IV-D clients, such as review and modification of support orders. To illustrate the problem of new federal mandates, while IV-D agencies are still working to reach the 50 percent threshold for establishing paternities (the June 1991 average was 43 percent), OCSE has recently decided that IV-D agencies must now perform, upon request by a non-custodial parent, a review and adjustment of a child support order, even when it was not a IV-D order. Saddling IV-D agencies with such a requirement is nonsensical and only serves to postpone the attainment of what should be more worthy objectives of establishing paternity and enforcing support for custodial parents who are not receiving anything at all from an obligor.

To correct the problems that we have identified, Congress, the Clinton Administration, and state legislatures, must consider a major new approach to solving the child support problem.

Specifically, the CSC recommends the following actions:

- First, relating to the existing IV-D program, there should be a special blue-ribbon advisory committee appointed by the President and top ranking Congressional leaders. Included on this advisory committee should be representatives from all interested sectors within the child support community, including state and local IV-D officials, custodial parents, private sector companies, family law attorneys and others. Their initial and immediate goal should be a complete review of all current mandates of the IV-D program. These numerous mandates (including some which even conflict), must be carefully reassessed

and reconsidered in terms current state and local IV-D agencies' present resources and funding levels. Then a ranking in terms of priority should be established and for which the IV-D program should focus its primary efforts.

The basic question to be answered is what are the most important goals for the IV-D program to accomplish in the next year, the following year, and years three through five. As already mentioned, for example, is obtaining a 75 percent national paternity establishment rate a more important goal to achieve in three years than doing 50,000 modifications of orders at the request of non-custodial parents? Next, the advisory committee should redirect IV-D funding and performance-based audits in a consistent and unified way to encourage that IV-D programs pursue these priorities. Other current responsibilities of IV-D agencies that may have merit, but which are not as important as those having top priority, should be deferred (or redirected to other non-IV-D entities, until Congress is satisfied that the priority goals of the IV-D program have been achieved.

Under such a plan, there will have to be a "moratorium" of sorts on adding any new responsibilities to the workload of IV-D agencies until they have achieved their priority goals.

- Second, in conjunction with the first recommendation above, federal and state policymakers must stop focusing all efforts to improve child support exclusively on IV-D agencies. There are other non-IV-D governmental and private resources that are capable of becoming become part of the overall solution to the child support enforcement problem.

For example, local courts can and do appoint "friends of the court" and "guardians ad litem" to help in child support enforcement cases. In addition, in some states, including Texas, there are county funded local domestic relations offices that perform child support enforcement. These non-IV-D governmental entities do not use nor would they need to use IV-D funding. Instead, many are funded (or could be) through state and county "user fees" or "late payment penalties" in which the non-custodial parent pays for the costs of enforcement.

Additionally, perhaps because there is a more competitive environment than existed ten years ago, private attorneys are in increasing numbers beginning to pursue child support enforcement. In fact, there is a network of private child support attorneys who share information about developments in child support enforcement laws and refer interstate cases to each other.

Likewise, there are a growing number of private child support collection agencies offering services. Unfortunately, many of them have little experience in child support collections and close down as quickly as they opened. However, there are several reputable private child support collection agencies run and staffed by former IV-D caseworkers, who are fully capable of performing effective child support establishment and enforcement work without using federal IV-D dollars.

- Third, again, either through the efforts of an advisory committee or its own initiatives, Congress and state legislatures should do everything possible to encourage the participation of non-IV-D governmental entities and private firms as part of a comprehensive national efforts to establish and collect child support. They can begin by taking a close look at the legal enforcement tools they have written during the past decade for IV-D agencies and identify ones that would be appropriate for use by non IV-D governmental entities, private attorneys and reputable child support collectors.

Again, to illustrate by using Texas, once we decided our IV-D agency was not able to effectively handle all our cases, we changed state laws to permit local government entities, court-appointed guardians ad litem and private attorneys to utilize enforcement practices previously reserved for the IV-D agency.

As a result, today in Texas, these court appointed and other governmental and

private entities are able to use a number of very powerful enforcement tools. One of these tools is a simplified, administrative wage-withholding process. This enforcement tool, previously authorized for use only by the IV-D agency, now allows non-IV-D entities to prepare an administrative writ for wage-withholding (using a form developed by the IV-D agency) and serve the writ on an employer without need for a court hearing and court ordered wage withholding. Before 1991, the only way a custodial parent could use this quick and efficient enforcement tool was to apply to the IV-D agency as a client to the Attorney General's office or seek a judicial withholding order issued by a court following a full hearing.

Another tool that is now available to non-IV-D child support enforcers in Texas is one for enforcement of medical support through mandatory employer health insurance coverage. This is an important example because the medical support provisions contained in S. 689 (introduced April 1 by Senator Bradley) to implement recommendations of the Interstate Commission are patterned after this Texas law. As originally written, the Texas law required an obligor with a medical support order to provide a copy of the order to the IV-D agency, along with the name and address of his employer and whether health insurance was available to him through his employer (or his labor union or trade association). The Attorney General would then send the medical support order to the employer, at which time the employer would have to enroll the NCP's child in the health insurance plan. Within 30 days of receipt by the employer of the order, the employer notified the IV-D agency that the child was enrolled.

In 1991, we amended this statute so that not just the Attorney General (i.e. IV-D agency), but other enforcing entities are also permitted to obtain and serve a medical support order on an employer and to enforce the employer's compliance through adding the dependent child to the noncustodial parent's health insurance.

Texas also enacted a "child support lien" law in 1991 to permit a lien to be attached to property of a delinquent obligor without first obtaining a court issued judgement. Instead, the law authorizes the IV-D agency, and anyone else enforcing the order on behalf of a child support claimant, to submit a "child support lien notice" (which simply recites a few verified facts, including the name of the obligor, the amount of child support arrears and to whom it is owed) to a county clerk where the obligor's property is located or the obligor resides. The clerk is required to enter the lien in the county's judgement records and the property cannot be sold or transferred until the child support lien is extinguished. Again, rather than making this tool available only for use by the Attorney General in IV-D cases, we made it available to anyone enforcing a child support order.

Finally, again in 1991, Texas enacted a quasi-administrative process for obtaining agreed orders in uncontested establishment and enforcement proceedings. This agreed order is filed with the court clerk and the court renders its order without the necessity of a hearing or any other action. This process was originally intended to be available only to the Attorney General (as the IV-D agency) but again we opened this tool to county domestic relations offices and friends of the court.

Through all these changes to Texas child support enforcement law, our intent was to give custodial parents some real options in pursuing establishment and enforcement of child support. When the most efficient and effective establishment and enforcement tools are given only to IV-D agencies, custodial parents are effectively left without any real alternative other than the IV-D agency. However, when other non IV-D entities can obtain access to effective enforcement tools, they become a viable, and perhaps for some custodial parents, a more desirable alternative than the IV-D agency.

Congressional and state lawmakers should look more critically at current child support laws, and all new child support legislative proposals, to consider every possibility for permitting non-IV-D entities access to innovative establishment and enforcement techniques previously reserved for, or planned for, the exclusive use by IV-D agencies.

Similarly, where there are good reasons for the IV-D agency to be the exclusive user of an enforcement tool, such as certifying and submitting cases to the IRS for interception of income tax refunds, every effort should be made to permit cooperative enforcement. For example, if a non IV-D entity is assisting a custodial parent, and sees that there is an opportunity to intercept an income tax refund, they should be permitted to submit the case to the IV-D agency for "IRS intercept-only." The IV-D agency should be given authority to submit the case for IRS intercept without first having to make it a full IV-D case over which they then have to assume full responsibility for all enforcement. This selected IV-D enforcement process makes it possible to keep cases out of the IV-D system that otherwise would have to become the IV-D agency simply to utilize one beneficial IV-D enforcement tool.

Objections to these recommendations to encourage non IV-D government and private sector entities to become involved in child support enforcement will be that they could result in case coordination and jurisdiction problems, that some custodial parents will have to pay fees for services that are provided for free today by IV-D agencies, or perhaps that they will lead to disreputable and unethical collection businesses which will take advantage of custodial parents.

Indeed, in Texas, we heard many of these same concerns as we considered our new legislation. Nonetheless, we concluded that these potential problems should not keep us from permitting enforcement alternatives. Instead, we would face and deal directly with any problems generated, and some problems did arise. However, as we found, when IV-D agencies are willing to work with these other non-IV-D entities to solve problems, they will find themselves with some innovative and aggressive new partners in the effort to help custodial parents obtain enforcement of their child support.

Step Two: Early Intervention - Paternity Acknowledgement and Automatic Monitoring and Enforcement

The problems facing the United States as a result of the increasing number of births out of wedlock where there has been a failure to timely establish paternity are well known. Aside from the legal rights (such as inheritance) and other physical and emotional benefits that children born out of wedlock and without benefit of paternity may never receive, the failure to conclusively determine the identify of the biological father at birth has created a major impasse in the ability of child support enforcement agencies to obtain and enforce support orders for these children.

Similarly, in situations where parentage is established and a support order has been issued, the failure to monitor payments for compliance and to automatically initiate enforcement proceedings upon a delinquency has greatly contributed and continues to add to the growing amount of child support that is not being collected in the United States.

Congress, the Administration and state legislatures can change this situation. The CSC urges the following actions:

- First, Congress should pass and the President should approve the type of early paternity establishment provisions included by this Subcommittee in the Budget Reconciliation bill and those contained in Senator Bradley's legislation. This is an extremely important step in the effort to identify the biological father as early as possible.

- Second, early paternity establishment should be one of the highest, if not the highest, priority of the IV-D program. To promote even greater efforts by state and local IV-D agencies to pursue paternity establishment, the CSC recommends that enhanced federal IV-D funding (90% matching rate) be extended to include all costs related to parentage establishment efforts, including efforts for obtaining voluntary acknowledgements. Currently, just the cost of parentage testing is reimbursed at the 90 percent match rate.

There is one caveat to voluntary acknowledgement that needs to be noted. In our haste to identify a father, we must be careful not to deprive alleged fathers of basic due process considerations, including clear notice of the likely obligation that will result from signing a voluntary acknowledgement form. Also, we believe it would be prudent to encourage parentage testing as part of the voluntary acknowledgement process. There are a number of reasons why this would be desirable, but one of the primary reasons is to minimize the likelihood of later challenges to a voluntary acknowledgement. The results from a parentage test included as part of the acknowledgment form will make it extremely difficult for a judge to reverse because of a later claim of lack of notice or fraud in signing an acknowledgement form.

- Third, in addition to efforts to establish parentage at the earliest possible time, it is imperative to begin programs throughout the United States to monitor all new child support orders from the day they are issued and to have in place systems to automatically and immediately institute enforcement of any delinquency. No other single factor has as much impact on improving compliance with payment of child support than occurs through monitoring of payments and the immediate and automatic enforcement of any late payment.

There are a number of studies that have shown that child support cases monitored from the day they are issued through the end of the period of obligation, coupled with immediate enforcement of delinquency, results in paying rates as high as 70 to 80 percent. To implement such a system throughout the United States will be a substantial undertaking, but is one that would do more to improve compliance with child support obligations than anything else. Again, as with our earlier recommendations, this effort does not need to fall exclusively on the IV-D program and to paid for by taxpayers. Instead, again using Texas for illustration, several of these monitoring and enforcement systems are already in place. A couple of them involve a cooperative relationship between the IV-D agency and county clerks and for which Title IV-D funding is used. However, another one of these monitoring and enforcement projects is run using only revenue generated from a monthly fee ($10) assessed against each obligor.

In addition to the advantage of not having to be taxpayer funded, these systems do not have to be operated and administered by government agencies. There is a bold new experiment about to take place in Dallas, Texas that should be closely watched. The family law judges in Dallas are preparing to award a contract to a private child support agency to monitor all new support orders issued in their courts and to take automatic and immediate enforcement action on any delinquency. This system will not use federal, state or local taxpayer dollars. Instead, the cost of running the program will come from a nominal monthly fee (about $10) that will be collected from every non-custodial parent. If necessary to pay for this system, additional revenue could also be generated by "late payment penalties" imposed on delinquent obligors.

If this effort is successful in Dallas, and paying rates of 70 -80 percent are achieved, as expected, there is no reason why this monitoring and enforcement program could not be replicated throughout the United States. What also makes the Dallas alternative particularly attractive, is that there are no government costs for running the program. If it proves to be even a minimally profitable undertaking for the private child support enforcement company that has the contract, then others will certainly follow. For the federal government, every case that can be handled effectively outside of the IV-D process means IV-D workers can spend more time on cases they already have and can focus more attention on AFDC cases that recoup government costs.

Again, this system will generate some of its own unique problems. The primary issues will likely involve jurisdictional conflicts, particularly in interstate cases. However, with the enactment of those provisions from the Interstate Commission's recommendations that address the major jurisdictional problems that currently frustrate IV-D interstate enforcement (along with the adoption by all states of the new Uniform Interstate Family Support Act), problems faced by local enforcement entities will also diminish.

Other objections to this public-private sector initiative will come from those who believe all custodial parents are entitled to free government enforcement services. In response, these local initiatives are currently using fees assessed only against the non-custodial parent. Further, should one of these projects determine that custodial parents should also pay a small fee for the benefits provided by having the case monitored and enforced, then some income eligibility or threshold could be established.

OTHER ALTERNATIVES: IS FEDERALIZATION OF CHILD SUPPORT ENFORCEMENT THE RIGHT WAY TO GO?

Legislation introduced in the 103rd Congress by Representative Henry Hyde (R-IL) and Senator Richard Shelby (D-AL) would move IV-D enforcement from the state and local level to the federal level and to be administered by the Internal Revenue Service.

There are some appealing aspects to these proposals. On the surface, it may appear that collection of income taxes and child support would be similar and that the IRS can do a superior job of enforcement for an increasingly interstate problem. Perhaps, with a significant increase in funding, and after many years of training and experience in learning how different it is to collect child support, the IRS could do a better job than what is presently being done through the state and county-based IV-D program.

However, the CSC believes the alternatives we have identified and presented to this Subcommittee are ones which will prove equally effective and can be accomplished without massive new federal and state taxpayer dollars and adding to the size of the federal government. Additionally, there is little evidence to suggest that the IRS would be able to do a significantly better job at collecting child support to justify the extreme IV-D reorganization effort that "federalization" would require.

Also, the U.S. Commission on Interstate Commission and the National Child Support Enforcement Association (NCSEA) have come out against the federalization of child support enforcement. The membership of NCSEA includes many of the more than 40,000 state and local IV-D workers who perform child support enforcement everyday and who have a great deal of knowledge and experience in this area. They simply do not believe that the IRS can do this job better than they can. Indeed, the Wall Street Journal recently (June 2, 1993) reported that the IRS collects only 14.5 cents on the dollar in tax liability owed. Hardly a stellar performance.

This is not to say that there is not a stronger role to be played by the IRS in enforcing child support. They have access to much data that would be very valuable in enforcing child support. The Interstate Commission has recommended a number of ways in which the IRS could be appropriately used to help enforce child support, including simplifying the referral process for "full collection" cases to the IRS, which should be enacted.

At best, federalization is an idea that is probably premature and which, hopefully, will not become necessary in the future.

CONCLUSION: A REASON FOR HOPE

In closing, rather than being discouraged by the present situation of a desperately overloaded IV-D child support system, this is one area of critical social concern for which a solution is possible. It will not occur overnight, and advocates, as hard as it may be, must be patient and give some time for the cure to work. Unfortunately, regardless of the alternatives adopted by Congress and state legislatures, even if it is federalization of the IV-D

program, the change will not occur quickly enough to be of help to some of those who have gone without support.

However, the Child Support Council believes that by starting now to address the underlying reasons that have caused the current child support system to achieve only marginal success, it is possible to see some hope for a solution to this problem in the not to distant future.

The CSC does not believe the solution can come through efforts by IV-D agencies alone, or those which rely exclusively on a taxpayer funded system, such as the IRS. Instead, the CSC believes the solution will come from a truly bold, cooperative venture between IV-D agencies, and other non IV-D state and local government and private sector entities. Their combined resources, talent and penchant for innovation will bring about a comprehensive system with each of these entities filling a special need in completing a new system to serve all custodial parents and their children that deserve to receive the support for which they have a legal and moral right.

Thank you, Mr. Chairman, and members, for this opportunity to present our views. We hope they are of help to you as you continue your efforts to solve the child support problem.

Chairman FORD. Thank you very much.
At this time Mr. Henry.

STATEMENT OF MICHAEL R. HENRY, DIRECTOR, VIRGINIA DIVISION OF CHILD SUPPORT ENFORCEMENT; AND IMMEDIATE PAST PRESIDENT AND COCHAIR, INTERGOVERNMENTAL RELATIONS COMMITTEE, NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION

Mr. HENRY. Mr. Chairman, members of the committee, I am pleased to have this opportunity to testify on the status of State child support enforcement programs.

My name is Michael R. Henry. I am the director of the Virginia Division of Child Support Enforcement and former director of the Missouri Child Support Agency. I am here today to testify on behalf of the National Child Support Enforcement Association, for which I am immediate past president and currently serve as cochair of their intergovernmental relations committee.

We are an organization dedicated to enforcement of children's rights to adequate parental support. The membership is comprised of over 1,500 agencies and individuals representing the entire spectrum of the child support enforcement community, including State and local administrators, caseworkers, judges, hearing officers, legislators, prosecutors and private attorneys, and others.

I would like to spend a couple of minutes identifying unresolved issues out of the Family Support Act of 1988, and then make a couple of comments regarding where we think we should be going in the future.

One of the unresolved issues out of the 1988 act deals with immediate income withholding for non-IV–D cases. Effective in January of next year, all child support orders must contain a provision for immediate wage withholding. The requirement applies unless the parties agree to an alternative arrangement, or the court administrative agency finds there is good cause not to impose immediate income withholding.

The Federal Office of Child Support Enforcement has construed this mandate to require that payments be routed through and tracked by a State or local agency, which will almost always be the IV–D agency.

Moreover, they have determined that Federal financial participation is not available to partially offset the cost that accompanies this mandate. We question whether this was congressional intent and ask for amendments to make that issue clear.

Another issue deals with the 1988 act's requirements that State IV–D agencies review and adjust support orders periodically in AFDC cases and upon the request of either parent in non-AFDC cases. Our concern here is the extent to which the act requires the State child support agencies to advocate on behalf of noncustodial parents for downward adjustments.

Although we certainly don't have any problems with downward adjustments when they are appropriate using the State's guidelines, we have come to recognize as we have tried to implement this that there are conflict-of-interest problems, particularly for attorneys on the front lines of the child support agencies around the country. These attorneys may find themselves in court one day

seeking to imprison a particular noncustodial parent for failure to pay, and then might well be in the same court the following week advocating on his behalf for downward modification. It is something that is causing child support attorneys around the country a lot of difficulty.

The American Bar Association has issued an advisory opinion that there is an attorney-client relationship between the attorney and the custodial parent. Presumably that same reasoning would apply to services for noncustodial parents. It is difficult for the program and the attorneys to reconcile those conflicts.

As far as where we believe we should be going, we are on record as opposing federalization, and I refer you to the numerous comments directed to this subcommittee last summer, when a hearing was held to discuss that issue. Our main concerns deal with cost. I think we are probably talking about the need to hire in the area of 40,000 Federal employees to federalize the program.

Previous federalization proposals have further fragmented the program by bringing in several different agencies. We see a long timeframe in getting to implementing a Federal program due to conversion complexities. Plus, there is no service delivery system in place for the Federal Government to take over.

We do very much support the recommendations of the Interstate Commission, particularly 1 and 2, dealing with staffing and training. Many of us believe that the most significant problem in the program is case loads that exceed 1,000 per worker in many jurisdictions. That boils over into the interstate problem. I think it is more a situation of cases getting worked because someone is complaining, and you tend to get more complaints from custodial parents who reside in your State.

So there is a natural preference that States give for in-State cases. When you have case loads of 1,000 and it is possible for somebody to handle a case load of 400 or so, the more difficult cases, such as contested paternity cases, interstate cases and cases involving self-employed or underemployed, noncustodial parents don't get the attention they deserve.

We also need better location and case tracking through improved automation. Recommendations 4 through 10 in the Interstate Commission deal with this quite well.

I would also particularly suggest we need better access to Federal tax data, and we need to be able to use it in court and in administrative proceedings at the State level, whereas now we are prohibited from doing that.

My time has expired. I would refer you to the remainder of the report.

[The prepared statement follows:]

STATEMENT BY

MICHAEL R. HENRY

NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Introduction. Mr. Chairman, distinguished members of the Committee: I am pleased to have this opportunity to testify on the status of state child support enforcement programs.

My name is Michael R. Henry. I am the Director of the Virginia Division of Child Support Enforcement and former Director of the Missouri child support agency. I am here today to testify on behalf of the National Child Support Enforcement Association (NCSEA), for which I am Immediate Past President and currently serve as Co-Chair of the Intergovernmental Relations Committee.

NCSEA is a national organization dedicated to the enforcement of children's rights to adequate parental support. NCSEA's membership is comprised of over 1,500 agencies and individuals representing the entire spectrum of the child support enforcement community -- state and local administrators, case workers, judges, hearing officers, legislators, prosecutors and private attorneys. Founded in 1951, NCSEA is the largest group in the country devoted exclusively to child support enforcement.

I commend you for your commitment to improving the status of America's children and families and for soliciting testimony from those of us who have practical, hands-on experience in child support enforcement.

I would like to discuss where we are and where we should be going to improve child support enforcement. I will begin by talking about a couple of the issues surrounding the implementation of the Family Support Act of 1988. Then, I will present NCSEA's view of where we should go from here.

I. <u>WHERE WE ARE: IMPLEMENTATION OF THE FAMILY SUPPORT ACT OF 1988</u>.

As you know, some of the provisions of the Family Support Act have been implemented, while others await implementation. I will limit my comments to two provisions of the Act: (1) the requirement of immediate wage withholding

in all child support cases, including non-IV-D cases; and (2) periodic review and adjustment.

Effective January 1, 1994, all child support orders must contain a provision for immediate wage withholding. The requirement applies unless the parties agree to an alternative arrangement or the court or administrative process finds that there is good cause not to include such a provision.

Our concern? The law has been interpreted so that the costs of administering this provision will not be eligible for Federal Financial Participation (FFP) reimbursement. We estimate that from the point of case initiation through such on-going tasks as billing employers by mail, collecting payments, generating and mailing payment checks, responding to inquiries from both custodial and non-custodial parents, and monitoring and maintaining accounts, some states will incur expenses of up to $200 per case per year to administer this requirement. Because OCSE is limiting cost-recovery to $25.00 per case, states will have to make up the difference.

Under existing law, FFP is available to offset state expenditures for the operation of the IV-D plan -- and the wage withholding provisions of Section 466 of the Social Security Act, including the provisions that apply to non-IV-D cases, are IV-D plan requirements. See 42 U.S.C. §§ 654(20) and 655(a)(1). Just as location services provided to individuals not receiving full IV-D services are eligible for FFP, wage withholding services in non-IV-D cases should also qualify for federal reimbursement. We urge Congress to eliminate any ambiguity in the law by authorizing the states to recover the costs of administering the wage withholding provision.

The second issue I would like to address is periodic review and adjustment of child support orders. OCSE has interpreted the Family Support Act to require IV-D agencies to actively initiate downward modifications if requested by non-custodial parents. In other words, the IV-D agency may be aggressively enforcing a child support order against a non-custodial parent who, under this interpretation, could immediately request that the IV-D agency assist him or her in obtaining a downward modification of the order. This interpretation has led to heated debates at numerous national conferences, particularly among child support attorneys who see in this proposal a serious threat to accepted standards of professional conduct.

Our concern is that there is a conflict of interest in simultaneously providing services to both custodial and non-custodial parents. Inasmuch as the IV-D agency performs the roles of investigator, negotiator, and prosecutor for custodial parents seeking to establish, modify and enforce

child support orders, the agency cannot then reverse roles in the same case and initiate proceedings for non-custodial parents seeking downward adjustments in their orders.

Compounding this dilemma is the fact that despite the dramatic expansion of services to non-AFDC families since 1984, all IV-D programs are still driven to a great extent by AFDC collections. Incentive payments are based on the ratio of AFDC collections to the cost of the program. Many state legislatures set collection goals to measure the effectiveness of the program. As it is, to the extent that adjustments increase the child support amount sufficiently to close the AFDC case, the IV-D agency -- in a direct sense -- is hurting its AFDC collections by pursuing upward adjustments in child support orders. To then require the agency to initiate **downward** adjustments creates an untenable conflict of interest.

While the IV-D agency can surely disclose financial information in its possession to both parties, ensure that orders are based on proper evidence and treat non-custodial parents in a fair and just manner, its limited resources should not be concentrated on the pursuit of downward adjustments. We ask that Congress ensure that IV-D agencies be allowed to focus their energies on obtaining upward adjustments in child support orders and identifying clear criteria for adjustment, clarifying the burden of proof, facilitating discovery, simplifying procedures, making courts more accessible, making form pleadings available, and providing simple instructions on how to obtain a pro se downward modification.

II. WHERE WE SHOULD GO FROM HERE: BUILDING UPON THE EXISTING STATE-BASED IV-D CHILD SUPPORT SYSTEM.

Where should we go from here? The bottom line in the discussion about reform is that child support enforcement requires greater uniformity among the states. The overriding question is how to achieve it. First, I would like to explain why NCSEA opposes federalization. Then I will discuss how we propose to build a new and improved child support enforcement system on the foundation of the existing state-based IV-D system.

A. Federalization is Not the Answer.

Why does NCSEA remain steadfastly opposed to shifting responsibility for the collection, enforcement and modification of child support obligations from the states to the federal government? While we endorse many features of the Child Support Enforcement and Assurance Proposal, we disagree with the proposal's federalization component for three main reasons.

First, proposals to federalize child support enforcement are premature. The Family Support Act requires the states to have statewide automated tracking and monitoring systems by 1995. Almost half of the states are already implementing these systems at an average cost of $10 million per state. Most of these costs are reimbursed by the federal government at a rate of 90%. It seems premature -- and wasteful -- to recommend the abolition of the IV-D system while the states are assembling the building blocks to get the job done. Furthermore, even if proposals to federalize child support enforcement live up to their exacting standards, it will be at least a decade before federalization is fully implemented -- a timeframe that is too long for most American families.

The second reason we oppose federalization is that it will undermine efforts to reduce the federal deficit and curtail spending initiatives. The cost of transferring child support cases from 54 jurisdictions to the federal government will be significant. Few states have centralized child support functions; most have child support systems that are county-based or court-based. This cost must be added to the cost of creating yet another layer of federal bureaucracy within both the Internal Revenue Service and the Social Security Administration.

Last, we strongly believe that child support policy must be national but implementation must remain local. Federalization would encroach upon a domain of family law that has historically been reserved to the states and that is inextricably intertwined with such issues as custody, alimony and property division. This seems incongruous at the very juncture in world history where the impetus is toward decentralization and the empowerment of local institutions that can revitalize democratic government. The current child support enforcement system strikes the proper balance between national objectives and diversity among the states.

B. Measures to Improve the Child Support Enforcement Program.

If federalization is not the solution to improving child support enforcement, then what is the answer? Our strategy centers around two key approaches: elevating the IV-D agency within the hierarchy of each state's government; and adopting the recommendations of the U.S. Commission on Interstate Child Support.

1. Elevate the IV-D Agency within the Hierarchy of Each State's Government.

As you know, each state is required by federal law and regulation to establish or designate a single and separate organizational unit to administer its child support enforcement program. A state may establish a new agency to

administer the IV-D program or locate the IV-D agency in an existing state agency, such as the attorney general's office, revenue department or public welfare agency. Even though a state's IV-D plan must indicate the location of the IV-D agency if the IV-D agency is housed within another state agency, there is no federal mandate -- or incentive -- for placing the IV-D agency in a position of priority within the overall administrative hierarchy. Yet, as we all know, the organizational location of any agency indicates the priority accorded to the agency's mission and determines the amount of resources devoted to the agency's mission.

The most effective way to improve the child support enforcement program is not to undertake the wholesale transfer of the program from the state and local level to the federal government, as proponents of federalization advocate; instead, efforts to reform the system should concentrate on elevating the IV-D agency to a position within each state's government that demonstrates a firm commitment to child support enforcement. In addition, if the IV-D agency is located within an existing state agency, the IV-D director should be accountable to the agency's commissioner or a person of comparable status and authority.

We recognize that the appropriate location of each IV-D agency will depend upon each state's unique structure. But such efforts will enhance the visibility and status of the IV-D agency, ensure that adequate resources are dedicated to the agency's mission, and increase the likelihood that qualified individuals with strong leadership skills will seek to serve the agency. If you look at the record of successes and failures, you will see that the IV-D agencies that have made the most impressive strides in child support enforcement are those that are, literally, positioned for success. We strongly encourage Congress to focus on measures to require or encourage each state to elevate its IV-D agency to a position within the governmental hierarchy that reflects the importance of its mission.

2. Adopt the Recommendations of the U.S. Commission on Interstate Child Support.

The second feature of our strategy to improve child support enforcement is adoption of the recommendations of the U.S. Commission on Interstate Child Support. Over the course of the development of the child support program, the states have served as "laboratories of democracy"; virtually every new idea -- from programs to establish paternity at the time of a child's birth to the reporting of newly hired personnel-- has been conceived in the states. Adoption of the Commission's recommendations will allow the states to continue to serve as laboratories of democracy -- and to replicate the most successful practices of the most innovative states. We urge Congress to give priority to the

following recommendations.

a. Establishment of Minimum Staffing and Training Standards.

If we are to improve child support enforcement, it is essential that we have adequate numbers of well-trained people serving children in need. No legal reform, no automated system, and no new procedure will make a positive difference unless child support agencies are properly staffed.

We recommend that states be required to staff their child support programs at a minimum level, based on staffing studies to be conducted by OCSE. Congress should take action to ensure that the staffing levels in the state and local agencies are increased. In addition, states should be required to have minimum standards in their plans for training for all persons involved in the child support program under Title IV-D. We request that Congress appropriate and earmark sufficient funds for training purposes.

b. Adoption of UIFSA.

We also urge Congress to mandate that the states implement verbatim the new Uniform Interstate Family Support Act (UIFSA) by a specific date, no later than July 1, 1996. This will ensure that state laws and procedures for establishing and enforcing support in interstate cases are consistent.

c. Reporting of New Hires.

Third, Congress should mandate that each state require employers to report the names and Social Security numbers of their new employees. This is one of the most important recommendations in the Commission's report. This measure will greatly expedite the location of child support obligors and the deduction of child support from the obligors' wages to comply with child support orders.

We advocate the approach used in Washington State, Massachusetts, Iowa and other states. These states merely require the employer to send a copy of the W-4 to the IV-D agency via FAX, computer tape, mail or other acceptable means. This information can be matched against child support records to determine whether the new employee has a child support obligation and, if so, enable the IV-D agency to automatically send a notice to the employer indicating the amount of the obligation and the name of the payee.

In one way or another, the IV-D agency must acquire information about the scope and cost of health care coverage

available to the new employee. Congress should examine whether the W-4 form is the proper vehicle to accomplish this goal and, if so, require the Secretary of the Treasury to revise the form accordingly.

Also, any penalties for noncompliance with the employer reporting requirement should be established by federal law to ensure uniformity among the states.

d. Establishment of Paternity in the Hospital.

All states should also be required to develop procedures for voluntary parentage acknowledgment that will result in a legal finding of parentage shortly after the birth of a child to unmarried parents. Washington State pioneered this program and Virginia and several others states have highly successful programs. The paternity establishment rate has jumped -- almost 60% of fathers acknowledge paternity -- and the costs of location and blood and genetic marker tests have dropped. This is yet another example of the type of initiative that can be and should be replicated in other states.

e. Withholding of Licenses.

Congress should also consider requiring all states to deny professional, business and trade licenses to delinquent child support obligors, especially in cases where the obligor is self-employed. Arizona and Vermont already link the issuance or renewal of a license to the payment of child support. Similar legislation has been proposed in both Michigan and Missouri. A federal mandate would facilitate passage of such legislation by other states.

f. Use of Administrative Liens in all Cases with Past-Due Support.

States should also be required to enact laws requiring that certain lump-sum payouts, including lottery winnings, insurance settlements and the proceeds of lawsuits, be used to satisfy past-due child support.

Currently, in some instances the IV-D agency does not receive prior notice of impending payouts or settlements; as a result, child support liens are not imposed and opportunities are lost to recover past-due support. In other cases, liens are imposed only after assets are identified -- and then liens are imposed individually, on a case-by-case basis, a cumbersome, labor-intensive process. We propose an alternative way to ensure that an obligor's assets are available to satisfy a child support debt: the use of an administrative lien.

As a result of the Bradley Amendment of 1986, every child support payment becomes a judgment by operation of law as of the date it is due and unpaid. This makes it unnecessary to return to court and reduce arrears to judgment in order to collect a child support debt. This amendment is the basis for creating an administrative lien process that is analogous to the tax refund intercept process.

The first step would be to provide that just as a child support payment becomes a judgment on the date it is due and unpaid so, too, a lien arises at the time a child support payment is due and unpaid. The lien would encumber all of the obligor's real and personal property. On an annual basis, the agency would send the obligor a notice specifying the amount of the child support debt, the enforcement measures that the agency is authorized to use to collect the debt and informing the obligor of his right to request an administrative review. This notice could, conceivably, be incorporated in the notice that the agency is already required to send to obligors for purposes of the tax refund intercept program.

Next, the agency would conduct computer matches to locate any assets that may be used to satisfy the debt. For example, the list of delinquent obligors could be matched against the records of the registry of motor vehicles, the secretary of state's office, insurance companies, banks and other financial institutions or the registries of deeds. As appropriate, measures would be taken to perfect the child support lien. Thus, child support liens could be imposed on a wholesale basis, rather than "by the each." To make this enforcement remedy as effective as possible, it would be necessary for Congress to require that a child support lien imposed by a IV-D agency be recognized across state lines, in much the same way as a judgment rendered in one state is entitled to full faith and credit by other states or a wage withholding order is honored across state lines.

g. Other Recommendations.

We would also like to urge Congress to adopt several other recommendations of the U.S. Commission. Briefly, Congress should --

- expand the network for locating non-custodial parents and their income and assets by granting child support agencies timely access to federal tax information and requiring the states to to adopt laws granting the agencies access to additional in-state information sources;

- amend and expand the Employee Retirement Income Security Act (ERISA) to ensure that pensions and other retirement funds are easily attachable to

satisfy child support duties;

- provide that children receive adequate health care coverage by mandating that the insurance industry cooperate to provide coverage for all eligible children, regardless of their residence or the marital status of their parents; and

- examine various IV-D funding formulas and revise the incentive formula to require the reinvestment of incentives into the child support program.

The Commission has provided a blueprint for reform that is sufficiently detailed to permit its swift implementation -- and likely to garner broad bipartisan support in the United States Congress. Many of the Commission's recommendations have been incorporated in the Interstate Child Support Enforcement Act, recently filed by Senator Bradley. NCSEA enthusiastically endorses the bill and is committed to working for its swift passage and implementation.

Before I close, I would like to take this opportunity to caution you about a proposal that would require IV-D agencies to use their location resources to provide information for the purpose of enforcing visitation orders. We have significant questions and concerns about such a requirement -- especially given the epidemic of domestic violence that is sweeping the nation. According to the Surgeon General, "domestic violence is the single greatest cause of injury to women in the United States, accounting for more injuries than automobile accidents, muggings and rapes combined." We respectfully request that Congress carefully evaluate any proposal to impose such a requirement on IV-D agencies to ensure that cases of domestic violence are identified, that information is protected when appropriate and that the provisions can be effectively administered by the IV-D agency.

Conclusion. In closing, we urge you to balance the need for continuity with the need for aggressive innovation by endorsing the recommendations of the U.S. Commission. We are committed to working with Congress to ensure that our nation's child support enforcement system is reformed in a manner that best serves the needs of our nation's children and families.

Thank you for giving me an opportunity to testify on behalf of NCSEA. We look forward to continuing to work with you.

Chairman FORD. The testimony of all of the witnesses will be made part of the record.

At this time, Mr. Jackson.

STATEMENT OF LARRY D. JACKSON, CHAIR, NATIONAL COUNCIL OF STATE HUMAN SERVICE ADMINISTRATORS, AMERICAN PUBLIC WELFARE ASSOCIATION, AND COMMISSIONER OF THE VIRGINIA DEPARTMENT OF SOCIAL SERVICES

Mr. JACKSON. Thank you, Mr. Chairman.

I am here as the Commissioner of the Virginia Department of Social Services.

Mike and I are always glad to be able to be here. We hope it is because we are good. We sometimes feel it is only because we are 100 miles down the road.

I am also here as chair of the National Council of State Human Service Administrators, and I also presently serve as the chair of APWA's Welfare Reform Task Force Group on Self-Sufficiency.

I want to go right to the heart of what I think some of the issues are, some of the improvements that need to be made, some of the help we need to receive from you.

There is no question, as you have heard several times this morning, paternity establishment needs to be improved. You cannot establish an order if you don't know who the parent is.

There are a number of things that some of the States are doing, including, as Mr. McDermott mentioned this morning, in Washington, and also the Commonwealth of Virginia is working diligently with our hospitals. We have 33 hospitals on line that help us establish paternity.

In 1987 in Virginia we established paternity in over 2,000 out-of-wedlock births. This year it will be 20,000, which means we are almost at about 75 percent of all out-of-wedlock births taking place.

We have paid a lot of attention to that situation. We think it can be done in other States. We think it can be done on a voluntary arrangement with those hospitals who have been extremely cooperative in working with us through the Virginia Hospital Association.

There also has to be an improvement in the establishment of child support orders. The best way to avoid paying child support in this country is to move across State lines. You have also heard that from a number of people this morning.

We think there needs to be uniform rules for the jurisdictions on orders for child support. We think this can be established through the Uniform Interstate Family Support Act, UIFSA, if you will, which will require employers to report new hires within 7 days by submitting to the State copies of the W–4 form, which is a form we all fill out as we become employed, but really goes no place. It just gets filed someplace within the employer's group or business and there is no reason why that form cannot be transmitted.

We are requiring that now in Virginia, effective July 1. We will have that 7-day reporting requirement on our employers. That legislation was passed by our General Assembly this past session.

We also would suggest to you that while APWA does not normally recommend Federal mandates where we are dealing with cases of an interstate nature, of which about 33 percent nationwide are in that category. They are the most difficult to collect on, par-

ticularly for a State on one of the seaboards where we have people traveling from New York down to Virginia down to Florida, changing jobs on a periodic basis, where we deal with a major migration. In a State such as California, which has problems of its own in collecting its own child support let alone working with States on their cases, there really needs to be something done in this particular area if we are going to improve the collection of child support in this country.

The U.S. Commission on Interstate Child Support has supported these recommendations and recommended UIFSA, and we pair with them as we do on many of their recommendations. There needs to be an improvement in enforcement collection. We believe we have established a need for a national commission to develop national child support guidelines.

We know that the 1988 legislation ordered the States to develop guidelines. That has been done in most cases. However, those guidelines are not uniform across the States. We believe that would serve well in terms of taking better care of our children and the families if we had guidelines that were of a nature that no matter if you were in California or Virginia, you knew what your guideline, your payment, was going to be relative to your income.

We also think that the health care issue is extremely important in the establishment of these orders. Something in the neighborhood of 60 percent of all support orders lack health insurance coverage or health insurance mandates in those orders when they come down.

Part of that problem that we have identified in Virginia is a result of ERISA, which is the Employer Retirement Income Security Act, which forbids the States to force companies who are self-insured to have health care plans that would be applicable to the groups of children that we are concerned about here. That is probably over half of our employers in Virginia that are under that self-employed insurance situation. We would also believe that there needs to be adequate resources for the program.

Again, the situation of 1,000 cases per worker is not conducive to getting the job done. We believe that OCSE should conduct a study to determine what adequate staffing levels should be, and those recommendations should be applied nationwide.

Lastly, we also believe that there needs to be reform of the child support audit process. The audit process now is absolutely an audit of processes. It doesn't measure at all what outcomes are. We believe those outcomes should measure paternity, order establishment, collections, health insurance, and distribution. This would establish uniformity and accuracy of data, reporting, and hold States accountable for effective programs.

I also believe it would give the States some really definite targets they need to be shooting for, as opposed to trying to figure out how we are going to beat the game on this process audit. We have been through this twice in Virginia. We have passed it both times. I can assure you it is time consuming and painful and it doesn't accomplish anything.

Mr. Chairman, that concludes my remarks.

[The prepared statement follows:]

TESTIMONY OF LARRY D. JACKSON
AMERICAN PUBLIC WELFARE ASSOCIATION

Good morning, Chairman Ford and members of the Subcommittee on Human Resources I am Larry Jackson, Commissioner of the Virginia Department of Social Services and Chair of the American Public Welfare Association's National Council of State Human Service Administrators. I also chair APWA's welfare reform group, the Task Force on Self-Sufficiency. APWA is a nonprofit bipartisan organization that represents the 50 state human service departments, local public welfare agencies, and individuals concerned with social welfare policy and practice.

Mr. Chairman, half of all children born this decade will live in a single-parent family at some point in their life. Given that half of our children will potentially be eligible for child support and need assistance from the child support system, how is the system doing? The answer is that there is both good news and bad news. The good news is that the program has improved in many areas. The bad news is that we have a long way to go -- the system needs major reforms. I will discuss the reforms in APWA's 17 point child support reform proposal and some issues regarding the implementation of the child support provisions of the Family Support Act. But first the good news.

Improvements in the Child Support System

The good news is that we have made improvements in many areas of the program. According to the federal Office of Child Support Enforcement (OCSE), in the last five years the IV-D system:

- Increased collections from $3.9 billion to $6.9 billion, an increase of 77 percent.
- Increased the total number of IV-D cases in which a collection was made from about 1.7 million to 2.6 million, a 53 percent increase.
- Increased the total number of locates of absent parents from 1.1 million to 2.6 million, a 136 percent increase.
- Increased the total number of paternities established from about 269,000 to 479,000, a 78 percent increase.

We believe that these increases -- despite huge increases in caseloads -- are due in large part to the hard work and improvements by the state child support agencies.

Problems With The Current Child Support System

The bad news is that the current system, unfortunately, is still not working very well. States do not have the tools or the resources to run a truly effective system. The sad truth is that only 60 percent of eligible women have child support orders and only half collect the full amount. This means that almost 75 percent of mothers entitled to child support either lack support orders or do not receive the full amount due under such orders. Furthermore, the percentage of total IV-D cases with collections is still too low. This figure -- just under 20 percent -- simply is not acceptable.

As the state administrators of these programs, we are painfully aware that the system is broken and needs fixing. That's why as Chair of APWA's National Council I appointed a task force last year to develop recommendations to reform the system. The product is our 17 point resolution which our organization passed in December, 1992. Our welfare reform task force is considering additional reforms. I'd like to take a few minutes to briefly discuss the highlights of our reform proposal.

Reforms of the Child Support System Supported By APWA

First, we must improve paternity establishment. We believe that states should be required to develop procedures for voluntary parentage acknowledgment both in hospitals and through an administrative process operated by the state IV-D agency.

Paternity establishment is a prerequisite for obtaining a child support order but currently one out of every four children born in this country each year is a nonmarital birth according to OCSE. This produces a situation where paternity is established in less than one-third of the nonmarital births.

Studies show, however, that more than 80 percent of parents of nonmarital children are in contact with each other at the time of birth. States such as my state of Virginia and Washington State have been very successful in increasing paternity establishment by conducting outreach at hospitals and birthing centers. We generally support proposals in the president's budget currently being debated by Congress that would require states to establish new, higher performance standards for paternity by setting up voluntary acknowledgment processes in hospitals.

Second, we must improve the establishment of child support orders. We endorse requiring states to provide uniform rules for the jurisdiction of orders through the Uniform Interstate Family Support Act (UIFSA) and require employers to report new hires within seven days to the state via a copy of the W-4 form.

Currently, the easiest way to avoid paying child support is merely to move to another state. One-third of all child support cases are interstate meaning that the father and mother live in different states. But only 10 percent of the dollars collected are from interstate cases. And over time an even larger percentage of all cases are interstate since people move so frequently.

The only way to deal with the interstate problem is to make the state systems more uniform. States should be required to provide uniform rules for jurisdiction of orders through the Uniform Interstate Family Support Act (UIFSA), a model law developed by the National Conference of Commissioners on Uniform State Laws. According to the American Bar Association (ABA), six states have already adopted UIFSA including Arizona, Arkansas, Colorado, Montana, Texas, and Washington State.

States currently have different versions of an interstate statute that was developed during the 1950s and 1960s. However, all states now need a statute that is the same and that is updated for the problems of families in the 1990s. Normally, APWA opposes federal mandates. We continue to oppose unfunded mandates. But we support this mandate on the child support system as the only way to deal with the problem of interstate child support cases.

Under our proposal, states would have approximately three years from the date the federal law was enacted to adopt UIFSA and all states would then begin using the new method of handling interstate cases on the same date (for example, January 1, 1996). The U.S. Commission on Interstate Child Support, which was established by the 1988 Family Support Act to study interstate issues, also recommended that all states adopt UIFSA.

We also recommend that employers be required to report new hires within seven days to the state via a copy of the W-4 form. Based on a process operating in the State of Washington, this system would use a revised W-4 form for a new employee to report any child support obligation and to allow states to identify cases in which they can initiate income withholding. The problem with the current system is that most states receive employer wage information three to six months after the employee is hired, so the information is generally too old to be useful.

The proposed W-4 reporting process would begin when a new employee completes the paperwork on the first day of the job. An expanded W-4 form would require the employee to report the amount of the child support obligation paid under an income withholding order, the name and address of the payee, and the availability of health insurance. This information would be stored in a Registry of Support Orders in each state. The Registries would include all IV-D support cases and private cases where either party requests that their case be part of the registry. Each state system would be able to communicate with other state systems to create a national system. W-4 reporting is a

proactive measure that benefits the state and obligees by providing early identification of employment for the immediate implementation of income withholding.

Third, we must improve enforcement and collection. We recommend establishing a National Commission that includes significant state involvement to develop national support guidelines. We also recommend that children receive adequate health care coverage by mandating that federal and state laws provide for access to coverage for all eligible children regardless of their residence or the marital status of their parents.

The 1988 Family Support Act mandated that every state develop their own guidelines to be presumptively applied in all cases. However, the interstate problem discussed in the previous recommendation means that an effective child support system requires national uniform guidelines. We endorse the Interstate Commission's recommendation that a National Child Support Guidelines Commission be established to develop a national child support guideline after undertaking an analysis of current national support guidelines models while also taking account of regional cost-of-living differences. This is not an immediate mandate on states but an attempt to move toward a national uniform system.

In terms of health care, currently about 60 percent of all support orders lack provisions regarding health insurance. Furthermore, many insurance companies ignore health care orders. One of the principle problems is that the 1974 Employee Retirement Income Security Act (ERISA) does not allow states to regulate employers who have self-insured plans. Although ERISA mostly deals with the protection of employee pension plans, even when there is an order for health coverage the self-insured exemption allows many employer-provided insurance plans to discriminate in dependency coverage, obligors to fail to enroll their children as ordered, insurance carriers to refuse to accept claims filed by the custodial parent on behalf of the employee's dependent, and obligors to pocket insurance reimbursements rather than forward the money to the custodial parent.

Congress should remove the effects of the ERISA preemption of state regulation regarding health care coverage for children by amending ERISA to subject self-insured health care plans to state regulatory control.

Fourth, we must provide adequate resources to the program. We recommend raising the Federal Financial Participation (FFP) match rate from 66 percent to 85 percent, restructure or abolish incentives, and require a state maintenance of effort to provide adequate resources for the child support program.

One of the top priorities for the child support system is to provide adequate resources through funding reform and simplification of the funding mechanism. Nationally, the average cases-per-worker is 1,000. We need adequate resources to provide reasonable staff levels. One of the proposals that our welfare reform task force is considering is the proposal made by Senator Daniel Patrick Moynihan that would raise the match rate from 66% to 85%, abolish incentives, and require a state maintenance of effort. This would provide the resources to provide reasonable staff levels to provide children the support they need. We also recommend that OCSE conduct a study to determine adequate staffing levels.

Fifth, we must reform the child support audit process. We recommend establishing a Commission that includes significant state involvement to develop regulations to change the child support audit system from a process-oriented system to an outcome-oriented system.

The present federal child support audit criteria contain more than 130 process-oriented criteria focusing on whether certain pieces of paper were properly filed instead of whether the child support was actually paid. This focus on administrative process rather than performance outcomes makes for a flawed audit system where 71 percent of the states do not pass their initial audit. Most states do eventually pass the audit after a corrective action period. However, the current audit process requires the OCSE to commit approximately 50 percent of its central office staff resources to the audit function.

Over the last year, APWA developed our audit proposal in conjunction with the National Governors' Association (NGA) and the child support directors. We believe that the best reform would be for a Commission to develop audit criteria for the Department of Health and Human Services to implement through regulations. Specifically, the Commission would develop regulations to reform the child support audit system to measure performance outcomes. Outcomes would be measured on paternity establishment, order establishment, collections, collections of arrears, health insurance, and distribution. This would ensure uniformity and accuracy of data reporting and hold states accountable for effective programs. We would like to thank Congressman McDermott for introducing this proposal as a bill, HR 2241, and ask that the members of this committee for their support.

Sixth, we must establish federally funded demonstration projects of child support assurance. A Child Support Assurance System (CSAS) has been operating in many countries including Great Britain, Sweden, Germany, and Israel and recently has received an increasing amount of attention in this country. CSAS would guarantee a minimum child support benefit to all custodial parents who have a child support order and have established paternity. The federal government would make up any difference between the amount of support collected and a predetermined minimum benefit level. Unlike welfare programs, child support assurance is universal -- there is no means-testing. The payment would not be reduced by earnings of the custodial parent, allowing her both to work and to receive stable and consistent payments of support. Child support assurance provides consistent and timely child support benefits to custodial parents to allow them to achieve greater self-sufficiency and independence. In the United States, Wisconsin and New York have established forms of child support assurance.

There is bipartisan consensus that there should be demonstration projects of child support assurance. The Interstate Commission, the National Commission on Children, the Downey-Hyde proposal, and the House Republican's child support proposal all include assurance demonstrations. We recommend that six to ten states be allowed to conduct child support demonstration projects. After a suitable evaluation period, we recommend allowing additional states who meet certain minimum criteria in their child support programs to participate in the program. This would keep national costs down because only the best programs could participate and provide an additional incentive for all states to improve their IV-D programs.

Implementation of The Family Support Act

Finally, I would like to make several observations on the implementation of the child support provisions of the Family Support Act of 1988. As you know, the backbone of any successful child support system is its automation system. The Family Support Act mandates that states develop statewide automated child support enforcement systems by October 13, 1995. States are struggling mightily with meeting this deadline due to a huge increase in caseload (almost 50% in food stamps and 33% in AFDC), delayed release of the final regulations by OCSE, disputes by contractors, and the inherent difficulty of automating huge databases. Although we are not asking for an extension of the 1995 deadline, the committee should be aware that 10 to 20 states will have great problems meeting the deadline.

Another Family Support Act mandate is that by January 1, 1994, all cases -- including non-IV-D cases -- must be enforced by immediate income withholding without regard to arrears. Although we support the use of immediate income withholding for non-IV-D cases, you should be aware Mr. Chairman that OCSE has indicated that when the IV-D agencies monitor these cases, Federal Financial Participation (FFP) may not be available. We strongly disagree with this interpretation and ask for your support in developing a more reasonable outcome. Just as location services provided to individuals not receiving full IV-D services are eligible for FFP, wage withholding services in non-IV-D cases should also qualify for federal reimbursements.

Finally, OCSE has interpreted the Family Support Act to require IV-D agencies to initiate downward modifications if requested by non-custodial parents. We believe that there is a

conflict of interest in providing services to both the custodial and non-custodial parents. We also question whether the limited resources of the IV-D agencies should be concentrated on pursuing downward adjustments.

Conclusion

Mr. Chairman and members of the Subcommittee on Human Resources, I want to thank you for this opportunity to testify on behalf of the National Council of State Human Service Administrators. I know that I speak for my colleagues when I say that child support enforcement plays a significant role in our efforts to increase family self-sufficiency. Child support is a cornerstone of welfare reform and will be a major part of the welfare reform plan being developed by our welfare reform task force. Consistent and timely child support payments can lead to a reduction in dependency on AFDC and strengthen the role of both parents in providing for the emotional and financial well-being of children.

Thank you again. I will be happy to answer any questions you have.

Chairman FORD. Thank you.
Mr. Wolf.

STATEMENT OF MARSHALL J. WOLF, CHAIR, SECTION ON FAMILY LAW, AMERICAN BAR ASSOCIATION

Mr. WOLF. Thank you, Mr. Chairman, Mr. Santorum.

The American Bar Association appreciates the opportunity to present its views to you on child support enforcement. The ABA is a national organization composed of 360,000 attorneys. Unlike many of the people you have heard here this morning, several of us still do practice family law. I am chairman of the Family Law Section of ABA.

Let me digress from my printed remarks, which the Chair has indicated will be part of the record, and say simply what it is we believe should be supported in the area of child support enforcement, and that we believe should not be supported.

We believe that the tremendous recommendations of the U.S. Commission on Interstate Child Support Enforcement should be followed very carefully. At the insistence of the family law section of the ABA, the House of Delegates of the American Bar Association has endorsed the recommendations and proposals of the U.S. Commission on Interstate Child Support Enforcement, and they did so on a very strong position.

We believe that the elements of the commission's report deserve the attention of Congress in order to get interstate child support some more enforcement in this country.

What we also believe very, very strongly, however, is that interstate child support enforcement, while it certainly needs a tremendous amount of work, does not need federalization.

As a matter of fact, for many, many reasons, federalization would be contrary to the interests of those people who we represent. And when I say who we represent, make no mistake: We represent both the payers and the payees, the custodial parents and the noncustodial parents. We see both ends of that problem. And we believe it is that balance that we see that suggests why this would not be a particularly good idea for federalization.

Let me suggest, first, that the key elements of the interstate commission's report that should be addressed immediately are the recommendation of the commission that we ensure uniform laws and procedures in interstate cases by mandating that States and territories enact verbatim the Uniform Interstate Family Support Act, effective on a certain date.

One of the crucial changes within UIFSA is the elimination of multiple valid support orders. If a client has a support order in Ohio and it gets into the current URESA system, they very well might have an equally valid but smaller support order in Tennessee. That duality, that multiple system, cannot work, and it never has.

Instead, under UIFSA, if there is only one valid support order, and there are vehicles for enforcing that order across State lines, we have have much more collectability of the proper amount of support.

We, too, join in the recommendation that we amend the IRS W–4 form for reporting of new hires for purposes of employment.

We also would urge the recommendation of the Commission that requires employers to honor income withholding orders issued by any State or territory. If I have an order in Ohio against a man who is working in Ohio, but he is the only employee of his company in Ohio that otherwise lives in Pennsylvania, I should be able to enforce that order by simply placing that order against the Pennsylvania company.

Many companies will voluntarily comply with that, but we need some degree of enforcement so that interstate orders can be adopted quickly in the sister State and thereupon enforced.

The remainder of the recommendations we went over are set forth in my printed remarks, but I would like to turn to the other question, and that is what should not be part of our system, and that is the federalization.

Clearly there is an active debate today on whether child support services would be improved by federalization, including the use of Internal Revenue Service, Social Security, and Federal courts. The ABA recommends Federal legislation to improve the system, but it opposes the federalization.

The major problems from child support arise from inability to locate obligors and their assets, ineffective enforcement against self-employed, and inadequate resources. Shifting the responsibility to IRS will not solve any of these problems.

With respect to locating obligors, IRS only knows where somebody is once a year. That is not going to help in finding obligors. The States are more likely to find them with the use of motor registrations, professional licensing and things of that nature.

The IRS does a great job with the salaried people, but so do the States. That is not where we are running into a problem. The States are doing a pretty good job of getting salaried people to pay child support. The problem is that according to IRS——

Chairman FORD. Even across State lines?

Mr. WOLF. Better than if they were not salaried. But if we are talking about this issue of a nonsalaried person, a person who is self-employed, many of them don't even file tax returns. IRS isn't going to find them.

Third, the resources needed would be incredible as far as additional manpower in IRS. Historically, Mr. Chairman, neither the IRS nor the Federal courts nor the Justice Department in the area of custody or interstate custody problems have done anything except run away from family law problems. To place child support within any part of the Federal Government, it will not get the attention and the priority that it deserves, that it otherwise might get from the States.

We had to bring the Justice Department kicking and screaming to enforce the Parental Kidnapping Prevention Act. IRS is not happy about helping us in child support, and they never have been. The Federal courts have always avoided family law.

To suggest that by placing child support enforcement into a Federal system would be beneficial, I think ignores what we have seen in the past.

One of the Members this morning, Mr. McDermott, mentioned that because of no fault, you now have custody jurisdiction, custody cases being tried more often. To federalize child support would

mean that you have to try these cases in two forums at the same time: one in the Federal system, probably in front of IRS, and one in the State court. It will take away from that State judge the opportunity to look at both of the parents and say, "Will you pay your support?" and you will allow him to visit his child, or both of you are in trouble. If you don't have that kind of synergy, you don't have that kind of implied threat against both of them, then you are going to run into more and more trouble on the visitation issue.

I see my time is up. I would be happy to answer questions.

[The prepared statement follows:]

TESTIMONY OF MARSHALL J. WOLF
AMERICAN BAR ASSOCIATION

Dear Mr. Chairman and Members of the Subcommittee:

The American Bar Association appreciates the opportunity to present its views to you on child support enforcement. The ABA is a national organization composed of 360,000 attorneys. I am Marshall Wolf, Chairman of the ABA Section of Family Law.

The American Bar Association is committed to ensuring that children receive needed financial support from their parents. The nonpayment of child support has impacted drastically on too many families in America. While gains have been made in dealing with salaried individuals, increased mobility, and the increased number of unmarried pregnancies add another element to litigation, both slowing down the whole system dramatically. The problem crosses gender, racial and income lines.

The methods by which we establish and enforce child support are tailored to a more static society and one in which the nuclear family reigned supreme. Today the proportion of unmarried pregnancies and the ability to travel from one side of the continent to the other in eight hours or less, require that we rethink the way we do business in enforcement of child support. We need to meet this challenge without drastically changing the way we deal with family problems, and we deal with them at the state level. Powerful change is necessary to bring our state system into what will be the 21st century. But radical changes that ignore the efficiencies and client service aspect of the present system would not do this. There is a way to meet this need through the state-based system of litigating family law.

To address the problem, the U.S. Commission on Interstate Child Support was mandated by the Family Support Act of 1988 to make recommendations to Congress on improvements in the interstate establishment and enforcement of child support awards. Its recommendations comprise the most significant blueprint for comprehensive reform of child support since the passage of Title IV-D of the Social Security Act, and the most extensive revision of the rules of litigation of interstate support cases since the adoption of the Uniform Reciprocal Enforcement of Support Act (URESA).

The report of the Interstate Child Support Commission is based on two years of public hearings, research, debate and analysis. The report comprises a thorough, careful analysis of needed reforms in the child support system. Consequently, the American Bar Association endorses the recommendations of the U.S. Commission on Interstate Child Support to improve the interstate establishment and enforcement of child support orders. The ABA urges Congress to pass legislation and to give priority to the following recommendation of the Interstate Commission:

1. Ensure uniform laws and procedures in interstate cases by mandating that states and territories enact verbatim the Uniform Interstate Family Support Act (UIFSA), effective on a specific date. One of the most crucial changes within UIFSA is the elimination of multiple, valid support orders that currently exist under the Uniform Reciprocal Enforcement of Support Act. Multiple orders lead to terrible confusion regarding the calculation of support arrears. Under UIFSA, there will only be one valid support order governing the parties at any point in time;

2. Amend the IRS W-4 form for reporting exemption claims to require new employees to report child support obligations and payment through withholding, in order to expedite the location of obligors and enforcement through income withholding;

3. Require employers to honor income withholding orders/notices issued by any state or territory;

4. Establish a national computer network for the exchange of information related to the establishment, enforcement and modification of support orders, and for the enforcement of visitation and custody orders;

5. Establish minimum staffing standards for child support agencies (IV-D agencies);

6. Provide training to child support caseworkers, court administrators, private and public attorneys, and judges involved in support cases;

7. Require states and territories to have laws and procedures for civil voluntary parentage acknowledgment; (The largest barrier for obtaining support orders for nonmarital children is that paternity must first be established. Further steps must be taken to encourage fathers to take responsibility for their children.)

8. Ensure that children receive adequate health care coverage by mandating that the insurance industry cooperate to provide coverage for all eligible children, regardless of their residence or the marital status of their parents;

9. Extend the availability of establishment and enforcement remedies currently only available to IV-D cases (handled by state and territory child support agencies) to cases brought by private attorneys on behalf of custodial parents and to pro se parties;

10. Conduct a study to determine the reasons for nonpayment of support; and

11. Strengthen enforcement remedies against the self-employed.

The ABA opposes the federalization of child support establishment, modification or enforcement, and supports strengthening establishment, modification and enforcement remedies through reform of the present state-based system.

We believe that greater uniformity within the child support system and improved parent accessibility can and should occur through reforms at the <u>state</u> level.

There is an active debate now about whether child support services would be improved by "federalizing" the system, i.e., removing establishment, modification and enforcement responsibilities from state courts and administrative agencies and placing such activities within the responsibilities of the Social Security Administration, the Internal Revenue Service, and federal courts. The ABA recommends federal legislation to improve the system by establishing W-4 reporting of new hires, a national child support computer network, and state registries of support orders. However, the ABA opposes "federalization" of child support for a number of reasons.

The major problems in child support arise from the inability to locate obligors and their assets, ineffective enforcement against the self-employed, and inadequate resources. Shifting support responsibilities to the IRS will not help solve these problems.

1) Locating Obligors

Shifting child support responsibility to the IRS will not enhance this process. With limited exception, the IRS obtains address information from individuals only once a year. However, states obtain address information much more frequently: from quarterly wage reports to state employment security commissions; applications for drivers licenses and motor vehicle registrations; credit bureau reports, etc. Legislation requiring the IRS to provide state child support agencies with address and income information from income tax returns would also enable states to have the missing "locate" information they need.

2) Enforcement Against the Self-Employed

The use of the IRS as a collection agent may be effective for obligors who are salaried. However, states already collect such monies through income withholding. The IRS would be picking up cases that the states are already effectively handling. Use of the IRS would not necessarily enhance enforcement against self-employed obligors. According to the IRS, an estimated 10 million individuals and businesses to not file returns. About 64 percent of these non-filers are self-employed individuals. Many of these same individuals are likely to be self-employed obligors who fail to pay child support.

If Congress acts on recommendations of the U.S. Commission on Interstate Child Support -- such as requiring states to have laws regarding suspension of occupational licenses, revocation of drivers licenses, and mandatory credit bureau reporting -- states will have the ability to more effectively enforce support against the self-employed.

Strengthening the current IRS enforcement responsibilities through the tax refund intercept and IRS full collection processes would also be helpful.

3) Inadequate Resources

One reason for past poor state collection performance is the lack of automation. Congress is investing millions of dollars in the states for the development, by 1995, of automated system. Congress should provide states the opportunity to "produce" as a result of this large federal investment. Congress should also require the Secretary of Health and Human Services to conduct state staffing studies which will assist state child support agencies in obtaining legislative approval for needed staff.

4) Lack of Federal Commitment

The experience of the U.S. Commission on Interstate Child Support was that commitment to success made the difference between successful and unsuccessful local efforts. The practical experience of practitioners in the field is that, at the federal level there is little commitment to family law issues. These issues are regarded as state issues by the federal courts. The Internal Revenue Service has thrown up every barrier it can to the interception of tax refunds and the expansion of that legislation. The FBI had to have significant pressure placed upon it to take up the investigation of parental violation of custody orders and

4) continued....

parental abduction. There is little reason to believe that this aspect of family law will receive more favorable treatment.

In addition, the ABA has concerns that a federal child support enforcement system would result in:

1) decreased accessibility to custodial parents regarding location of child support services since IRS and SSA offices are not in as many locales as child support agencies and state trial courts;

2) decreased client service;

3) greater difficulty in tracking down the correct obligee for disbursement of payments with limited identifying information (particularly in light of the fact that there are potentially at least 11 million child support orders with payments due weekly, bimonthly or monthly);

4) potentially greater emphasis placed on AFDC cases and recoupment of public expenditures than on parentage establishment and non-AFDC cases;

5) dividing family law litigation between state and federal forums, with spousal support, property distribution, and custody being litigated at the state level, creating a significant increase in cost and multiplying the possibility of error;

6) the loss of innovation at the state level; and

7) tremendous added costs. For example, when the Massachusetts Department of Revenue consolidated support collection and disbursement functions, it cost the state $111 per case and it took more than four years to complete the process. The cost of transferring cases from states to the federal government, plus the cost of federal salaries, could run into billions of dollars.

Rather than pay the massive cost for a federal system that would mostly duplicate the current system, the ABA recommends that Congress require greater uniformity of the best state laws and practices within the child support system.

The ABA commends the Subcommittee for holding these important oversight hearings. Thank you for permitting me to present these views to you. I will be happy to answer any questions you may have.

Chairman FORD. As a lawyer who practices in this area, are you confronted with many of these cases?

Mr. WOLF. Yes. As a lawyer, and I practice——

Chairman FORD. Visitation rights and all?

Mr. WOLF. Yes, and I am suggesting to you precisely that you would take away a very effective tool to both me as a practitioner counseling a client and to the trier of fact, a judge, who cannot say to one, "Look, these"—as Representative Schroeder said this morning—"these rights are independent, but clearly they are intertwined. You are not going to trade off your right to visit the child versus the right to pay support."

Family law is an area where there is a lot of discretion, but there are two rules when a client walks into my office. If they are the child support payer, they pay. Second, if they are the child custodian, they better not interfere with visitation rights. Those are the two rules. Beyond that, everything else goes.

But I think it is very important that we not eliminate from the system the idea that one piece of this is going to be over here in front of IRS.

First of all, there is not an IRS office in every county in this country, that is for sure. It is going to be harder for a child support recipient to utilize the services of IRS than it is to utilize their local courthouse, their local child support enforcement agency. It would be harder.

It will also be harder, and the question you ask me as a practitioner——

Chairman FORD. Do the courts use the IRS to collect child support across State lines?

Mr. WOLF. I don't see how procedurally that would be very effective. I think the bureaucratic chaos that would cause far exceeds our desire for prompt, efficient, and expeditious exercise of enforcement rights. I just don't see them in this situation.

If I may, Mr. Chairman, earlier this morning there was a lot of discussion about bankruptcy, and I believe some of it was misdirected. Child support arrearages are not dischargeable in bankruptcy.

The problem we run into is twofold: division of property under a divorce declaration can be dischargeable, and the recipient, usually the wife, the custodial mother, doesn't care whether the money she is about to get is child support or alimony or division of property. She needs the money, cash. If you take a component of it and discharge it in bankruptcy, oftentimes you will find that you are then throwing her out of her house, you are increasing her poverty.

The second problem is that as soon as you have a bankruptcy filing under the present system, there is an automatic stay order in the State courts, so that you can't enforce your child support order. They can't discharge it, but you can't enforce it, because there is an automatic stay, and until you get the bankruptcy court to release that automatic stay, you can't get the enforcement techniques of the State court system.

I think that is truly what Representative Schroeder's bill should be addressing, because there is not really a discharge of the child support arrearage.

Chairman FORD. I think she stated that this morning, did she not?

Mr. WOLF. I was unclear.

Chairman FORD. I thought in response to the questions coming from one of the other members of the committee, I thought she stated that. Maybe I didn't interpret it right.

I guess all litigation is on a State level, in the State courts, is that correct? And if you federalized the program, would you still have some real conflicts with State courts?

Mr. WOLF. Federal courts have historically run away from family court issues. They don't want to have anything to do with it. It took Congress to pass PKPA, and even then courts have very severely restricted the interpretation.

The Federal district courts avoid family law matters wherever they can.

Chairman FORD. Mr. Jackson, you mentioned that there was a conflict of interest in States where a noncustodial parent requested a downward modification in a child support order.

Mr. JACKSON. I think that was Mr. Henry.

Chairman FORD. Was this you, Mr. Henry?

Mr. HENRY. Yes.

Chairman FORD. Who do you suggest that the State represents? Is it the child or the mother or the father, or the State?

Mr. HENRY. There are a number of ways to approach the issue. Some believe that the State is protecting the child through its responsibility to State government in trying to——

Chairman FORD. This is opposed to the interests of the child.

Mr. HENRY. Right. Others would argue that at least historically in the IV–D program, the IV–D attorneys have been representing the State and its taxpayers in an attempt to minimize public expenditures on welfare.

As I said, there is an ABA ethics opinion that at least with respect to families that are not currently on welfare indicates that there is a traditional attorney-client relationship between the attorney and the custodial parent, which produces difficulties for attorneys who are then being asked by Federal and State law to start representing noncustodial parents in the same case.

Chairman FORD. Mr. Santorum.

Mr. SANTORUM. Thank you, Mr. Chairman.

Mr. Wolf, you were talking about visitation, and you heard the question I asked Mrs. Schroeder earlier. Do you have any thoughts about what role, if any, the Federal Government should take with regard to visitation and particularly interstate visitation problems?

Mr. WOLF. Yes, sir. If one presumes that visitation is a component of custody, and most courts consider it that, then in fact the Federal Government has acted in that regard.

We might wish to look further into further strengthening the PKPA, the Parental Kidnapping Prevention Act, which really began as the Federal overlay to the Uniform Child Custody Jurisdiction Act, to avoid competing State interests in the area of custody and visitation.

But the very point that you make is one of the reasons why you have to avoid the federalization. That is, even though the Federal Government might by legislation assist the States in preventing

interstate battles over visitation, I think that is as far as the Federal Government should go in the area that is uniquely State based. And once you do that, if you then federalize the child support issue, but leave the custody and visitation issue in the State system, you are then creating this duality that really will make it a very difficult, if not impossible task to address the issues together.

Mr. SANTORUM. Are there any specific suggestions you would have as to how to address the visitation problem? Number one, would you suggest something in a child support enforcement bill discussing visitation, or would you do something in a separate bill?

Mr. WOLF. I think it would be best served to be treated on its own and address that question head on. The thing you could probably do is to mandate the States to give full faith and credit to the visitation orders of sister States.

Once you can easily register a foreign custody or visitation declaration in a sister State, and then get enforcement without the sister State then relitigating it in favor of their home State parent, I think that is all you really need to do.

Mr. SANTORUM. How would you feel about that, Mr. Jackson?

Mr. JACKSON. I would agree with that.

Mr. SANTORUM. Anyone else have any comments on that?

Mr. GRUBBS. The only comment I have is that currently IV–D agencies are precluded from being involved in any type of visitation enforcement. You also cannot use IV–D funding for any kind of visitation dispute resolution or anything else.

There may be some situations out there where States might like to have a little more flexibility to deal with the issue when they see that it may in fact work to help induce child support enforcement. Plus, there are also some other entities, and I certainly know in the case of Texas where some other non-IV–D governmental entities, like Friends of the Court and domestic relations offices, have in fact taken on visitation issues. And there might be ways that you could encourage a little more of that kind of activity outside of the IV–D system.

Mr. SANTORUM. Since you were talking, Mr. Grubbs, I will turn to you. You mentioned in your testimony that there are private agencies that could assist in this problem. Could you detail what you mean by that and what we can do here on the legislative front to facilitate that participation?

Mr. GRUBBS. I would be happy to. There are currently some very interesting projects going on around the country involving the private sector. When I say that I am talking both in terms of some private companies, as well as the private bar, and even at the local level, some non-IV–D governmental entities, like I said, Friends of the Court or domestic relations offices. I think they could all be involved to a much greater extent in helping solve the child support problem.

The Chairman's home state, Tennessee, is actually in the forefront of some of these privatization initiatives. Their IV–D program in some counties is actually turned over to private firms that have established some pretty amazing track records in improving the performance of establishment and enforcement of child support obligations.

There also is a pilot project getting ready to begin in Dallas, Tex. A private firm, Maximus, that does a lot of different government-type contracting work, is likely to be awarded a contract by the family law judges in Dallas County to set up a program that I continue to insist is going to be the most fundamental way we can improve child support. And that is, beginning on a certain date, all judges in Dallas County will put every new child support order onto a system by which payment is monitored, and at the first delinquency, within 10 days, immediately instigate enforcement of those orders.

It is not going to use Federal, State, or county dollars. It will be paid for by a $10 a month fee imposed on the noncustodial parent. This particular company is basically going to take on the responsibility for all of those new orders being issued in Dallas County.

If that is successful and if it proves somewhat marginally profitable, as hopefully it will, you could see that kind of thing repeated all over the country. There is no reason that couldn't occur in other places. And for every one of those cases you keep out of the IV–D system it means your existing IV–D agencies can do much more to serve the current backlog of cases.

Mr. SANTORUM. I appreciate your comments about what is going on and what can happen. My question was, is there anything that we need to do legislatively to facilitate what you are discussing, or are these things going to be happening whether we do something or not, or are there things in current law that are barring participation from other sources to help this process along?

Mr. GRUBBS. I would suggest going back and looking at all of the provisions of the 1984 and 1988 acts relating to the IV–D program and all pending legislation, such as Senator Bradley's bill to implement the recommendations of the Interstate Commission, and look to see if the IV–D agency is the only entity that should be allowed to use the tools identified in there.

What we did in Texas was very much along that line. We had reserved certain State enforcement tools only to the IV–D agency. An example of that is our State law on administrative wage withholding. This had been reserved for the IV–D agency, but we opened that up and private attorneys are having a field day in using that tool to go out and impose wage withholding orders on delinquent obligors.

Mr. SANTORUM. Let me request that if you have done that already, we would appreciate any information you have as to things we can do here on the Federal level.

Mr. GRUBBS. I would be pleased to do that.

Mr. SANTORUM. Thank you.

[The following was subsequently received:]

child support council

National Headquarters
3616 Far West Blvd
Suite 101-151
Austin, TX 78731
(512) 860-2279
(512) 343-0060 fax

Washington, DC Office
2000 L Street, NW
Suite 402
Washington, DC 20036
(202) 728-7534

West Regional Office
2330 Butano Drive
Sacramento, CA 95825
(916) 484-4126

July 30, 1993

The Honorable Rick Santorum, M.C.
Ranking Minority
Subcommittee on Human Resources
U.S. House Ways and Means Committee
122 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Santorum,

During my testimony before the Subcommittee on Human Resources on June 10, I was asked to provide some information about specific legislation that could increase the role of the private sector in child support enforcement.

Attached are several recommendations to address problems brought to my attention that have proven to be barriers to or have otherwise limited the role of private businesses involved in child support enforcement.

Please let me know if you need more information or if I can be of further assistance. Again, thank you for the opportunity to testify and share the Child Support Council's ideas about ways to improve the child support program.

Yours sincerely,

Darryll W. Grubbs
President

cc: Members of the Subcommittee on Human Resources

child support council

National Headquarters
3616 Far West Blvd
Suite 101-151
Austin, TX 78731
(512) 860-2279
(512) 343-0060 fax

Washington, DC Office
2000 L Street, NW
Suite 402
Washington, DC 20036
(202) 728-7534

West Regional Office
2330 Butano Drive
Sacramento, CA 95825
(916) 484-4126

CHILD SUPPORT LEGISLATION: 103RD CONGRESS

(1) Amend the federal Fair Debt Collection Practices Act to clarify that the provisions of the Act shall not apply to the collection of court-ordered child support.

(COMMENT: Despite letters of clarification by the Federal Trade Commission that the FDCPA does not apply to collection of court-ordered child support, several states have threatened legal action against private child support collection agencies for non-compliance with provisions of this Act. The application of the provisions of the FDCPA to child support collections is frustrating the national effort to encourage new and legitimate child support collection businesses as an alternative to overworked and backlogged government child support enforcement agencies.)

(2) Amend Title IV-D of the Social Security Act to require states to have laws for the establishment of paternity in Title IV-D cases through DNA testing of not just blood but also saliva and other bodily tissues and fluids.

(COMMENT: State parentage establishment laws are failing to keep place with technological changes in testing. Some states still fail to recognize the results of DNA testing in parentage establishment. Some of those that do permit DNA testing may allow only testing of blood, although new technology now permits conclusive DNA test results from saliva and other bodily tissue and fluid. The failure of states to keep their parentage establishment laws current is slowing down efforts to increase the rate of parentage establishment for child support enforcement.)

(3) Amend Title IV-D to specifically prohibit IV-D child support enforcement agencies from denying or terminating IV-D services to clients who fail to terminate agreements for enforcement services by private attorneys, county domestic relations offices, guardians ad litem, private child support collectors, or other entities assisting the client in enforcing a child support obligation.

(COMMENT: Despite federal advisory opinions issued to state IV-D agencies that they should not terminate IV-D services to a client simply because she is also using enforcement services provided by other public and private enforcement entities, states are continuing to terminate or threatening to terminate client cases under these circumstances. Federal law in this area needs to be made clear and absolute.)

(4) Amend the provisions of Title IV-D requiring states to begin immediate wage withholding (IWW) in both IV-D and non-IV-D cases (by January 1, 1994) to permit the IV-D agency or other public entity that is required to monitor and enforce the wage withholding order in non-IV-D cases to charge a minimal fee (not to exceed $10 per month) against the non-custodial parent for costs associated with this activity. If the IV-D agency is providing the service, income from these fees shall not be considered program income for the purpose of federal IV-D funding.

(COMMENT: Implementation of these "universal" IWW provisions is causing great concern among state IV-D agencies as federal funds are not available for enforcing IWW in non-IV-D cases, although federal law requires states to implement this activity subject to loss of federal IV-D funds. Permitting a small fee to be charged against the NCP for monitoring and ensuring compliance with the IWW order would provide a source of funding for this activity.)

(5) Amend Title IV-D to authorize a custodial parent or a collection entity (attorney, domestic relations office, guardian ad litem, or private collector) acting on her behalf to submit a case to the IV-D agency for inclusion in the IRS income tax refund intercept program (and upon payment of a minimal fee) without having to apply for full IV-D services.

(COMMENT: By permitting access to certain valuable IV-D enforcement tools without the necessity of first applying for full IV-D services, custodial parents can obtain some of the major enforcement benefits of the IV-D program without adding to the caseloads of already overwhelmed IV-D agencies.)

(6) State agencies (employment, driver licensing, professional and occupational licensing, public utility, revenue, and others) must make available upon request by any state's IV-D agency certain information that may assist the IV-D agency in locating an absent parent for enforcement of a delinquent child support obligation, including providing the IV-D agency with a magnetic tape containing the names, addresses, dates of birth, and social security numbers of all individuals for whom files or records are maintained by the state agency.

(COMMENT: Failure to locate absent parents to establish or enforce child support orders is the number one reason state IV-D agencies fail federal audits, yet some key state government agencies [including employment agencies that are 100% federally funded] continue to deny state IV-D agencies access to records and information that may lead to locating delinquent child support obligors. State agencies should be mandated to provide this information, including magnetic tapes containing names, addresses, dates of birth and social security numbers to any state IV-D agency upon request and with appropriate assurances that it will be used only for this limited purpose.)

(7) Title IV-D should be amended to extend the October 1995 deadline by which all state IV-D agencies are required to have new automated case management systems fully operational. Enhanced federal funding (90%) for these new systems should be continued until they are fully operational.

(COMMENT: Automating the management of child support cases by IV-D agencies is on of the fundamental ways that IV-D agencies will be able to manage their growing caseloads more efficiently and effectively. Unfortunately, many states are unlikely to complete these new systems before the 1995 deadline. Rushing to complete the design and development of these systems will only result in problems and inadequacies when they become operational. The deadline must be extended and states given the necessary time to complete the design and implementation of well-planned and -built systems.)

Mr. SANTORUM. One additional question on child support assurance. Mr. Jackson, you mentioned the APWA is in favor of it.

Does anybody have any comments about that?

Mr. WOLF. The American Bar Association did not take a specific position on child assurance. However, to the extent that the U.S. commission generally did not favor a Federal child support assurance program at this time, we would concur. We don't believe that that would be the appropriate way to go at this time.

Mr. JACKSON. To clarify, Mr. Santorum, Mr. Chairman, our association indicated we favor demonstrations in this this area.

Mr. WOLF. State based?

Mr. JACKSON. State-based demonstrations.

Mr. GRUBBS. My personal feeling is demonstration projects are a fine way to try this. I think the underlying issue, though, that is raised is, if you have a system that effectively enforces child support, do you need to provide child support assurance to everyone?

I think that an objective of child support assurance is when you combine child support payment, AFDC, and child support assurance, the objective seems to be to guarantee a minimum level of income. If that is what the objective is, that ought to be what is on the table. Because the IV–D program has been strapped with a $50 disregard, which is the reason that the Federal deficit you were asking about earlier, that is part of the reason the Federal deficit is there, because the second they impose the $50 disregard, that adds to the cost of the IV–D program.

The same thing will occur with child support assurance. But I think child support assurance should be provided. But once the child support program has said basically there is nothing more we can possibly do to help this family, then I think that is government's responsibility.

Mr. HENRY. The National Child Support Enforcement Association supports child support demonstration projects at the State and local level. One thing I would recommend, though, is demonstration projects be sufficiently funded and sufficiently long term to test some of the basic goals we are trying to reach, which in addition to helping kids and relieve childhood poverty, we are trying to figure out whether the availability of the assured benefit will cause custodial parents to leave the welfare rolls. They need to know the assured benefit payment is going to be there for a number of months or years before they make a rational decision to leave the status quo.

The other thing we are trying to test is whether the requirement that is in most of these proposals, that a support order be in place as an eligibility requirement for the assured benefit requirement, whether the payment itself will increase cooperation from welfare recipients. Again, I think you need a fairly long-term demonstration project if we are going to test that assumption.

Mr. SANTORUM. Thank you.

I do have one additional question for Mr. Jackson. The Commission recommendation about setting up these information systems by building on the current system W–4 is that something you feel the States can do to reform the interstate system?

Mr. JACKSON. Filing of the W–4?

Mr. SANTORUM. Can the States put together a system of checking across State lines based on a W–4 form? If someone files a new hire and some State files a W–4 form, it obviously would be transmitted to some State agency, and you would have to have some system where other States can check to discover whether there is a child support order out there.

Is that something that would be welcomed by the State, or is this an additional burden that the State doesn't necessarily want to take on?

Mr. JACKSON. I think with the proper legislation, if I understand the question correctly, I think, yes, the States would welcome it. Part of the problem, again, going back to the whole locate business, and the need for a national system that helps locate absent parents. It is not on line yet.

One project is going on in the southeast part of the State, including Virginia and South Carolina, but there is no national effort under way right now to develop a national locate system. If you are going to do the W–4 thing on an interstate basis, you are going to have to have some kind of a system to make that work as well.

In Virginia it is only going to be applicable to those Virginia employers and employees. There is no way we can enforce that across State lines at the present time.

If we are serious about taking care of the customer that we are serving, and if those customers have to be served because of people who go across State lines, we have to figure out what the systems are going to be. There is no question that they can be figured out. The question is how it will be done.

Mr. WOLF. I believe that is one of the recommendations of the commission, that there be sufficient funding so the State systems can link with each other, at least by computer.

Mr. SANTORUM. Thank you, Mr. Chairman.

Chairman FORD. I thank the panelists for coming and waiting so patiently. Thank you for your input. We really do appreciate it.

I would like to call our next panel: Margaret Campbell Haynes, former Chair, U.S. Commission on Interstate Child Support, director, Child Support Project, Center on Children and the Law, American Bar Association; Michael Infranco, City of New York, deputy Commissioner of child support enforcement, Human Resources Administration; Robert Melia, director of strategic planning, Child Support Enforcement Division, Massachusetts Department of Revenue; Robert Williamson, American Society for Payroll Management.

Ms. Haynes.

STATEMENT OF MARGARET CAMPBELL HAYNES, FORMER CHAIR, U.S. COMMISSION ON INTERSTATE CHILD SUPPORT; AND DIRECTOR, CHILD SUPPORT PROJECT, CENTER ON CHILDREN AND THE LAW, AMERICAN BAR ASSOCIATION

Ms. HAYNES. Thank, you Mr. Chairman. My name is Margaret Campbell Haynes. I am testifying as former Chair of the U.S. Commission on Interstate Child Support.

I hate to begin with an apology, but my secretary prepared copies of my testimony while I was out of town. I have discovered here that the pages are misnumbered and I will give you corrected copies of the testimony later.

As you know, one of the debates going on is whether part or all of the child support system should be federalized. The so-called Downey-Hyde proposal has stimulated discussion and thoughtful analysis throughout the country, and I think the debate has been very healthy.

Having said that, let me highlight a fundamental conclusion of the U.S. Commission on Interstate Child Support. After 2½ years of public hearings throughout the country, a National Leadership Conference on Child Support, and countless hours of deliberations, we concluded that federalization was not the cure-all for child support problems.

On the surface it is very attractive to say let's collect child support like we collect taxes. If you look at the problems of child support, however, federalizing enforcement collection and distribution with the IRS will not improve the situation.

Mr. Wolf has already addressed how States have much more accurate address information than the IRS. He also pointed out the problems with enforcement against the self-employed, which IRS also has problems with.

The Commission makes a number of of recommendations geared toward the self-employed that will improve State performance in that area. A number of States are acting on those recommendations. And I think we could also do more to strengthen current IRS enforcement responsibilities through the tax offset and full IRS collection.

We were concerned about issues of accessibility if you federalize; local child support agencies and State trial courts are located in many more locales than IRS and Social Security offices.

I also submit that an IRS agent is not going to be as responsive to a custodial parent calling up asking for case status as a local child support worker would be.

We were concerned about prompt distribution of payment. Right now many child support payments are made through money orders. They come in with missing or improper identification that requires a manual search. And we were concerned that there is no existing model for prompt Federal distribution of up to 10 million weekly child support payments, especially payments which change depending upon the parties' circumstances and custodial arrangements.

Finally, we were concerned about the tremendous cost of duplicating at the Federal level what already exists at the State level.

The one thing the IRS has that the States don't is income information. We urge Congress to require IRS to provide support agencies with that income information. It is not necessary to create a whole new system.

We were convinced that the most effective reform was with greater uniformity of laws and procedures at the State level backed by adequate resources. Once you get past that federalization issue, there is a lot of agreement among the Downey-Hyde proposal, the report of the U.S. Commission, and the administration's proposals.

All of them speak of the importance of a national computer network based on linkages of existing state automated child support systems and the Federal parent locate service or CSENet.

All support employer reporting of new hires and direct income withholding. The Congressional Budget Office estimated that the

Commission's recommendation of nationwide W–4 reporting would cost $55 million yet result in $210 million in increased collections. The Commission recommends that employer reporting should be to a central State location to ensure immediate State access to that data and the ability of the state child support agency to monitor employer compliance.

All proposals also support registries of support orders. Again, the Commission recommends that such registries be maintained at the State level. It is essential that States have information on orders in order to comply with the review and adjustment requirements Congress has already mandated.

Obviously, having State registries would not foreclose the possibility of a national registry of abstracted support order information.

All of the proposals emphasize the need for improved paternity establishment. We urge Congress to require States to have expedited procedures for paternity establishment just like they are now required for establishment and enforcement. And these should include hospital-parent outreach, civil voluntary acknowledgments, and presumptions based on genetic test results.

Finally, all of the proposals emphasize the need for health care reform. We have a number of comprehensive recommendations. I urge Congress to look at the ERISA preemption which currently prohibits States from prohibiting discrimination in dependency coverage which now exists in self-insured plans.

Let me conclude by urging Congress not to neglect the need for resources at the State level. That is one thing that you will hear a lot about today. You can have the best laws in the country, you can have the most comprehensive automated child support systems, but they are never going to eliminate the need for trained child support workers to handle the complex cases and to provide customer service. The current child support case load is 1,000 per full time employee, and that is just staggering.

The Commission urges Congress to require the Secretary of HHS to conduct State staffing studies, and then require the States to comply with them.

I commend you, Mr. Chairman, for focusing on children's financial needs. It is important what we have that commitment from the top to make our system improve.

Thank you.

[The prepared statement follows:]

STATEMENT OF MARGARET CAMPBELL HAYNES, CHAIR

U.S. COMMISSION ON INTERSTATE CHILD SUPPORT

before

SUBCOMMITTEE ON HUMAN RESOURCES
WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

March 18, 1993

Good morning, Mr. Chairman, and members of the Subcommittee. Thank you for this opportunity to comment on various proposals for reform of the child support system. My name is Margaret Campbell Haynes. I am testifying as the former Chair of the U.S. Commission on Interstate Child Support.

Congress created the Commission in 1988 to recommend improvements to the interstate establishment and enforcement of child support orders. In focusing on the need for interstate reform, Congress recognized the hurdles a custodial parent and child face in collecting support when they live in a different state from the noncustodial parent. For example, mothers in intrastate child support cases reported receiving 70 percent of the support they expected during 1989. Yet mothers in interstate cases reported receiving only 60 percent of the support owed them in 1989; and mothers who did not know the location of the father reported receiving only 37 percent of what was expected.[1]

The 15 members of the Commission represented various participants in the child support system, including three members of Congress: Senator Bill Bradley (D-NJ), Congresswoman Barbara Kennelly (D-CT), and Congresswoman Marge Roukema (R-NJ). We spent 2 1/2 years holding public hearings across the country, examining the problems and developing recommendations. In August 1992 we issued our report to Congress.

I. Child Support Enforcement and Assurance Proposal

Despite improvements in recent years, the interstate child support system remains one plagued by a lack of uniformity in state laws, policies, and procedures; insufficient locate information; inadequate enforcement remedies, particularly against the self-employed; inadequate resources; multiple, often conflicting, support orders between parties; and a lack of communication among the states. In response to such a dismal picture, former Congressman Downey and Congressman Hyde proposed a revolutionary reform of the child support system. The proposal would federalize modification, enforcement, collection and distribution of child support.

The U.S. Commission on Interstate Child Support also considered whether reform of the child support system required federalization of some or all of the services now provided by state courts and child support agencies. While there are some advantages to a federal system, all but one Commission member felt that there were serious concerns that weighed heavily against such an overhaul.

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[1] U.S. General Accounting Office, Interstate Child Support: Mothers Report Receiving Less Support from Out-of-State Fathers, HRD-92-39FS (Washington, DC: Gov't Printing Office 1992), pp. 16-18.

Shifting child support responsibility to the IRS will not enhance locate. The IRS usually obtains address information from individuals once a year. State sources of information -- such as the Department of Motor Vehicles, credit bureau reports, quarterly wage statements -- are much more current. Nor will the IRS necessarily increase enforcement against self-employed obligors. According to the IRS, an estimated 10 million individuals and businesses do not file returns. About 64 percent of these nonfilers are self-employed. State remedies such as revocation of occupational licenses, mandatory credit bureau reporting, liens on property, and attachment of lump sum payouts are more likely to increase enforcement from self-employed obligors.

A federalized system will not improve accessibility to custodial parents. In fact, the Commission was fearful that accessibility would be decreased since IRS and Social Security offices are not located in as many locales as local state trial courts and child support agencies. Based on testimony from states such as Massachusetts, the Commission concluded that a federal system would also result in greater difficulty in tracking down the correct obligee for disbursement of payments where there is limited case information. We were concerned that there is no existing model for prompt federal distribution of potentially at least 11 million weekly child support payments, payment amounts which may change monthly depending upon parties' financial circumstances and custody arrangements. The Commission did not think that fragmenting a family law case between state courts and federal agencies was in a child's best interest. Finally, the Commission was concerned about the tremendous costs of duplicating at the federal level what already exists at the state level, especially when most states are just beginning to benefit from Congress' investment in state automation.

The Commission therefore opposes federalization of child support. Rather it recommends that Congress require greater uniformity within the state-based child support system.

Within such a system, the Commission wholeheartedly endorses the child support enforcement and assurance proposal's emphasis on the need for nonadversarial paternity procedures. The Commission strongly supports hospital parentage acknowledgment procedures, civil parentage acknowledgment proceduresat any point during the child's minority, and creation of a rebuttable presumption of parentage based on genetic test results.

With regard to establishment of a support order, the Commission recommends the creation of a National Child Support Guidelines Commission. However, the Commission disagrees with Congressmen Downey and Hyde that a national guideline should be based on the Income Shares model. Currently, states tend to use one of three guideline models: the percentage of income, such as used in Wisconsin; the income shares, such as used in Colorado; and the Melson formula such as used in Delaware. Since no guideline perfectly addresses every fact situation, especially multiple family issues, the Commission recommends that the Guidelines Commission review <u>all</u> existing guideline models. The Commission should study their strengths and weaknesses and determine needed improvements. Any resulting national guideline may include best features from each current guideline model.

The child support enforcement and assurance proposal envisions nationwide implementation of child support assurance. Also referred to as child support insurance, the proposal is that the government would guarantee a yearly minimum support amount based on the number of children in a single-parent household. If the obligor failed to provide support in the amount of the insured benefit, the government would provide the family with the difference between the insured benefit and the ordered support. The benefit ensures that custodial parents have some level of financial stability without regard to the obligor's payment pattern.

Although early results from New York's CAP is promising, the Commission believes that additional information regarding the feasibility and effectiveness of child support insurance is needed. The Commission supports state demonstration projects on child support insurance. Based on an evaluation of these demonstrations, Congress should then decide whether to implement child support insurance nationwide.

With regard to collection and enforcement, I am pleased that the Downey-Hyde proposal endorses the cornerstones of the Interstate Commission's reform: registries of support orders, a national computer network that links certain federal and state automated systems for child support purposes, employer reporting of new hires through use of the W4 form, and direct income withholding.

II. Report of the U.S. Commission on Interstate Child Support

A. Registry of Support Orders

To facilitate enforcement, the Commission recommends that Congress require every state to establish a Registry of Support Orders. Commissioners envisioned that the state IV-D office would serve as the registry since that office already maintains data on IV-D orders. In non-IV-D cases, the Registry would store an abstract of case information; but not perform collection, accounting, disbursement or enforcement services.

It is crucial that such registries be maintained at the state level. States need information about child support orders in order to fulfil the review and adjustment mandates of the Family Support Act of 1988. As long as states continue to provide child support services, we must ensure that they have the resources to perform the job effectively.

However, Congress may wish to consider an addition to the Commission's recommendation. In my personal opinion, it may be useful to also have a national registry of support order abstracts. This national registry would not duplicate or replace state registries. Rather, it would serve a "pointer" function. A state seeking information about outstanding support orders on a particular obligor could use the national network described below to query what other states had outstanding support orders. The national registry of order abstracts would have the miminum information -- names of parties, social security numbers, and state(s) that have issued an order -- needed to then direct specific requests to the appropriate states.

B. National Computer Network

"In a day of electronics where computers replace humans in every business, the child support system stands as a dinosaur fed by paper."[2] The Commission recommends that Congress expand the Federal Parent Locate Service to create a national locate network. Commissioners do not envision a national data bank but linkages among statewide automated child support systems and between state systems and federal parent locate resources. Through the network, child support agencies and attorneys could obtain address, income, and support order information for child support purposes

The network would allow states to direct locate requests to a particular state or to broadcast the request nationwide. State data bases which should be accessible include publicly regulated utilities, employment records, vital statistics, motor vehicles, taxes, crime and corrections. When a targeted state is unable to locate the person, the expanded FPLS would also be able to automatically reroute the request to other states, based on Department of Labor studies of migration patterns. Based on the success of NLETS (National Law Enforcement Telecommunications

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[2] Supporting Our Children: A Blueprint for Reform (U.S. Commission on Interstate Child Support (1992).

Network), the Commission recommends a mandated 48-hour turnaround time for processing information requests.

C. W-4 Reporting of New Hires

All states now enforce child support orders through income withholding. Studies show, however, that in interstate cases there is an average of thirteen to twenty weeks between location of an obligor's source of income and service of the withholding order on the out-of-state employer.[3] During the delay, the obligor may move to new employment.

To ensure the availability of the most current employment information on obligors, the Commission recommends amendment of the W-4 form for reporting new hires. The amended form would have boxes for the employee to indicate the existence of a support order, the amount of such order and the payee, the existence of an income withholding order, and the availability of employer-provided health insurance.

The Commission further recommends that the employer send a copy of the W-4 information to the state Employment Security Commission (ESC). The Commission recommended reporting to the ESC in part because employers are familiar with reporting wage information to that entity. The employer would be required to begin withholding immediately if the employee indicated the existence of an income withholding order.

The state IV-D agency, through an automated interface with the Employment Security Commission, would match orders in its Registry of Support Orders against the W-4 information. The IV-D agency would also broadcast the information nationwide through the computer network. If there was a match with an order maintained on any state's registry, the appropriate state agency (or person in non-IV-D cases) would send a federally designed income withholding notice or order directly to the employer. The withholding notice would confirm or correct the information supplied by the employee. Any employee supplying false information would be subject to criminal penalties.

To further facilitate income withholding, the Commission recommends that Congress establish a universal definition of income subject to withholding, a uniform ceiling on the amount of income that can be garnished for support, uniform standards for the time within which employers must forward the W-4 information (10 working days is suggested), and uniform standards regarding priority of withholdings when an obligor is subject to several state withholding orders and lacks sufficient income to meet all of them.

The Congressional Budget Office estimated that the Commission's recommendation would cost $55 million to implement nationwide, and result in $210 million of increased support collections.

I am pleased to report that at least 10 states[4] have now enacted W-4 reporting and legislation is pending in several other states. Based on state experience with W-4 reporting and further discussions with employer groups, I would like to offer the following personal suggestions which slightly modify the Commission's recommendations.

1. Obligors often do not know correct information about their support orders or to whom payments should be forwarded. Therefore, to require the employee to provide such information on an amended W-4 form means there will often be misinformation. The

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[3] U.S. General Accounting Office, Interstate Child Support: Wage Withholding Not Fulfilling Expectations, HRD-92-65BR (1992).

[4] Alaska, California, Georgia, Hawaii, Iowa, Massachusetts, Minnesota, Virginia, the State of Washington, and West Virginia.

misinformation becomes problematic if employers are required to begin withholding based on the faulty information prior to any verification. Payments may be sent to the wrong location and the goal of prompt receipt of support by the obligee frustrated.

What is most crucial about the W-4 reporting is the employer address information. I therefore suggest that the W-4 form be amended to only solicit information about the availability of employer-provided health insurance. It is not necessary to include information about support terms. Such information will be gained when the W-4 data is matched against the state registry of support orders and broadcast through the national network.

To avoid confusion, I also recommend that employers not be required to implement income withholding until they have received the federal income withholding notice/order. That ensures accurate withholding.

Finally, I recommend that federal legislation provide the employers with flexibility in how the W-4 information is transmitted. For example, state laws often allow transmission of the data through mailing a copy of the W-4 form, faxing the information, or electronically transmitting the information.

2. Congress may also want to explore whether the state child support agency is the more appropriate entity to receive the W-4 information. One advantages is that the state IV-D agency is also most likely to be the registry of support orders. It would also ensure there is a state office monitoring compliance with the W-4 reporting that has a vested interest in improving child support enforcement. On the other hand, the disadvantage of reporting the information to the state IV-D agency is that the agency may be overwhelmed by receipt of W-4 information for employees on whom there is no IV-D order.

3. States should not be required to store the W-4 information indefinitely. It may be appropriate to require retention of the W-4 information for three months after its receipt. At that time, the information should be appearing on wage reports from the state employment security commission. There is no reason to maintain duplicate data banks.

4. Congress and the states need to educate the public that W-4 reporting will not only greatly facilitate income withholding. It will also provide valuable locate information. For that reason, the employer reporting of new hires should not be tied into payroll periods but to a set period from the point of hire.

D. Direct Income Withholding

In 1984 Congress required states to make income withholding available as an enforcement tool in interstate cases. An agency or attorney sends an interstate income withholding request to the state where the obligor derives income. That second state provides the obligor notice and an opportunity to contest. Child support is usually forwarded from the out-of-state employer to a collection point in the employer's state, then to a collection point in the custodial parent's state, and then finally to the custodial parent.

A number of child support agencies report success in sending an income withholding request directly to the out-of-state employer, despite lack of jurisdiction over the employer. In fact, GAO found that 75 percent of employers comply with a direct withholding request.[5] The Commission recommends that Congress legalize what appears to be working and require states to have laws that require an employer doing business in the state to honor an income withholding order or notice sent directly from any state.

In addition to the above recommendations, the Commission identified

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[5] Wage Withholding Not Fulfilling Expectations, supra.

a core set of recommendations which we also feel are crucial to any reform of the child support system.

E. Revision of URESA

Congress specifically required the Commission to make recommendations regarding the Uniform Reciprocal Enforcement of Support Act (URESA). The Commission worked very closely with the National Conference of Commissioners on Uniform State Laws (NCCUSL), the drafters of the original URESA. The result of that cooperation is a new act called the Uniform Interstate Family Support Act. UIFSA was officially approved by NCCUSL in August 1992, and by the American Bar Association in February 1993.

UIFSA contains a number of provisions that implement key recommendations of the Commission. For example, UIFSA contains a broad long arm statute that, within the confines of Supreme Court decisions, expands the opportunity for a case to be heard where the custodial parent and child reside. In addition, UIFSA contains provisions implementing direct income withholding and easing evidentiary rules in interstate cases, and allowing use of telephonic hearings.

One of the most major revisions to URESA is adoption of the "one order, one time" principle. Currently under the Act, a URESA order exists independently from any other support order.[6] That means that several conflicting support orders governing the same parties and child can exist at the same time. To achieve "one order, one time," UIFSA creates priorities to establish or modify a support order involving the same parties and child(ren).

The changes to URESA can greatly improve the interstate establishment and enforcement of support orders by providing uniformity in the law if all states adopt UIFSA without modification. The Commission therefore recommends that Congress require states to adopt the Uniform Interstate Family Support Act verbatim, effective as of a particular date. I am pleased to inform you that six states have already enacted UIFSA: Arizona, Arkansas, Colorado, Montana, Texas, and the State of Washington.

F. Determination of Parentage

The Commission found that many states unnecessarily stress adversarial procedures for parentage determination. The Commission agrees with the Downey-Hyde proposal that states should first pursue voluntary parentage acknowledgments. The Commission also agrees with the proposal and the Administration regarding the importance of <u>early</u> paternity establishment. The Commission strongly supports hospital outreach programs such as those used successfully in Washington and Virginia. In 1991 Washington was able to obtain hospital parentage acknowledgments in 40 percent of its nonmarital newborn cases.

Where parentage is contested, the Commission recommends a number of improvements to state law. For example, the Commission recommends that Congress require states to create a presumption of parentage if genetic test results reach a threshold probability of parentage or a threshold percentage of exclusion, as established by the state. Further, to prevent delay tactics, the Commission recommends that states have laws that require a tribunal to order temporary support if test results create such a presumption of parentage.

G. Health Care Support

In 1991, of the 25 million children without employer-provided insurance, 8.4 million lacked any kind of public or private

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[6] Section 31 of the 1968 Revised URESA.

insurance.[7] Health care for children is vital. If insurance is not available to either parent at a reasonable cost, the Commission believes that states and the federal government should expand the eligibility of Medicaid and CHAMPUS to cover such children. To minimize government costs, governments could charge parents a premium for dependency coverage at a rate that would cover actual administrative and reimbursement costs.

Where insurance is available, the Commission wants to ensure that children have effective coverage. That is not the case today. Despite a federal requirement that states in IV-D cases pursue medical coverage when obtaining a child support order, about 60 percent of all support orders lack provisions regarding health insurance.[8] The lack of mandated health coverage is especially evident in interstate cases. Seventy-five percent of custodial mothers in interstate cases reported in 1989 that health insurance for children was not provided by the noncustodial father.[9]

Even where insurance is obtained for the child, the custodial parent may lack access to the coverage. The Commission heard testimony of employer-provided insurance plans that discriminate in dependency coverage; of obligors who fail to enroll their children as ordered; of insurance carriers that refuse to accept claims filed by the custodial parent on behalf of the employee's dependents; and of obligors who pocket insurance reimbursements rather than forward the money to the custodial parent.

One obstacle to state efforts to enforce broad coverage is the Employee Retirement Income Security Act of 1974 (ERISA).[10] ERISA primarily deals with pension plans. However, it also preempts state regulation of health insurance plans where the employer bears the risk ofloss; according to the U.S. General Accounting Office, 56 percent of the nation's employees in 1990 were covered by self-insured ERISA plans.[11] Unfortunately, ERISA does not fill the state regulatory void. The result is that self-insured plans are subject to neither federal nor state regulation.

This preemption has been a major impediment to states seeking to address the problem of healthcare support for children. For example, the Commission received testimony that many self-insured plans refuse to provide dependency coverage unless the dependent resides with the employee. Such discrimination has a negative impact on interstate cases and nonmarital children. Yet, ERISA prevents states from prohibiting discrimination by self-insured plans.

The Commission recommends that Congress remove the effects of ERISA preemption of state regulation of health-care coverage for children. Once that is done, states should enact laws prohibiting discrimination based on whether a child lives with the employee or was born during a marriage.

The Commission's Report also contains a number of recommendations that encourage the insurance carrier to deal directly with the

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[7] Children's Defense Fund, Special Report: Children and Health Insurance (1992).

[8] U.S. Bureau of the Census, Child Support and Alimony: 1989, Current Population Reports, Series P-60, No. 173 (Washington, DC: Gov't Printing Office 1991).

[9] U.S. General Accounting Office, Interstate Child Support: Mothers Report Receiving Less Support from Out-of-State Fathers, HRD-92-39FS (1992).

[10] 29 U.S.C. §§ 1001-1461 (1988).

[11] U.S. General Accounting Office, Medicaid: Ensuring that Noncustodial Parents Provide Health Insurance Can Save Costs GAO/HRD-92-80 (June 192).

custodial parent. For example, when a parent has been ordered to provide healthcare coverage, state laws should require insurance carriers to accept an application for dependency coverage from the uninsured parent; to accept claim forms signed and filed by the uninsured parent on behalf of the insured employee's dependents; and to directly reimburse the parent who paid for the health care.

The Commission recommends that employers should also facilitate healthcare coverage. For example, the Commission recommends that employers and unions should release to the uninsured parent or the IV-D agency information about the dependency coverage, including the name of the insurance carrier; enroll children who are beneficiaries of ordered health coverage immediately upon receipt of the tribunal's order or upon the authorization of the employee; withhold healthcare insurance premiums similar to wage withholding for support; and provide notice of any termination or change in insurance benefits affecting the employee's children.

H. Staffing and Training

Even the best automated system will not replace the need for an adequate number of trained personnel to process child support cases. However, child support case workers are staggering under the weight of overwhelming caseloads. The average FTE child support worker has over 1000 cases.[12] While OCSE has cited many states for failure to conform to the audit criteria requiring the processing of 75 percent of cases needing services, no staffing study or mandated staffing level has ever been imposed by OCSE.

The Commission strongly urges Congress to take action to ensure that the staffing levels in the state and local agencies are increased. The Secretary of Health and Human Services should conduct a staffing study in each state -- with state input -- to determine staffing needs. States should then be required to implement the recommended caseload staff ratio. I am pleased that Congresswoman Kennelly has included compliance with the mandated staffing studies as part of her bill. Additionally, the Commission recommends stronger federal and state commitment to training to ensure that problems are better anticipated, resources are more widely used, and appropriate legal remedies are sought.

I. Funding

Currently states receive 66 percent of their funding for administrative costs from the federal government. States also receive federal incentives of 6 to 10 percent (based on collection efficiency) of the amount collected for both AFDC and nonAFDC cases. However, federal incentives are capped in nonAFDC cases at 115 percent of the amount collected in AFDC cases.

Some argue that the incentive program should be maintained and retargeted to reward states that perform well on criteria that reflect the program's goals. Such goals may include the traditional duties of child support agencies: to locate parents, establish parentage and support orders, and enforce orders. Others argue that incentives skew state case-processing priorities by forcing states to work only those cases that will likely meet the target criteria. Most persons who want to eliminate incentives prefer to see the incentive money shifted to enhanced federal administrative cost funding, which would translate to a federal funding rate of 80 to 90 percent of the administrative costs incurred by states.

The Commission urges Congress to fund a study to examine funding alternatives. In the interim, the Commission recommends three immediate changes: revising the federal incentive formula to

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[12] Center for Human Services, U.S. Dep't of Health and Human Services, A Study to Determine Methods, Cost Factors, Policy Options and Incentives Essential to Improving Interstate Child Support Collections: Final Report 36 (1985).

reflect a balanced program that serves both AFDC and nonAFDC families, revising the federal funding formula to provide incentives for healthcare support, and requiring states to reinvest incentives into the child support program. Any revisions should have a transition period before audit penalties could be imposed and a promised moratorium before further changes could be made to the formula. This would allow states to plan their budgets more effectively over a longer period of time.

In summary, the Commission believes that implementation of its recommendations will result in a strong child support program that is more uniform, equitable and accessible than the system that now exists. I am pleased that our distinguished members Senator Bill Bradley, Congresswoman Barbara Kennelly and Congresswoman Marge Roukema have already introduced legislation based on the Commission's report. The importance of their support of the Commission and commitment to strong child support enforcement cannot be overstated.

III. Administration's Proposal

I appreciate the opportunity to comment on President Clinton's child support proposals in A Vision of Change for America.

As discussed above, the Commission agrees with the need for a national computer network, registries of support orders, and W-4 reporting. In addition I would like to make the following comments.

A. Parentage Establishment

There is consensus among the three child support proposals that Congress should require states to have nonadversarial procedures for the establishment of paternity, including hospital parentage outreach. It is also crucial that states promptly pursue parentage establishment. Therefore, I recommend that Congress amend Title IV-D to require states to use expedited procedures for the establishment of parentage. Currently, states are required to use expedited procedures for the establishment and enforcement of support, yet expedited procedures for parentage establishment are at the option of the state.

B. Healthcare

There is also consensus among the three proposals as to the importance of healthcare support. I urge the Administration to seek to remove the ERISA preemption regarding state regulation of healthcare coverage for children. Although Senator Bradley, and Congresswomen Roukema and Kennelly have addressed many of the Commission's healthcare recommendations, this crucial recommendation is not part of the bills they have introduced.

C. Involvement of IRS

The Administration's proposal speaks of using the IRS to collect seriously delinquent cases. As discussed elsewhere, the Commission concluded that replacement of state enforcement efforts by federalizing enforcement with the IRS would not effectively reform the child support system. This conclusion was based on testimony from throughout the country and 2 1/2 years of intense study and analysis. On the other hand, more could be done to improve IRS' current enforcement responsibilities.

For example, the Commission recommended a number of changes regarding the federal income tax refund intercept. Current statutory requirements set different criteria for AFDC and nonAFDC cases. The Commission recommends that custodial parents in nonAFDC IV-D cases should be entitled to use the federal income tax refund offset procedure to collect arrearages regardless of the age of the child -- just as now available in AFDC cases. When money is collected through the offset, the Commission recommends a change in the priorityof distribution. We recommend that the intercepted

refund first be distributed to the family for nonAFDC arrearages, then to the federal government for federal tax debts, then to state or local governments for AFDC child support arrearages, and finally to other entities as delineated in Section 634 of the Internal Revenue Code.

The Commission also recommends that Congress strengthen the "full IRS collection" procedure established in 26 U.S.C. § 6305 and 42 U.S.C. § 652.

Finally, I personally support a proposal that the federal income tax return should be used to require the obligor to voluntarily report any unpaid child support and to include payment toward such arrears along with his or her federal income taxes. In support of the proposal, the W2 form completed by employers should be amended to include information concerning the amount of money withheld from the employee's wages for purposes of support enforcement.

IV. Conclusion

This is an exciting time in the child support community, and a time of hope for custodial parents. The Interstate Commission's report has been issued, and in less than a year has resulted in pending federal and state legislation. President Clinton has made improved child support enforcement a national priority. Both Democrats and Republicans are committed to improving the child support system.

Although there is great disagreement on proposals to federalize child support, there are many areas of strong agreement. Recommendations regarding a national computer network, registries of support orders, W-4 reporting, direct income withholding, streamlined paternity establishment, improved healthcare enforcement, adequate resources for the child support program (financial and personnel) -- all have received almost universal endorsement. I urge Congress to take advantage of this historic moment and speedily act on these agreed-upon proposals that are at the core of any reform of the child support system.

Thank you, Mr. Chairman, for the opportunity to testify.

Chairman FORD. Thank you very much.
Mr. Infranco.

STATEMENT OF MICHAEL INFRANCO, DEPUTY COMMISSIONER, HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY

Mr. INFRANCO. Thank you very much. My name is Michael Infranco. I am deputy Commissioner of New York City's Human Resources Administration. I am very pleased to have this opportunity to appear before you today. Our agency is one of the largest direct providers of child support services in the Nation.

The child support enforcement job is not an easy one, especially so in New York City, where poverty and nonmarital birthrates are high. The mobility and density of populations make absent parent location efforts particularly difficult.

High levels of unreported or extra-legal income and self-employment make establishment and collection of support awards often a challenging undertaking; and, most significantly, we must rely heavily on the judicial system, which is very demanding in its procedures, but at the same time is itself burdened by high case loads and other serious child welfare issues.

Despite all of these challenges, we in New York City have made much progress, especially in the last several years. Our collections last year totaled $190 million, or $33 million more than the year before. Over the last 3 years, collections have increased by nearly 75 percent.

The bottom line is that we have been able to provide child support for a much greater number of children and to a much greater extent. Much of the progress can be attributed to the City of New York's aggressive use of the tools provided by the Family Support Act of 1988.

However, New York City is no different from the rest of the country in that much more needs to be done if we are to come close to meeting this program's potential. There are major problems impeding progress which urgently need to be addressed.

For one, the system often does not work for cases in which the noncustodial parent is not regularly employed, again getting back to the situation where you have extra-legal income or self-employment, and therefore for which income withholding is not possible or feasible.

Secondly, the judicial processes for obtaining support establishment are often complicated, time consuming, too adversarial and frustrating to us. It effectively limits access to the program, not only for the IV–D program staff, but also to many mothers and custodial parents who need to have that access.

Similarly, the interstate process continues to be characterized by long delays, confusion and lower likelihoods of success.

Finally, I think we need to do a much better job convincing parents that paternity establishment is important, that child support can play an essential role in achieving self-sufficiency for single parent households. And although the process can be frustrating, help can be gotten to make the system work for the children's sake.

As important as these proposals are, it is important that they be viewed in relation to how well and to what extent they address the issues and impediments just noted.

From New York City's perspective, the Commission on Interstate Child Support has indeed presented an excellent blueprint for reforming not only its State case processing, but also the entire program. We enthusiastically and strongly endorse its recommendations.

The child support enforcement assurance proposal goes beyond strengthening the child support enforcement program and seeks to provide a minimum level of economic security for all single-parent households through its assured benefits. We certainly concur in this objective as well.

However, there are some specific proposals which have particular relevance to our experience. In my testimony I have commented in greater detail about them, and they certainly have been mentioned here. Particularly of help to us would be the W–4 new hire system of reporting. We feel that would be an excellent help to us, and we have had some direct experience in the benefit from this type of a system in that we do direct computer payroll matches with a number of large organizations, which is not quite the same—certainly not universal. But where we can do that, it really helps the process.

Also, I have some concerns about, as has been expressed, the role of IRS, and I think many of the others, and the panelists have adequately spoken on that and answered some questions about our particular experience in that area. However, what I would like to talk about a little more is paternity.

Since the great majority of New York's child support cases involve nonmarital children, we particularly welcome those proposals that call for the adoption of a simplified nonadversarial and hospital-based paternity establishment procedures by the States. In fact, for the past year New York City, in conjunction with New York State Department of Social Services, has been engaged in a federally funded pilot program to test such procedures at several hospitals.

Our preliminary experience has confirmed that for early paternity establishment to become a reality, we must work with parents to convince them of the desirability and the benefit to their children to do so. Just having voluntary processes available at the time of birth is not sufficient, as we think the Interstate Commission's suggestion to enhance Federal funding be made available for States to work with hospitals and birthing facilities. To gain parents' cooperation is an important recommendation which should not be overlooked.

Finally, I would like to point out that New York City does not look at its child support enforcement program in isolation. Rather, we see it as an integral part of our overall efforts to promote family self-sufficiency and help lift children out of a life of government dependency and poverty. We know that child support usually cannot do this alone.

Welfare reform in New York City is alive, not only as an idea but also in terms of concrete efforts to expand the JOBS program and to try out new ways where we as an agency can deliver comprehen-

sive services to families. Right now we are very excited about our planned participation this October in New York State's Child Assistance Program, or CAP. As you know, this CAP is the only operating test of a child assurance payment system, I believe, operating in the country, and we view it as an excellent example of welfare reform and urge your support by continuing to allow and promote such demonstrations.

In closing, I would just like to again thank you for the opportunity to comment on these support issues.

[The prepared statement follows:]

TESTIMONY OF MICHAEL INFRANCO
CITY OF NEW YORK HUMAN RESOURCES ADMINISTRATION

Good morning Congressman Ford and other members of the committee. My name is Michael Infranco. I am Deputy Commissioner of New York City's Human Resources Administration. I am here today on behalf of Commissioner Barbara Sabol. Specifically, I head the Human Resources Administration's Office of Child Support Enforcement which is responsible for administering the IV-D program for New York City.

I am very pleased to have this opportunity to appear before you. Our agency is one of the largest direct providers of child support services in the country. Thus we have a great deal of experience to draw upon and a very large stake in the outcome of the proposals now before Congress. Also, I personally welcome this opportunity because I very strongly believe in the necessity of the program and the great importance of its mission, especially to the lives of millions of this country's most vulnerable citizens - its children living at or near poverty levels. In my 17 years of deep involvement with the program I have been able to see first hand how Congressional action can greatly affect the ability to perform our mission of helping children get the support that they deserve from both parents.

The child support enforcement job is not an easy one, especially in New York City, where poverty and non-marital birth rates are high, where mobility and density of populations make absent parent location efforts particularly difficult, where high levels of unreported or extra legal income and self-employment make the establishment and collection of support awards often a challenging undertaking, and, most significantly, where we must rely heavily on a judicial system which is very demanding in its procedures, but at the same time which is, itself, overburdened by high caseloads and other serious child welfare issues.

Despite all these challenges, we in the City of New York have made much progress especially in the last several years. New York City child support collections last year totaled $190 million or $33 million more than the year before. Over the last three years collections have increased by nearly 75%. The bottom line is that this has meant that we have been able to provide child support for a much greater number of children and to a much greater extent.

Much of this progress can be attributed to the City of New York's aggressive use of the tools provided by the child support provisions of the Family Support Act of 1988. Along with the creative and dedicated efforts of staff, it has been primarily the use of new guidelines for setting and modifying support awards, the use of immediate income withholding, and the use of automation, that have made such progress possible in New York City. It should also be noted that further progress is expected as we begin to implement recently enacted New York State legislation addressing the Family Support Act's requirements for the periodic adjustment and review of orders, as well as provisions for hospital-based paternity establishment, medical insurance enforcement and the direct seizure of the assets of delinquent non-custodial parents. .

However, New York City is no different from the rest of the country in that much more needs to be done if we are to come close to meeting this program's potential. There are major problems impeding progress which urgently need to be addressed. For one, the system often does not work for cases in which the non-custodial parent is not regularly employed and, therefore, for which income withholding is not possible or feasible. We need simple and creative solutions for effectively and efficiently dealing with the growing large number of such cases.

Secondly, the judicial processes for paternity and support establishment are often complicated, time consuming and frustrating. This discourages participants and effectively limits access, leaving many children without the benefits of the support enforcement program. We need to develop simpler, less adversarial and more convenient processes for support establishment.

Thirdly, interstate cases continue to be characterized by long delays, confusion and lower likelihoods of success. The interstate process must be simplified, standardized and sped-up.

Finally, but I believe most importantly, we need to do a much better job convincing parents that paternity establishment is important, that child support can play an essential role in achieving and maintaining self-sufficiency for single parent households, and that although the process can be frustrating, help can be gotten to make the system work for their children's sake. Without the cooperation of parents, no success is possible.

There are many different proposals to reform the child support enforcement program. It is important as these proposals are considered, that they be viewed in relation to how well and to what extent they address the issues and impediments just noted. In general, from New York City's perspective, the Commission on Interstate Child Support has indeed presented an excellent blueprint for reforming not only interstate case processing but also the entire program and I enthusiastically and strongly endorse its recommendations. The Child Support Enforcement and Assurance Proposal goes beyond strengthening the child support enforcement program and seeks to provide a minimum level of economic security for all single parent households through its assured benefits. We certainly concur in this objective as well.

However, there are some specific proposals which I would like to talk about today because of their particular relevance to our child support experience in New York City.

Paternity Establishment

Since the great majority of New York City's child support cases involve non-marital children, we particularly welcome both the Commission's and the Child Support Enforcement Assurance Proposal's recommendations on parentage, including those that call for the adoption of simplified, non-adversarial and hospital-based paternity establishment procedures by the states. In fact, for the past year New York City, in conjunction with the New York State Department of Social Services, has been engaged in a federally funded pilot program to test such procedures at several hospitals. Our preliminary experience has confirmed that if early paternity establishment is to become a reality we must work with parents to convince them of the desirability and benefit to their children to do so. This is true even if voluntary establishment of paternity does not require judicial action as soon will be the situation in New York State. Our experience leads us to conclude that just having voluntary processes available at the time of birth is not sufficient. Thus we think that the Interstate Commission's suggestion that enhanced federal funding be made available for states to work with hospitals and birthing facilities to gain parents' cooperation is a very important recommendation, which should not be overlooked.

Reporting of New Hires

The Commission's recommendation calling for the reporting of new hires through the W-4 process will without doubt be of major assistance. We have numerous cases where the traditional methods of reporting employment to the child support program is too delayed to be of use. These are often situations, which because of the nature of the employment, for example, food services or construction, job changes are frequent and those who wish to avoid their child support responsibilities can more easily do so. Additionally, we already know early reporting works because of our successful experience with ongoing direct computer payroll matches. Thus the federal government can take a very positive step by adopting a universal new hire reporting system as proposed by the Interstate Child Support Commission.

The Role of the Internal Revenue Service

I would like, though, to strike a note of caution regarding the recommended role of the Internal Revenue Service in the child support program as called for in the Child Support Enforcement Assurance Proposal. Primarily because of the states' poor collection record in many cases, it is being recommended that the IRS assume full responsibility for child support collections. However, based upon our experience, this may be unwise since the most difficult cases to collect child support from, are those where income withholding is not readily possible, namely in cases with illegal or unreported income and in cases with self-employment. It is no coincidence these are precisely the situations in which the IRS has difficulty collecting taxes, as there seem to be a strong parallel between being able to avoid supporting your government and being able to avoid supporting your children. Thus I see no reason to expect significant improvements from this recommendation. To be sure, there is a need for an increased IRS role. But here again the Interstate Commission has provided a blueprint for this with its recommendation for improving the IRS full collection service which is now available but which is not widely used because of its present ineffectiveness. The Commission has also made a number of additional suggestions including governmental license restrictions and penalties for the hiding of assets among others. We feel these types of approaches are more likely to succeed with these difficult cases.

Finally, I would like to point out that New York City does not look at the child support enforcement program in isolation. Rather we see it as an integral part of our overall efforts to promote family self-sufficiency and help lift children out of living a life of government dependency and poverty. We know that child support usually cannot do this alone. Rather, as emphasized by the Family Support Act, meaningful work, child care and child support enforcement together offer the best means for accomplishing this. Just as we look forward to Congressional action to strengthen the child support program, we look for your support, especially as to funding, in these other areas as well.

Welfare reform in New York City is alive not only as an idea but also in terms of concrete efforts to expand the JOBS program and to try out new ways, where we, as an agency, can deliver comprehensive services to families in order to lift them out of poverty. Right now we are very excited by our planned participation this October in New York State's Child Assistance Program or CAP. As you know CAP is the only operating test of a form of assured child support payments in the country. In CAP, through an assured higher level of benefits than AFDC and through comprehensive services, child support enforcement, employment and economic independence are all encouraged. We view CAP as an excellent example of welfare reform and urge your support by continuing to allow and promote such demonstrations.

In closing, on behalf of the New York City Human Resources Administration, Commissioner Barbara Sabol and myself, I would like to again thank you for the opportunity to comment on these very important issues now before Congress.

Chairman FORD. Thank you very much.

I know it is warm up here; I don't know whether it is as warm out there. If you would like to pull your coat off, you are welcome to do so.

Mr. Melia.

STATEMENT OF ROBERT M. MELIA, DIRECTOR OF STRATEGIC PLANNING, MASSACHUSETTS DEPARTMENT OF REVENUE

Mr. MELIA. Good afternoon, Mr. Chairman. My name is Bob Melia. I am the director of strategic planning at the Massachusetts Department of Revenue. I oversee both tax administration functions and the child support enforcement program in my State.

From a tax administrator's point of view, the good news about child support is that over the last 15 years collections have increased sevenfold. The bad news is that the program's budget has also increased sevenfold, which means there has been no increase in productivity during that time.

That is especially disappointing in light of the 1984 and 1988 Federal reforms which gave States more and better enforcement tools, and also in light of the hundreds of millions of dollars that the Federal Government has spent on improving computer systems for child support agencies.

It is suggested there is something fundamentally wrong with the enforcement strategy that we are pursuing. Our existing strategy is caseworker-based. That is, we expect an individual caseworker to review individual cases, make individual decisions, and enforce those cases one at a time.

We all know the results. With a case load of 13 million, the system has all but collapsed. We need to build our program around a new strategy, a strategy that involves a seamless, highly automated collection system that can enforce the majority of cases without the need for caseworkers to ever touch that case.

In the last year and a half in Massachusetts, we have made significant progress toward building such a system. There are two fundamental parts to the system. One is a new hire reporting. In Massachusetts, all employers must report new hires to the revenue department within 14 days of hire. That information is immediately entered into our computer system, and 24 hours later the employer receives a wage assignment in the mail. That has allowed us to enforce about two-thirds of the cases where the father is in Massachusetts without a caseworker ever having to lift a finger.

The way we now move to collect past-due child support involves what we call an administrative lien. That is a notice to an obligor that says unless you pay what you owe in full within 30 days, the Department of Revenue will seize any income or assets it can find. Over the last year we have sent out 70,000 such notices and what it allows us to do is to match a file of all the child support delinquents in Massachusetts against, for example, a data base of 6 million bank accounts in Massachusetts, identify the bank account of every single child support delinquent in the State and freeze them all on the same day without a caseworker having to get involved.

Together, those two innovations have improved the in-State compliance rate—that is where the obligor is in Massachusetts—from

65 percent to 80 percent in about a year and a half. That is noteworthy because at the national average, the compliance rate is increasing by less than 1 percent per year. It means by abandoning our caseworker-based strategy and shifting to this new strategy, we were able to achieve in about a year and a half what probably would have taken 15 to 20 years had we stuck with the old strategy.

Also, at an 80 percent compliance rate, child support assurance becomes affordable. We did a simulation on 85,000 families to determine what would have happened in Massachusetts had a child support assurance program been in effect in 1992. We found that 3,000 families would have been able to leave the welfare rolls, that the poverty rate among working single-parent families in Massachusetts would have been cut 25 percent, and that the net cost to the State would have been about $35 million.

As this committee seeks to fashion the next major piece of child support reform legislation, you will hear literally hundreds of suggestions. The Massachusetts experience suggests that five of them are key to improving child support collections.

First, create a national new hire data base. Extrapolating from our experience, that might be worth as much as $2 billion a year in additional child support collections.

Second, allow all States electronic access to IRS data.

Third, require all States to adopt the administrative lien and automated enforcement capability that we have pioneered in Massachusetts.

Fourth, require States that still operate on a fragmented local or county basis to consolidate their programs at the State level because unless they consolidate at the State level, they will simply be unable to take advantage of these innovations.

And fifth, to adopt the full faith and credit in the one order, one place, one-time recommendations of the U.S.——

Chairman FORD. When you say consolidate on the State level, I don't want to cut you off, but——

Mr. MELIA. In many States the program is run in effect on a county level or at a local level where there is a IV–D director with a small staff, but that director is a coordinator and not a manager of the program, and every county is on its own. You might have 50 or 60 or 70 or 80 counties in a State, and if you are that fragmented, your ability to put together a single State data base and start to do the types of computer matches against other data bases is extremely limited and it is extremely cumbersome.

Chairman FORD. OK.

Mr. MELIA. If Congress will make those five reforms, which I think are not expensive, at least they have not been in Massachusetts, I think that without significant additional spending you can achieve significant improvements across the country.

Mr. Chairman, thank you for the opportunity to testify.

[The prepared statement follows:]

TESTIMONY OF ROBERT M. MELIA
DIRECTOR OF STRATEGIC PLANNING,
MASSACHUSETTS DEPARTMENT OF REVENUE

before

Subcommittee on Human Resources
Committee on Ways and Means
United States House of Representatives

Thursday, June 10, 1993

Mr. Chairman, my name is Bob Melia, and as the Director of Strategic Planning for the Massachusetts Department of Revenue (DOR) I oversee both tax administration and child support enforcement efforts in the Commonwealth.

Thank you for this opportunity to discuss new directions in child support enforcement, and to share some of the cutting-edge child support collection techniques developed by DOR. My comments today will focus on three topics:

- Using the power of a state tax agency to collect child support;
- Analyzing the costs and benefits of child support assurance; and
- Leveraging federal funding to force sudden, dramatic improvement in states' enforcement efforts.

Many of the ideas and recommendations presented here represent a radical change in enforcement strategy. I'd therefore like to take a moment to discuss why such change is necessary.

The Problem

In 1979, every dollar spent on child support enforcement yielded only $3.70 in collections. Since then, Congress has done a great deal to strengthen the effectiveness of enforcement efforts and improve productivity. Thanks to federal reform efforts, the following tools are now used in every state:

- Child support guidelines, designed to increase the amount, fairness and uniformity of support orders;
- Wage withholding, intended to make collection fast and simple;
- Tax refund intercept, developed to be a highly cost-effective way to collect past-due child support;
- Unemployment compensation intercept, intended to be a reliable way to ensure the continued flow of child support when obligors are between jobs;
- Liens, designed to efficiently collect arrears; and

- The Federal Parent Locator Service, intended to be an effective way to locate obligors who have moved out of state.

All of these tools -- by making enforcement easier and more efficient -- should have sharply boosted the productivity of the program. Moreover, the federal government has invested hundreds of millions of dollars in computer support for the program, which should have increased productivity still more. But the basic equation hasn't changed. A dollar spent on child support today translates to just $3.82 collected. That's an average improvement in efficiency or productivity of just three tenths of one percent per year.

This complete lack of improvement in productivity has prevented the program from fulfilling its promise. Collections have increased six-fold since FY79, but only because the program's budget has also increased six-fold. This amounts to a policy -- one hesitates to use the word "strategy" -- of simply throwing money at the program.

If the available funds were inexhaustible, this policy might eventually work. However, given the current fiscal climate and our current collections to cost ratio, it is prohibitively expensive to create an effective child support enforcement system. If every family that qualified for a child support order had an order set under guidelines, over $30 billion in child support would be payable per year. At our current 3.8:1 ratio, we'd need to spend $8 billion a year to collect this money, quadruple what we're spending now.

The real question facing Congress, then, is this: either find another $6 billion to throw at the program, or develop a better, more productive strategy.

A Shift in Strategy

Zero productivity growth and failure to achieve dramatically better results have caused many legislators and children's advocates to think about transferring the program to the IRS. The most compelling argument for doing this is captured in one statistic: each year the IRS collects about 90 percent of what is owed, but for child support enforcement, that figure -- known as the "compliance rate" -- is just 50 percent.

As someone with one foot in tax administration and the other in child support enforcement, I'd like to discuss the key differences in enforcement strategy between a tax agency and a child support agency and suggest ways to use tax enforcement techniques to collect more child support.

The main reason why the compliance rate for taxation is so much higher is because the tax system was designed to handle huge numbers of cases quickly and easily. For example, when a taxpayer moves out of state and changes jobs, his new employer automatically withholds the proper amount of tax and sends it to the IRS, which doesn't have to lift a finger. If

that same person also owes child support here's what usually happens: the mother calls to complain that she hasn't received her check. A caseworker checks to see if the father is paying and discovers he is not. She calls the father's old employer and learns that the father has left. She then puts in a locate request, and waits weeks or months for the response. In the meantime, the mother calls again and again to check on the status of her case, and each call triggers a predictable -- and predictably futile -- response.

In short, every time an obligor changes jobs, we have a crisis. As 1.9 million obligors change jobs each year, that works out to 7,600 crises every working day. No wonder productivity isn't improving. After coping with all the crises, there's no time left for improving the program.

When the IRS implemented large scale tax withholding in the 1940s, they designed the system so that it would work. They **ENGINEERED** it.

Nobody designed the child support system the way it is. The problem is that nobody designed it at all. The child support enforcement system grew up piecemeal during the 1940s and 1950s. Back then, divorce was rare, birth out of wedlock was scandalous and society was much less mobile. In 1945 the average county had an AFDC caseload of 68 cases. It was easy for one probation officer to keep track of all his cases.

Fundamentally, that system is still in place today. We have put a veneer of automation and centralization onto the program, but in most states, it still comes down to an individual caseworker making individual decisions about individual cases. We all know the results. This system has all but collapsed under the weight of 13 million cases.

We need to build a system that handles the vast majority of cases without human intervention. While I do not advocate transferring the program to the IRS, we must build a system that collects child child support as efficiently as the IRS collects taxes. And because we haven't got another $6 billion to throw at this problem, we need to build a system that will do more, better, faster with less.

That's a tall order. But it's not as far in the future as some may think. Over the last 18 months we've made a good start in Massachusetts. I'll be the first to admit that we haven't made much progress in Massachusetts in the areas of paternity establishment or modification. But we've revolutionized our approach to enforcement.

We've completely reengineered key business processes, with the goal of enforcing most cases without human intervention. There are three major elements to this approach:

- Cases with similar characteristics are grouped together;
- Decision-rules determine what type of enforcement actions should occur for particular groups of cases; and
- The computer searches various databases and automatically takes the appropriate enforcement action.

We start by notifying every obligor who is at least $500 in arrears of the amount of his debt, and we request payment within 30 days. If the debt is not paid, we send a second notice informing the obligor that an administrative lien is in effect and that the Department of Revenue will seize any asset or income stream we can find if payment is not made within 30 days. Since last spring we have issued 70,000 such liens.

We routinely match this file of 70,000 cases against other databases, including wage reporting data, tax data, bank account data, and information on unemployment compensation recipients, workers' compensation claimants and lottery winners. When a match is found, any of the following actions can occur without human intervention:

- If the obligor is more than $500 in arrears, the system will also instruct the employer to increase the amount withheld by 25 percent, until the arrears are paid off.

- If the obligor has a bank account in Massachusetts, we will automatically seize funds by "levying" the account.

- And if the obligor is receiving government benefits -- unemployment insurance, workers' compensation benefits or lottery winnings -- those benefits will automatically be levied.

In addition, when our new hire reporting system indicates that an obligor has changed jobs, the system notifies the new employer to withhold the amount of the support order. While employers have 14 days to report a new hire to DOR, many employers will fax us the information on the employee's first day at work, usually a Monday. That information is entered into our database that same day, and the employer will receive a wage assignment 24 to 48 hours later.

The system will also notify the obligor of the action being taken, and offer an appeal process. The vast majority of obligors do not appeal, meaning that thousands of cases can be enforced without any human intervention at all.

The results have been remarkable:

- We now track 35,000 obligors as they change jobs, go onto unemployment compensation or injure themselves and receive workers' compensation. These cases represent two-thirds of all cases where the obligor is in Massachusetts, and they are essentially on auto-pilot.

- 80 percent of our total collections are now made without human intervention. If all of our caseworkers went on strike tomorrow, that money would continue to flow.

- The number of paying cases is at an all time high, increasing by 34 percent since we began this radical

overhaul of our enforcement strategy.

- Our new hire reporting system, coupled with our ability to transfer wage assignments from one employer to another without any caseworker involvement, is now enforcing 500 cases per week in which the obligor is changing jobs within Massachusetts.

- Collections from liens on workers' compensation payments have nearly quadrupled since last year, and are now running at a rate of $1.5 million annually.

- In a four month period we placed liens on 8,300 bank accounts, netting $4.3 million.

- Collections from unemployment compensation benefits are now running at $15 million annually, compared to $5 million under the manual process. Moreover, the number of staff needed to run this part of our program has been cut from 20 to 2.

If the old strategy was akin to giving a caseworker a fishing rod, and asking him to reel in obligors one by one, our new strategy is the equivalent of using electronic driftnets to scoop up obligors by the thousands.

80% Compliance Rate

In August 1992 -- when we began to move away from our caseworker-based enforcement strategy -- we collected 65 percent of the child support owed that month by obligors who lived in Massachusetts. By March 1993 -- when we had completely abandoned our caseworker-based strategy in favor of an automated enforcement strategy -- that ratio had increased to 80 percent, a 15 point increase (the compliance rate for out of state obligors is far lower, primarily because DOR cannot apply its new strategy to these cases).

Nationwide, including interstate cases, the compliance rate is about 50 percent. Moreover, the national compliance rate has been increasing by less than one point per year. That means DOR was able to achieve in just a year and a half what would have taken fifteen to twenty years if we had stuck with our caseworker-based approach and progressed at the national average.

The only prerequisite for adopting this strategy is a centralized, state-run child support enforcement program with a single, comprehensive computer database of all IV-D child support cases. Many states already meet this prerequisite, and others are moving in this direction. If we could achieve an 80% compliance rate nationwide, not only would children be better off, but we could open up dramatically new possibilities of welfare reform, including child support assurance.

Child Support Assurance

Child support assurance has been receiving lots of attention lately, and with good reason. Unlike AFDC, it would provide tremendous incentive to work, because child support benefits are not reduced by earnings. And unlike traditional welfare reform proposals -- which require billions of dollars up-front for remedial education, job training and child care costs -- child support assurance can be implemented at a very low cost, provided that Congress makes a handful of key reforms that will enable all states to get to an 80 percent child support collection rate.

Because the Department of Revenue is the information nerve center of Massachusetts government, we are in a unique position to analyze the feasibility and impact of child support assurance. DOR has access to AFDC and Medicaid information, wage reporting data, child support case information, and the income tax returns of custodial parents and obligors. We combined this data on the 85,000 current support cases that are enforced by DOR and simulated what would have happened if Massachusetts had implemented child support assurance in 1992.

Our simulation used the following criteria:

- There must be a child support order to qualify for the program;
- All child support collected would be passed on to the custodial parent;
- Regardless of the income received by the custodial parent, he or she would be guaranteed a minimum of $3,000 to $4,500 per year in child support, depending on the number of children;
- The benefit would be available to all families with child support orders, regardless of whether the mother had remarried or had ever been on AFDC;
- Each dollar paid or passed on to the custodial parent would reduce AFDC payments, if any, dollar for dollar.

In our simulation $165 million in assured benefits were paid out. DOR recouped $95 million in child support collections, for a gross cost to the state of $70 million.

However, net cost to the state was significantly lower because the AFDC and Medicaid caseload was reduced by nearly 3,000 cases. (Our simulation relied on 1990 work done by Irwin Garfinkle, Philip Robins, Pat Wong and Daniel Meyer to estimate the impact of child support assurance on labor supply and AFDC caseloads). These case closings resulted in $36 million in annualized savings, reducing the net cost $34 million.

We also calculated that if we had been able to collect 78

percent of all child support due in Massachusetts in 1992, that the cost of this program would be zero. As I've already stated, by March of 1993 we had exceeded the 78 percent break-even point for those cases in which the obligor lives in Massachusetts. However, our compliance rate for cases in which the obligor is out-of-state is much lower, resulting in overall compliance rate for 1992 of 62 percent.

We also analyzed the reasons for the $70 million shortfall between assured benefits paid ($165 million) and the amount of assured benefits recouped ($95 million). First, we found that even if we had collected 100 percent of all child support due in 1992, there would still be a shortfall of $30 million. This happens because many child support orders are lower than the amount of the assured benefit, leaving government with some unrecouped assured benefit payments, even when 100 percent of the child support order is collected.

The remaining $40 million shortfall can be attributed to inadequate enforcement. Of this amount, $24 million accrued in cases in which the obligor was outside of Massachusetts, and $16 million accrued in cases in which the obligor was in Massachusetts but DOR failed to enforce the case. Only one-third of DOR's obligors live outside of Massachusetts. Yet this portion of the caseload adds more to the cost of child support assurance than does the two-thirds of the cases in which the obligor lives in Massachusetts. This underscores the need for Congress to create a workable interstate child support enforcement system.

Finally, the assured benefit reduced the number of non-AFDC families living below the poverty line in Massachusetts by almost 25 percent.

What Congress Must Do

Most of the pieces of an effective child support enforcement system are now in place, at least in some states: a new hire reporting system; access to income tax and bank account data; improved computer systems; and state-wide child support databases.

Massachusetts was able to use these pieces to reach an 80 percent compliance rate in just a year and half. The strategy we used does not cost much money. In fact, most of the enforcement tactics described in this testimony actually decrease the cost of running the child support enforcement system by reducing the need for caseworkers.

Congress is now faced with hundreds of proposed child support reforms. The U.S. Commission on Interstate Child Support alone recommends 100 different reforms. Based on the Massachusetts experience, there are six reforms that are critical to a creating a child support system that works:

- **Report New Hires:** We estimate that a national system of new hire reporting would increase child support collections by about $2 billion annually, at a cost of $10 million. This 200 to 1 benefit/cost ratio, in contrast to the existing 3.8:1 ratio, demonstrates the power of transferring a tax administration enforcement strategy to child support.

- **Provide Access to IRS Data:** Much of the information used by DOR to identify obligors' income and assets was reported to DOR for both tax and child support enforcement purposes. If access to Massachusetts tax data was the key to increasing compliance rates to 80 percent for obligors living in Massachusetts, access to IRS data is the key to a national compliance rate of 80 percent. This is the reason that some advocates are urging Congress to transfer the child support enforcement program to the IRS. However, it will cost far less, and we'll see results far more quickly, if we transfer IRS data to existing child support enforcement programs rather than transfer the existing programs to the IRS.

- **Automate Enforcement:** Switching from a caseworker-based system to automated enforcement is a fundamental prerequisite for improving the program. Without this switch in strategy, child support programs will be unable to make effective use of new hire and tax data.

- **Consolidate Programs at The State Level:** The income, asset and location data needed to run an automated program is organized primarily at the state level. County-based programs are too fragmented to make good use of this data.

- **Give Full Faith and Credit:** Getting one state to enforce a wage withholding order issued in another state's court is notoriously awkward and time-consuming. Often conflicting orders result, complicating both automated and manual enforcement efforts. We recommend that Congress adopt the U.S. Commission on Interstate Child Support's proposal, under which employers would be required to honor an order issued by another state, as well as the UIFSA "one order, one place, one time" provision. Without these reforms, a national new hire database will be of very little use.

- **Use Administrative Liens Across State Lines:** Federal law already requires each state to use liens to collect past-due support. However, most child support enforcement agencies do not have the authority to administratively issue a lien. Because past-due support has the status of a court judgment, it makes no sense to go back to court to obtain a lien. Doing so when a judgment already exists wastes the resources of courts and child support enforcement agencies and causes unnecessary delays. We recommend that Congress require the use of administrative liens, and that they be valid throughout the U.S. Under the present

system, arrears in interstate cases are collected at a snail's pace through wage withholding. Once administrative liens are available, collection of arrears in interstate cases will be revolutionized.

Federal Funding

I'd like to conclude my testimony with a few words on the role that federal funding should play in any additional reform. In the course of completing the next major piece of child support legislation, Congress will hear many pleas for more money for child support caseworkers, more money for computer systems and higher federal reimbursement rates.

The child support enforcement program suffers from many defects, but lack of money is not one of them. Since 1979, spending on child support enforcement has increased six-fold. Total federal spending has increased about two and a half times during this same period. Congress has been more than generous to this program.

There are still a handful of states where the program is woefully underfunded. But overall, the program needs a new strategy more than it needs new money. If Congress agrees that the strategy we are using in Massachusetts is valid -- use computers and electronic databases to collect child support, and use caseworkers only for the minority of cases where human experience and judgment is really needed (contested paternity cases, self-employed obligors who are hiding income and assets, etc.) -- there is no longer any justification for an open-ended reimbursement program that guarantees that the federal government will reimburse two-thirds of a caseworker's salary regardless of whether that caseworker is productive. In fact, by continuing this funding scheme, Congress may actually delay the day when other states abandon their caseworker-based enforcement strategy and move to a more effective automated strategy.

In Massachusetts, we did not adopt such a strategy until faced with a severe fiscal crisis and an early retirement program that resulted in 10 percent of our caseworkers walking out the door on the same day. In government as in all human endeavors, necessity is the mother of invention. In Massachusetts, we would prefer to see Congress adopt a lower federal reimbursement rate and use the savings to increase incentive funding. We also recommend that Congress require the states to reinvest all incentive funds in their child support programs. If Congress gives states a financial incentive to adopt techniques that work, we might just create a child support enforcement system that works.

Mr. Chairman, thank you for the invitation to testify before this distinguished committee.

Chairman FORD. Thank you very much.
Mr. Williamson.

STATEMENT OF ROBERT D. WILLIAMSON, PRESIDENT, AMERICAN SOCIETY FOR PAYROLL MANAGEMENT

Mr. WILLIAMSON. Thank you, Chairman Ford, for allowing me to offer suggestions on behalf of the employer community and the members of the American Society for Payroll Management.

Our members, the people in charge of payroll operations at large multiState employers, want the best possible withholding process just as much as do child support workers because a streamlined efficient system will save employers administrative burden while it gets the support money out where it belongs, to children, without delay. We therefore were pleased to assist the Commission on Interstate Child Support as it developed its payroll-related recommendations, and we generally support them.

We strongly urge that any new child support legislation include the following. These sound like housekeeping details, but they are really essential to a smooth operating system.

Give child support withholding top priority, even over a Federal tax levy, and provide that it will not be interrupted by a bankruptcy order.

Eliminate delayed response to interstate orders by allowing employers to act on all orders, regardless of their origin.

Uniform orders are needed, including standard definitions for income and disposable pay.

Employers should be allowed a handling fee for making and paying over withheld child support. Ten dollars may sound high, but surveys we have conducted indicate that this fee per pay period is justified.

Guidance on allocating payroll deductions under multiple orders is a must when, as is often the case, the obligor's disposable pay won't cover more than one. When this happens today and interstate orders are involved, nobody really knows how to handle them.

For paying over withheld support, a central national payment point would be ideal or at least a single remittance point per State. We should not rush into immediate withholding. We recommend that withholding commence only when an order is received and not just on the employee's say-so on an expanded form W–4. We think you could leave child support withholdings off the form W–2 because this information will appear on the employee's pay stub.

New hire reporting on form W–4 certainly makes sense, and it will not be arduous, so long as employers are given reporting format flexibility and enough reporting time is allowed them. Under present conditions, we believe that some multi-State employers might need 30 days from the date of hire to report, preferably again to a single point or at least one point per State.

Workable definitions of covered employees and rehires are also needed.

Penalties for failing to report should be the same as for forms W–2. That is $50 for each failure to provide up to a maximum of $250,000 per year.

And lastly, employer education should be advanced through publications and outreach programs. We believe that most noncompli-

ance on the part of responsible employers is the result of unclear information, or the lack of information, and it is not intentional.

The points I have just highlighted are elaborated at length in my written testimony. I hope that we can continue to be part of the development of the payroll-related aspects of the new child support legislation, and I assure you that we stand ready to assist you and the subcommittee in any way we can.

That concludes my testimony.

[The prepared statement follows:]

American Society For Payroll Management
P O. Box 1221, New York, NY 10025
Phone (212) 662-6010 * Fax (212) 866-6517

WRITTEN STATEMENT OF ROBERT D. WILLIAMSON
PRESIDENT, AMERICAN SOCIETY FOR PAYROLL MANAGEMENT
TO
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS

June 10, 1993

The American Society for Payroll Management is the association that represents the interests of large U.S. employers. We have long been concerned with the child support withholding process as it represents a tremendous administrative burden for employers We were fortunate to have had the opportunity to work closely with the Interstate Commission on Child Support throughout the development of its recommendations to Congress. We share the Commission's goals for a more efficient child support withholding system, and know that the Commission and Congress are sensitive to the balance between social goals and employer burden. In this spirit, we are providing comments for consideration in the development of further reforms in child support enforcement

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• **Ensure That Child Support Withholding Always Takes Priority.** Under the current laws, child support may be interrupted by a bankruptcy order, and does not take priority over a federal tax levy unless the withholding began before the employer's receipt of the levy We urge Congress to pass legislation giving child support absolute priority over all other wage attachments

• **Eliminate Legal Risks Associated with Interstate Withholding Orders.** Many child support enforcement units submit interstate withholding orders directly to employers without regard to jurisdiction, and without proper registration. Determining when an order does or doesn't have legal jurisdiction is extremely complex for employers to determine--and an error in judgment could result in costly employee litigation. We urge Congress to pass legislation that eliminates the current jurisdictional issues in matters of interstate withholding. Specifically, we propose that Congress provide legislative language that allows employers to legally process all child support withholding orders without regard to their state of origin.

• **State Uniformity.** We urge Congress to require that all withholding orders, regardless of the state of origin, be uniform. In addition, a common definition for such terms as "income" and "disposable pay" are necessary. Currently, the definition of these terms varies considerably among orders. This lack of consistency makes automation difficult if not impossible, and invites employer error. We also urge Congress to require that employer input be solicited in the development of a standardized child support withholding order.

• **Recovery of Employer Cost.** Federal law currently allows employers to collect an administrative fee for child support withholding. However, the amount of the administrative fee is legislated by each state Based on studies conducted by ASPM, the average cost to withhold and disburse child support is $10 per employee per pay period. Most states allow for a much lower administrative fee. We urge Congress to mandate that the administrative fee for child support withholding be no less than $10 for each pay period in which withholding is made from an employee's wages We concur that the combined total of the child support withheld and the administrative fee not exceed the maximum percentage of disposable pay allowed by law (e.g., 50%)

• **Multiple Withholding Orders** In those instances where there is more than one withholding order against an employee's wages, and disposable pay is insufficient to cover both, states are inconsistent with respect to how withholding should be computed Some states require an equal allocation to all withholding orders (e g., Texas), while other states require that withholding be computed based on the sequence in which the withholding orders were received (e g., Indiana) We propose that the procedure be standard for all states, and believe that the allocation method is the most fair to dependent children

• **Disbursement of Child Support Withheld.** Under the current system, most employers are required to issue a separate payment to each county within the state. One ASPM member reports making 5 separate payments within one state. Only 22 states at this time have one central payment location. The requirement to issue multiple payments to multiple agencies is not only costly for employers, but can create problems for the collection agencies, and ultimately, the custodial parent. We propose that a single collection and disbursement operation be put in place. This collection and disbursement function could be operated by private contractors under the supervision of the Federal Office of Child Support Enforcement. Through the use of such technologies as EFT, we believe that there would be no delay in making payments to custodial parents under such a system. In fact, we think that efficiency would increase since withholding payments would no longer be transferred between agencies as they are now. Errors would also be eliminated. When an employer is required to issue payments to multiple agencies, payments are frequently forwarded to the wrong agency. This results in significant delays in paying the custodial parent. It's important to add that under a central payment system, employer burden would be significantly reduced as a single payment or electronic transfer is far less expensive and time consuming than several.

• **Immediate Withholding Upon Date of Hire.** It is our understanding that Congress is considering a provision that would require employees to indicate if they owe child support and the amount of the child support owed on a modified Form W-4. Based on this information, the employer must begin withholding child support immediately. Since the employer has no official confirmation as to the amount of withholding, or to whom the withholding is to be paid, we urge Congress to include a protocol provision that would allow employers to hold the amounts withheld in trust until a standard confirming withholding order is received by the employer from the appropriate withholding agency.

• **Reporting Child Support Withheld on Form W-2.** Some members of Congress recommend that employers be required to report the total amount of child support withheld on the Form W-2. We believe that this information is best obtained from the child support enforcement agencies. The enforcement agencies already have the automated systems in place to track and report this type of information. We do not see the value of the IRS retrieving this information from employers. We also urge Congress to consider the reporting burden this requirement places on employers.

• **New Hire Reporting.** Members of Congress have proposed that a national computer network be established linking information from state enforcement agencies concerning new hires and rehires. State information is obtained from employers by their submission of the employee's Form W-4. Thirteen states have already imposed new hire reporting requirements and 17 others are considering legislation. Based on our current experience (both good and bad) with the states' existing new hire reporting programs, we make the following recommendations as it relates to new hire reporting.

1. **Centralized Reporting.** A central source of information reporting would be more efficient than reporting information to each state. With centralized reporting, the reporting requirements are uniform for all the states, multi-state employers need not prepare separate reports, and the information is better controlled and disseminated to the states from one central location. In other words, one central data base would provide information to the states rather than many states supplying information to a national data bank. This concept is already embraced by the IRS in its "single wage reporting" project.

2. **Uniform Reporting Requirements.** Where option #1 isn't possible, we urge Congress to require that the states have uniform reporting requirements. **Exhibit I** below summarizes the many variables that already exist in the states' new hire reporting requirements. This is based on only 13 states. The complexity will surely increase when all of the states require new hire reporting.

Exhibit I

State New Hire/Rehire Reporting:
Variable Reporting Provisions

- Reporting Frequency
- Where to Report (agency varies by state)
- How to Report
- What to Report
- Penalties
- Covered Employers
- Covered Employees
- Who is a "rehire?"
- Agency of Enforcement/Administration
- Administrative Fees (charged to new hires)

3. **Frequency of Reporting.** New hire reporting should be required no more frequently than monthly and employers should be allowed to select the date each month that they will report. By allowing employers to select the reporting date, the national and/or state data base won't be flooded with information--rather, the information will be reported on a staggered basis. Requiring that employers report each pay period would put a tremendous burden on those employers that pay their employees weekly. It is also our belief that if an employee has changed jobs within 30 days, the state would not be able to withhold child support anyway. For this reason, we feel that the burden caused by pay period reporting doesn't justify the benefits that would be realized by the states.

4. **Employee Exemptions.** Many states with new hire reporting requirements exempt employees who work sporadically or earn less than a certain dollar amount (e.g., $300 per month) from the new hire reporting requirements. We support these exemptions and recommend Congress include similar provisions.

5. **Rehires.** States also require that "rehires" be reported. Unfortunately, there is no specific or uniform definition of rehire. Some states have determined that a rehire is any employee with a lapse in pay of one day. This is extreme and burdensome for all parties involved. We suggest that a rehire is any employee with a lapse in pay of one month or more.

6. **Method of Reporting.** Almost all states with new hire reporting requirements allow employers to report new hires and rehires in a variety of formats: magnetic media, printed list, Form W-4, phone or fax. We urge Congress to allow for the same flexibility. For some employers the Form W-4 may be a convenient reporting vehicle, while the large corporation would be better able to supply magnetic media or printed lists. We think that where magnetic media is possible, both states and employers benefit.

7. **Penalties.** Penalties for failure to report should not be excessive, and should be consistent with the information return reporting penalties that currently exist (e.g., $50 for each failure up to a maximum of $250,000 per year). We also urge Congress to provide for a period of leniency while employers are preparing for and learning the new hire reporting requirements.

• **Software Standards and Edit Criteria.** Most employers process their payrolls through some form of an automated system. With this in mind, software standards and edit criteria, where properly promoted by the Federal Office of Child Support Enforcement, would provide software vendors and payroll service providers an incentive for including routines that ensure that child support is withheld correctly and paid over timely. Currently, few payroll systems notify the user when the standard child support payment exceeds the maximum percentage of disposable pay. Some software systems attempt to prioritize wage attachments, but do it improperly. By giving guidelines to software vendors and service providers, who are relatively few in number, many employers will be in compliance with the CCPA.

• **Employer Outreach.** The laws governing child support withholding and other provisions of the CCPA are generally not understood by employers. We believe that most instances of noncompliance are the result of ignorance and not willful. In light of this, we encourage Congress to develop a program of employer outreach seminars supported by enhanced publications for employers.

-end-

Chairman FORD. Thank you very much.

Let me thank each panelist again for your testimony.

Mr. Melia, you talked about your collection rate in Massachusetts, which is very impressive. Have other States adopted or talked with you about your approach in the collection efforts there?

Mr. MELIA. Yes, and there is a fair amount of interest in what we are doing because it is a way to enforce many more cases without having to hire additional caseworkers, so it gets us out of the trap that a number of people have mentioned.

In order to do that, the absolute prerequisite is a centralized child support database. Most States still don't have such a database. By 1995 most States should be in a position to do that if they meet the Federal date for having a single comprehensive computer system.

States also need to have something to match that against, and the most important or the most lucrative source of data to match that is a new hire database. Even without a new hire database States could match it against existing quarterly wage reports. You would be 3 months behind, but it would be better than what we have today.

Chairman FORD. Ms. Haynes, is an amendment to ERISA still needed even if President Clinton's health care plan is enacted into law?

Ms. HAYNES. Well, I don't know the specifics of what the health care reform will entail, but the testimony that we heard from child support agencies throughout the country included a lot of problems where the self-insured employers would not provide insurance coverage if the dependent did not reside with the employee or if the child was born out of wedlock, and because of the ERISA preemption, their State statutes prohibiting such discrimination did not apply to these self-insured plans. So the input that we were getting is that, yes, it is very necessary to remove the ERISA preemption.

Chairman FORD. Is that right? OK.

Well, I thank the members of the panel for your input and testifying before the subcommittee. Hopefully we will be working in this area in the coming months and hopefully we will be able to call you to guide us and direct us in drafting some legislation that would be in the best interests of child support enforcement. Again, thank you very much.

Nancy Ebb, the senior staff attorney for the Children's Defense Fund; Geraldine Jensen, president of the Association for Children for Enforcement of Support; David Levy, Children's Rights Council, president, and Paula Roberts, senior staff attorney for the Center for Law and Social Policy.

Let me welcome you and thank you for coming. I want to apologize for your having to wait all day like this. I am sorry about the 40 minutes that it took with the three votes on the House floor, but thank you very much for waiting, and thank you for your testimony that you are about to give.

Ms. Ebb.

STATEMENT OF NANCY EBB, SENIOR STAFF ATTORNEY, CHILDREN'S DEFENSE FUND

Ms. EBB. Thank you, Mr. Chairman. The Children's Defense Fund appreciates the opportunity to testify today.

We believe strongly that the support of both parents is important for children to thrive and to live with economic dignity. Our long-standing work to make child support better has led us to believe that any solution to the child support problem that so plagues children in this country must include child support assurance as one key component.

I would like to start my testimony by reframing the question Congressman McDermott asked earlier today about federalization: In the case of child support assurance, why wait? We have heard a number of common solutions to the child support problem, but also a number of conflicting theories about what will truly make the system work for children. As we test out those solutions, as we debate whether to give State-based child support enforcement one last chance before moving to federalization, should children have to bear the burden of continuing poor performance of the child support enforcement system?

Like you, we have worked long and hard to improve child support enforcement. We are proud of some of the very significant improvements we have seen. We also despair, though, as we look at the continuing poor performance on behalf of children. Looking at the IV–D case load, including those cases with orders as well as those still in need of paternity establishment, we are making collections in only 19.3 percent of the cases across the country.

If we are trying to make child support what it must be, a regular, reliable source of support for children, this is simply not adequate. Why should we wait to move forward with child support assurance?

The Children's Defense Fund supports a universal child support assurance program. We advocate beginning with the youngest, most vulnerable children and phasing it in from there, starting with the youngest children because they are the ones whose parents may face the greatest barriers to work and ability to support their children without child support. If that is not possible, though, for any reason, and we must begin with demonstrations, then we believe firmly that it is important to look at demonstrations that are likely to move swiftly toward broader coverage.

We urge if we begin with demonstrations that there be a significant number of broad-based demonstrations establishing the viability of the approach, expanding rapidly to serve a greater population as program success is established, and testing out strategies for replicating the program and expanding it to national scale.

Our written testimony outlines criteria for achieving this result and for expanding to nondemonstration States as interim evaluations establish program success. We believe as we begin the discussion of child support assurance, we should begin with two questions, "Why wait, and how can we move as quickly as possible to support children?"

We believe also as the subcommittee explores design of child support assurance that it is important to look at how that assurance

program should be structured. We would urge that it include five key program components.

First, dramatically improved child support enforcement. Assurance can't work without strong, aggressive enforcement, and we think that is a bedrock piece of the program. Working with other advocacy groups, CDF has developed a proposal for such improvements. I understand that they will submit that statement for the record so I will not reiterate it today.

Second, an assured minimum benefit should be included that is enough to make a difference in a child's life. A $3,000 minimum assured benefit for one child and a larger one for larger families would have a modest but significant impact on children. It would give a custodial parent enough of a base so that he or she can combine a part-time job or a full-time job with child support assurance as a viable alternative to welfare. So a minimum benefit that is enough to achieve that result is an important piece of the program. It is also vital that families receiving AFDC see some benefit from child support assurance rather than a dollar for dollar reduction in order to give them a stake in pursuing employment, training, and child support as a realistic alternative to welfare.

Third, it is important that child support assurance reach all children in need of assistance. For most children a child support order should be the entrance key to the program. But for some it may not be appropriate to ask that, for example, in cases of rape or incest. And in other cases despite the parent's best efforts to obtain a support order that may not be possible. Those children as well should be deemed eligible for the program.

Fourth, the child support assurance program should include some form of health assistance for poor and near-poor children. As Congress looks at both health reform proposals and child support assurance proposals, it is important to look at the interplay of those two proposals and to ensure that there will be coverage for children in child support assurance who don't have access to coverage through other means.

And finally, the program should include strong outreach to custodial and noncustodial parents to reach them, to bring them into the system and to explain both the benefits and the responsibilities of child support.

We are encouraged by the subcommittee's interest in child support assurance. We look forward to working with you and your staff to make it a reality for children.

[The prepared statement follows:]

TESTIMONY OF NANCY EBB
CHILDREN'S DEFENSE FUND

The Children's Defense Fund appreciates the opportunity to testify at these oversight hearings on child support enforcement. We commend the Subcommittee on its willingness to explore solutions to the child support problem, a failure of parental responsibility that blights the lives of millions of children.

The Children's Defense Fund ("CDF") is a national non-profit group that advocates on behalf of low-income and minority children and families. We have long been active in the area of child support. It is our strong belief that the support of both parents is important for children to thrive and to live with economic dignity. Regular, reliable child support is a key component in helping families achieve self-sufficiency.

We worked hard on the child support improvements shaped by this Subcommittee and enacted as the Child Support Enforcement Amendments of 1984 and the Family Support Act of 1988. After federal legislation was enacted, we followed the regulatory process to try to ensure that the legislative intent of the provisions was carried through in regulations. We wrote The Child Support Advocacy Manual: A Guide to Implementing P.L. 98- 378.

We have provided extensive technical assistance to state administrators, legislators, and child advocates in an effort to see that federal child support enforcement provisions live up to their promise. We have done extensive survey work in the area of child support in an effort to identify both problems and innovative solutions. **Our long-standing work on child support has led us to conclude that any solution to the problems of children in single-parent families must include child support assurance as a key way of helping their families achieve self- sufficiency.**

The Crisis in Child Support

The numbers etch in stark relief a picture of children in need of new solutions. We have seen a national sea change in families. In 1959, 91 percent of children lived in a two-parent family. By 1992, this number had plummeted to 74 percent.

By 1991, one in every four children lived in a family with only one parent in the home. Of the 15.7 million children living in single-parent families in 1991, more than half were poor. Millions more live close to economic disaster.

The obligation to support a child does not disappear when a parent leaves the home. Yet appallingly few children receive support from their non-custodial parents. According to Census Bureau data, only a slim majority (58 percent) of custodial mother families had a child support order in 1990. Among custodial mothers without a child support order, nearly two- thirds (64 percent) wanted a child support order but could not get it. This proportion was even higher (72 percent) among poor custodial mother families without an order.

Even families with a child support order are not guaranteed support:

- Among custodial mother families with orders to receive child support in 1989, half (48 percent) received no support at all, or less than the full amount due.

- In 1989 alone, there was a $5.1 billion national child support "deficit" -- the total shortfall between the amount of support American children were due from noncustodial fathers and the amount they actually received.

- The record is even more disturbing for cases served by federal-state child support enforcement agencies, which in FY 1991 reported collections in only 19.3 percent of their cases. While these agencies certainly have made

their cases. While these agencies certainly have made notable improvements in recent years, they still fall far short of being able to ensure that child support will be a reliable source of income for the children they serve.

The Devastating Impact of Nonsupport on Children

Inadequate child support victimizes children by threatening their immediate economic security. Child support payments are often sporadic and unreliable, leaving families unable to cover essential daily expenses such as food and rent.

Child support payments also may be too low to enable working single parents -- mostly women -- to support their children. Custodial mothers who work often face low wages (generally less than those of men) and high child care costs. According to the Economic Policy Institute, 37 percent of all women earned poverty wages or less ($6.52 and under) in 1991, compared with 26 percent of all men. Moreover, the 1990 National Child Care survey found that employed single mothers spend 21 percent of their annual income on child care. Many of these low-wage earners cannot earn enough to keep their children out of poverty. For these families, the absence of reliable support from the second parent means that one parent is trying to do the work of two. The work effort of the custodial parent without help from the second parent often does not produce family self-sufficiency or a viable alternative to welfare.

The Promise of Child Support Assurance

Child support assurance represents a bold new strategy for responding to the new realities of American family life. It seeks to restore our nation's strong historical commitment to parental responsibility and family values by insisting that every child receive the support of two parents. At the same time, it seeks to assure that children do not suffer when parents fail to pay and government fails to collect child support.

While child support assurance is a new idea, it builds on an already well-established one. The concept of insuring children against the inability of a parent to support them is a proud and long-standing part of our Social Security system. The Social Security program insures children against the inability of their parent to support them due to disability or death. Child support assurance responds to the sweeping demographic shifts that have taken place since the inception of Social Security to insure children against the newest threat to their economic well-being -- the current epidemic of non-support among parents who do not live with their children.

Why Child Support Assurance Is So Important

-Child support assurance reinforces parental responsibility, making it harder for noncustodial parents to avoid child support payments. Because child support assurance is premised on much tougher child support collection, breaking up or never marrying no longer will provide an opportunity to escape financial responsibility for one's children.

Moreover, child support assurance gives custodial parents an incentive to seek paternity and child support orders even if the noncustodial parent earns too little to make substantial child support payments initially. This new incentive will help ensure through early establishment of paternity that children have access to the noncustodial parent's future income, including earnings, benefits, and inheritance. Particularly in the case of young fathers, earnings and child support payments will rise over time, offering enormous long-term benefits of establishing paternity.

Child support assurance encourages work effort and offers families a way to support their children without welfare. Child support assurance removes barriers to work that are embedded in the current welfare system and supplements earnings with the assured benefit. Unlike welfare's work disincentives, most child support assurance proposals are designed so that single parents can keep the assured benefit even if they work. This means that work effort by a custodial parent is rewarded by greater family income, and that the combination of at least part-time work and assured child support offers a viable alternative to welfare.

Child support assurance is a universal, non-stigmatizing way to help children. Unlike welfare, child support assurance helps all children who now suffer from irregular, unreliable support -- not just those who are poor. The cost of making such a program universal can be minimized by aggressive enforcement against non-paying parents, ensuring that those who can afford to support their children are held to their responsibilities.

Key Components of Child Support Assurance

As the Subcommittee explores design of a child support assurance program, we urge that it include five key program components:

- **Dramatically improved child support enforcement.** Child support assurance cannot work without strong, aggressive enforcement that holds noncustodial parents responsible for supporting their children to the maximum extent feasible.

Improvements that should be made include improved establishment of paternity and support obligations; improved location and collection techniques; shifting key enforcement elements to the federal level; improved resources and training; outreach; and better medical support enforcement. Working with other advocacy groups, CDF has developed a proposal for such improvements. Because it is our understanding that the groups will submit a detailed description of these improvements for the record, we have not described them at length in this testimony.

- **An assured minimum benefit that is large enough to make a difference in a child's life -- and adequate for families with more than one child.** The amount of the assured benefit is key to its success. Since one benchmark of the program's success is its ability to improve the economic status of children, it is essential that the benefit be adequate to achieve its goal.

An adequate benefit is also essential to encourage low- income women otherwise not convinced of the value of establishing paternity to come forward and do so because they see appreciable benefits for their children; to give low-income custodial parents a sense that work, combined with a child support assured benefit, is a viable alternative to welfare; and to send the message that child support is a significant obligation, not a trivial one.

A $3,000 minimum assured benefit for one child -- and a larger one for larger families -- would have a modest but significant impact on children. According to estimates by the U.S. Department of Agriculture, single parents with incomes of less than $30,000 spent an average of $5,030 to cover one child's expenses in 1990; higher-income families spent an average of $9,330 for one child. A $3,000 minimum benefit for a single child is therefore extremely modest in light of actual expenditures.

It is also vital that families receiving Aid to Families with Dependent Children see a benefit from child support assurance, rather than a dollar-for-dollar reduction, in order to give them a

stake in pursuing child support and the motivation to pursue job training, employment, and child support as a viable alternative to welfare. Frank Furstenberg, a noted academician who conducted focus group interviews of young black women and some of their male partners, reported finding a pervasive hostility toward the child support system. One reason, he found, was the sense that child support does not benefit AFDC children:

> [The] procedure of linking child support to the repayment of welfare had the effect of making both the father and the mother feel that the money that came into the system was not going to support their children. For some men, this was a further excuse to evade payments; for some women, the low payoff from the system discouraged them from cooperating in efforts to locate the father.

Source: Furstenberg, Sherwood, and Sullivan, Caring and Paying, 1992.

Providing some benefit to AFDC families through child support assurance is important to reduce this hostility and to help families move from welfare to a less stigmatizing system that rewards efforts to be self-sustaining. The pass-through of some child support assurance benefit to AFDC families could be on a universal basis, or the incentive could phase out as income increases (similar to the EIC phaseout). Alternatively, legislation could follow the approach taken by the National Commission on Children. The Commission proposed that AFDC benefits to single parents be reduced by approximately 50 percent of the amount of the guaranteed child support payment for which they are eligible. Whatever its precise formulation, we believe that such an approach is an important part of child support assurance.

- **Child support assurance should reach all children whose parents participate in child support enforcement efforts.** While eligibility should in general be restricted to children with a child support order, in limited instances children should be deemed eligible if there is good cause not to pursue paternity or support (e.g., in cases of rape or incest) and in cases where the child does not have an order because the system has failed to obtain one despite the custodial parent's cooperation.

- **The assured child support benefit should include an assured health benefit.** Working parents struggling to stay afloat need the assurance that they can provide for their children's health needs. For too many single parents, medical coverage for their children is a chimera. In 1991, fourteen percent of all children in mother-only families had no health insurance. Only forty-one percent of all such children were covered by private health insurance, a number which plummeted to 16 percent for poor children in mother-only families. (Source: Census Bureau, Poverty in the United States: 1991, Series P-60, No. 181, 1992. Calculations by CDF).

While theoretically many of these children can and should be covered by the absent parent's health plan, in too many instances that is not the reality. According to Census Bureau data, only two in five custodial mothers with a child support order in 1990 had provision for the child's private health insurance included in their order. Of those families with health insurance included in their order, one-third did not receive the mandated coverage.

As Congress considers both health reform and child support assurance proposals, it is essential to look at the interplay of these proposals and to ensure that they provide adequate coverage for poor and near-poor children participating in child support assurance. Health insurance coverage should be provided to poor

and near-poor children eligible for child support assurance if they do not have access to their noncustodial parents' private health insurance; if their custodial parents do not have any insurance; or

if the coverage available to them fails to meet basic health care needs such as preventive health care.

♦ **The program should include strong outreach to custodial and noncustodial parents.** Many custodial parents do not know what their child support rights are, or how to get help establishing and enforcing them. Local and community-based outreach and public education is essential to help custodial parents understand that they have a stake in pursuing child support and child support assurance, to emphasize the economic and non-economic benefits of child support, and to help them navigate the system to obtain services. Outreach to noncustodial parents is important to educate them about their responsibilities, and about the benefits that flow from establishing paternity and a formal link to their child.

Implementing Child Support Assurance

In designing a child support assurance program, one of the threshold questions is whether it should be a universal program or a demonstration. **We strongly support a universal national child support assurance program rather than limited demonstrations.** Despite our best efforts to make child support cushion the economic loss caused by the absence of a second parent, in too many cases it simply does not provide a regular, reliable source of income to the child's household. We can - and must - improve our efforts to collect child support, but children should not be asked to bear the burden of our failures. Universal child support assurance should be put into place now so that another generation of children does not have to wait for national policy to catch up with changed needs and changed demographics.

A universal child support assurance program can be phased in (the practice that was followed in extending Medicaid coverage to non-welfare low-income children). Such a phase-in would logically begin with the youngest children whose custodial parents face the greatest barriers to full-time work and therefore the most acute need for income from the second parent. Implementation could be phased in over a five year period, building experience and capacity to serve a universal population of all children.

Our strong preferance is for a universal, phased-in system. In the event that implementation of child support assurance does not begin with a universal system, we urge that there be a significant number of broad-based demonstrations that establish the viability of the approach, that expand rapidly to serve a greater population as program success is documented, and that test out strategies for replicating the program and expanding it to national scale.

The selection process for any demonstration project should place a heavy emphasis on a successful track record of child support assurance, both to keep program costs down and to emphasize that private responsibility precedes public responsibility. There should also be a heavy emphasis on programs that can be replicated on a national scale. States willing to explore multi-state approaches that can advance national replication should be given priority.

If demonstrations rather than a universal program are authorized, the following criteria should apply to the choice and

structure of demonstration projects:

- Priority in selection of demonstration sites should be given to states that have demonstrated pre-eminence in establishment of paternity and child support orders and child support enforcement or a recent history of significant improvement in these areas; to states that have a demonstrated record of effective automation; and to states that have made efforts to link child support systems with other service delivery systems;

- Demonstrations should include the key elements outlined earlier in our testimony;

- The state submitting a demonstration proposal should commit itself to improvements in establishment of paternity and child support orders and child support enforcement as a condition of continuing federal financial support for the child support assurance demonstration;

- There should be a two-tier federal match provision, with federal financial participation increasing as demonstration sites reach a given performance threshold in establishment of paternity and child support orders and child support collection;

- The demonstration should include provision for an interim and final evaluation of effectiveness;

- Participating states should be required to commit themselves to a demonstration of significant size in order to meaningfully measure the impact of child support assurance, and further commit themselves to a plan to expand the program to a statewide one once interim reports indicate that the program is effective. Criteria for effectiveness should include increased family income; increased income or hours of work by custodial parents; and improvement of state performance in establishing paternity and child support obligations and collecting child support; and

- Enhanced federal funds that are more favorable than the basic two-tier match rate should be made available to encourage submission of a multi-state demonstration proposal;

In addition to this demonstration authority, there should be federal authority and matching funds provided to states that choose to phase in a non-demonstration, statewide child support assurance program as soon as interim reports in demonstration states indicate program success. Federal matching funds should be provided at the lower of the two basic match rates provided to demonstration states. This ensures that demonstration sites are rewarded for initiative and innovation by being able to achieve a more favorable match rate, but also encourages expansion of child support assurance to other states as soon as evaluations establish its success. This program design, while less desirable than a universal approach, helps ensure that the successful lessons of child support assurance are translated into national help for children.

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Child support assurance is a vital part of a strategy to provide for the needs of our nation's children. Combined with other approaches that help families move towards self- sufficiency, as well as strategies that help two-parent families form and

thrive, child support assurance -- and more aggressive child support enforcement -- offer great hope for changing and improving the lives of children. We appreciate the Subcommittee's interest in the issue, and look forward to working with you and your staff to make it a reality.

Chairman FORD. Thank you very much.
Ms. Jensen.

STATEMENT OF GERALDINE JENSEN, PRESIDENT, ASSOCIATION FOR CHILDREN FOR ENFORCEMENT OF SUPPORT, INC.

Ms. JENSEN. Mr. Chairman, thank you for this opportunity to testify today on behalf of the 25,000 ACES members throughout the nation. We are the families who are entitled to child support payments. I am also a member of the U.S. Commission on Interstate Child Support.

In 1975, when Congress enacted child support legislation for the first time, my son was born. In 1984, when he was 9 years old, you reviewed the laws and promised him a system that would begin to collect payments. That did not happen for him nor did it happen for many millions of other children.

In 1988, ACES came back and told Congress the system is still broken. He was 13, and again promises were made that he, too, would begin to receive payments as well as the other millions of children across the nation.

It is now 1993. He will be 18 next month, and the promise has not been fulfilled.

When I listen to Members of Congress and those here testifying who ask for one more chance for State government to try to help children like my son, I think he has lost all of his chances, and you risk losing another whole generation by not making the needed fundamental and radical changes.

In 1988, you asked States to introduce child support guidelines as a rebuttable presumption. Because of that, the amount of support paid increased in 27 States, it decreased in 16 States, and it remained the same in 7, but the guidelines are different everywhere. A family with $30,000 and two children in Illinois will pay child support of $284 a month; a family with the same income in Florida will pay $475 a month. This inherent unfairness breeds State hopping, resentment among noncustodial parents and does not insure children fair and equitable support across the Nation.

The Family Support Act tried to help children get paternity established and obtain orders by providing 90 percent funding. Unfortunately, the number of paternities established increased only 18 percent after the higher funding when you compare it to the already increasing 10 percent per year rate.

ACES members in Georgia and Indiana report that they are being told they must pay $300 for genetic blood tests. This is impossible for low-income single mothers. Since these fees are not being charged to AFDC families, only to the working poor, many are literally forced on to welfare to establish paternity and collect child support.

We must ensure that there are effective and efficient systems in place in States to establish paternity. States that use administrative process have proven that this works. States that continue to use the court-based quasi-judicial systems continue to show that it takes years and years to establish paternity.

Our members report it takes 1 to 2 years for the State welfare agency to tell the State child support agency that their case even

needs paternity established, and then it takes at least another year for the process to be done. This is unacceptable.

Our children are growing up without any help. Only 13 States have put in place Statewide child support computer systems. Thirty-nine States have told ACES in our annual survey that they will not have computers in place by 1995, and even if every single State had a computer in place, they were not designed to interlink. There is no hope that they will be the basis of a national locate system or even a national system for child support orders.

The Federal Government blames State government, States blame the Federal Government. This finger pointing does not help our children.

Some $257 million have been spent on the computer systems, $863 million more is being requested.

An example of a recent problem with a computer system is in Alabama where the OCSE refused to certify it because the child support computer does not talk to the welfare computer. It could not calculate arrearages, and it could not distribute payments.

ACES finds it very difficult, if not impossible, to understand how the Federal and State government could work on systems like this for years before they notice these basic fatal flaws. Almost one-half of the States implemented immediate income withholding for non-IV–D cases and for IV–D cases after the Family Support Act. These States are not complaining that they are overburdened by having to process cases for non-IV–D families. The only States that are voicing this complaint are those who have not taken the action as of yet.

We would support allowing Federal funding for cases for States to monitor immediate income withholding for non-IV–D cases because it is found that if they don't do the immediate income withholding, the case will be in default within 6 months, and they will then have to be tracking down the absent parent and starting the process all over. That is much more expensive and makes children wait much longer.

Also, the timeframes that were enacted under the 1988 Family Support Act have not become reality for families. Just one simple example of that is in Prince George's County. One of the timeframes requires the applications be made available upon demand and cases be opened within 20 days.

Prince George's County child support agency closes and locks its doors every afternoon. They put a sign on the door that says "no appointment, no service," they then tell you it is 30 to 45 days to get an appointment.

The current system is broken. We need a national system which is Federal, housed in the IRS, that is administrative, not court-based. We do not want a system to go to Federal court. We want a system to collect child support just like taxes.

We need child support assurance to help families where they cannot collect the payments because the parent is not able to pay. We need you to act now, this year, and not wait another 5 years.

Thank you.

[The prepared statement follows:]

TESTIMONY OF GERALDINE JENSEN, PRESIDENT
ASSOCIATION FOR CHILDREN
FOR ENFORCEMENT OF SUPPORT, INC. (ACES)
MEMBER, U. S. COMMISSION ON INTERSTATE CHILD SUPPORT

HUMAN RESOURCES SUB COMMITTEE, JUNE 10, 1993

ACES is the largest child support advocacy organization in the U.S. We have 300 chapters in 49 states with over 25,000 members. ACES' members are typical of the 9.9 million families entitled to child support payments in the U.S. We have joined together to seek improved child support enforcement, so that our children are protected from the crime of non-support, a crime which causes poverty.

America's child support enforcement system fails in almost every possible way to serve the children. The system needs radical and fundamental restructuring. 17 million children are owed over $20 billion in unpaid child support. This large amount of debt to the children is really only about one-half of what is truly due, because about 45% of the entitled children do not yet have child support orders.

The 1988 Family Support Act required states to adopt child support guidelines as a rebuttable presumption. This caused the amount of support paid to be increased in 27 states, to be decreased in 16 states, and they remain the same in 7 states. Guidelines are different in all states. For example, in Illinois families with a combined income of $30,000, have a child support order of $284 a month, while the same family in Florida will have a child support order of $475. (Source: Institute for Research On Poverty, University of Wisconsin, Discussion Paper: Child Support Guidelines And Their Impact On The Economic Well-Being Of Our Nation's Children).

This lack of fairness breeds state "shopping" and resentment among non-custodial parents who are ordered to pay various amounts. Additionally, all states have created "exceptions" to use with the guidelines. Often these "exceptions" violate federal regulations, but OCSE has done nothing to make states comply with the federal regulations. For example, many states only use guidelines for families with a combined income of under $50,000.

This means that upper income parents pay an amount ordered at the judges discretion, while low income parents pay a standard set amount with little deviation. Some upper income parents in this situation threaten custody battles to coerce custodial parents, usually women who have a few financial resources to use in a custody battle, to settle for less child support. Also, some states allow parents to pay less child support, because they have a second family, have a college loan to pay off, etc. There is no uniformity among "exceptions". States have not made sure that the childrens' financial security is placed first in the divorce process. Children throughout the nation need to be treated fairly and equally.

National child support guidelines should be put in place. Adequate information is available and sufficient experience can be found from state governments to develop fair national child support guidelines. Children's support orders should be determined by their needs and their parent's ability to pay, not by where they live and which state guideline applies. There must be a national process, as well, for periodically reviewing and updating child support orders to ensure that orders keep pace with the children's needs and the parents' income.

The 1988 Family Support Act sought to help families establish paternity and obtain child support orders. State IV-D agencies told families that they could not assist them to establish paternity and establish orders, because they did not have the needed funds for genetic blood testing. So, Congress acted to solve this problem by providing 90% funding for blood tests. The number of paternities established is only 8% higher after implementation of the 90% federal funding (1987-1988 showed a 14% increase, 1990-1991 showed a 22% increase, difference = 8%). ACES members in Georgia and Indiana report being told that they must pay $300 for the genetic tests, this is impossible for most low income single mothers. Since these fees are not being charged for AFDC families and only to the working poor, many are being forced onto welfare in order to establish paternity and collect child support.

Some states are not taking advantage of the 90% funding at the same time that they tell us they are back logged on cases and don't have enough resources to process the cases.

We must ensure that each state has in place effective laws and practices to establish paternity and child support orders, successful state models which have demonstrated dramatic improvements in establishing paternity and obtaining support orders through an expedited administrative process need to be expanded nationally. These administrative processes are effective for children on whose behalf paternity must be established and for children whose paternity is not disputed, but who need support due to parental divorce, desertion, or separation.

Only thirteen states (IA, MN, NY, SD, VT, WA, CO, CT, MI, ID, RI, DE, AR) have taken advantage of the provision for 90% funding for statewide automated systems. Thirty-nine state (jurisdictions) child support agencies told ACES, in our annual survey, that they will not have automated systems in place by 1995. Even if the states had an automated system in place, all would be different, they are not being designed to interlink. There is little hope at present. Statewide automated systems will be basis of a national parent locator system or a child support order registry. State governments blame the Federal Office of Child Support for the lack of automated systems and the Federal Office of Child Support blames the states. This finger pointing does not help the children. Over $257 million has been spent by states developing automated systems, states are requesting an additional $863 to complete the systems, this totals $1.1 billion dollars. Much of the money spent developing the system has been wasted. In a GAO report, it was shown that one state spent $17 million on a system which did not work before OCSE suspended the funding, another spent $11 million over three years on a functions system, and another $4 million over two years on a system which did not meet federal requirements.

States who have been certified by OCSE report that they need additional funds to update the systems. For example, New York has received $33 million, its system was certified by OCSE, yet they are requesting an additional $25 million to correct the problems. ACES members in New York report that only child support workers who have attended classes can use the computer to determine the arrearages. Courts have to arrange to have a IV-D child support worker to be present at the court hearings to determine the back support due. OCSE recently refused to certify the Alabama statewide child support automated system, because it did not interlink appropriately with the welfare computer, and because it did not accurately calculate the arrears and make payment distributions. OCSE has been funding the development of the Alabama system for several years. ACES does not understand how the state and federal government can be working on the systems for years before they notice basic fatal flaws.

Children suffer because states cannot even identify which cases need orders, or which cases have not received payments so that action can be taken to implement income withholdings. This is why only 20% of the cases have income withholding orders eight years after Congress passed a law making it mandatory upon a one month default, and four years after this law was expanded to include income withholding at the time an order is entered.

Almost one-half of the states implemented income withholding at the time of divorce, or establishment of paternity for all cases, IV-D and Non IV-D. None are reporting that they are over burdened due to processing the increased number of payments, the only states making this complaint are those who have not yet included Non IV-D cases in the immediate income withholding process. There is no basis to believe their concerns are valid, when one compares the states who handle only IV-D cases and those who handle IV-D and Non IV-D cases. In both situations, only about 20% of the cases have an income withholding order. Since 59% of Americans work at jobs which issue regular paychecks, the number of cases where collections are made via income withholding should be closer to 59% It appears to ACES that cases where income withholding is appropriate are simply not processed.

States like Ohio and Michigan, report problems caused by federal regulations which prohibit IV-D child support funding to be used to monitor Non IV-D cases and process payments. The regulation forces states to have two separate accounting systems, one for IV-D and one for Non IV-D.

ACES believes that it is duplication of efforts and a waste of tax dollars to have two systems which are exactly the same, just to ensure that federal funds are not spent on monitoring Non IV-D cases. If immediate income withholding is not put in place, there is an 80% chance that payments will stop six months after the order is entered. The government will spend much more money tracking down the absent parent and carrying out an enforcement action than currently spent on obtaining income withholding orders and monitoring the case. The pilot project funded by Congress in Bexar County, TX, and studies done in Washington, DC, both showed that 80-90% of their cases are in default within six months after orders are entered if an immediate income withholding was not put in place.

Timeframes that IV-D agencies must follow were adopted by OCSE via regulations. I was one of a thirteen member Child Support Advisory Committee that the U.S. Department of Health and Human Services gathered together to help write the timeframes.

IV-D Child Support Agencies in all states are non-compliant with the timeframes at least in part, many are totally non-compliant. This is reported to ACES by our members and by the State IV-D Agencies who have told us they have no plans of meeting the timeframes until they have statewide child support computer systems in place. In fact, one county in California has installed a computer program to identify cases not meeting the timeframes. Workers begin to work on cases only after they exceeded the timeframes.

Examples of problems caused by non-compliance with the timeframes are:

Application by non-AFDC clients are to be available upon demand. In Prince George County, MD they lock the door of the child support agency in the afternoon and placed a sign out front which states, "no appointment, no child support services". It takes 30-45 days to get an appointment. Neither OCSE or the State of Maryland have done anything to make Prince George's County comply with the timeframes in response to ACES members complaints.

Applications are suppose to include a description of services available, person's right's and responsibilities, state policy on fees, costs and distribution of collections. ACES has yet to find one state which complies with this requirement. In Maine, they are requiring clients to sign a contract to receive services. OCSE has done nothing to correct the problems.

Cases must be opened by IV-D within 20 calendar days of the application or referral. Case opening includes: establishing a case record, assessment of case to determine action needed, solicitation of needed information from custodial parents and other relevant sources. Also includes: initial verification of information such as, employer, etc. If location information about the non-payor is known, IV-D must proceed with enforcement/ establishment action, if location is unknown they must refer the case for location attempts. ACES knows of no state that meets this requirement. In fact, ACES members routinely receive letters from Texas and Florida IV-D agencies telling them not to contact them for six months about case information.

Parent locator timeframes require states to do a locator quarterly when previous attempts were unsuccessful. Defines location as finding the physical whereabouts of the absent parent or the absent parent's employer, other sources of income or assets as necessary to take next appropriate action.

Section 303.3 (b) requires IV-D agency to use appropriate federal, interstate, and local location sources such as state agency records, etc. All sources must be checked within 75 days. This includes using the Federal Parent Locator and seeking a State Parent Locator from the state where the absent parent lives. States are to refer the case to the state central registry for a State Parent Locator within 20 days of determining that the absent parent is in the other state. The state in which the absent parent resides must attempt to locate the absent parent at least quarterly.

CFR Section 303.3(b)(5) requires state IV-D agencies to do State Parent Locators quarterly on all cases and to submit the case annually for a Federal Parent Locator.

Federal Regulations issued in October 1992, requires a $1 fee from states for each case submitted for a Federal Parent Locator. State IV-D agencies refuse to submit names because of the cost.

Establishment of Paternity and Support Obligations timeframes require that paternity be established or the punitive father be excluded within one year after located. ACES members report that the average length of time to process a paternity case is three years. Often it takes one - two years for the AFDC agency to send the case to the Child Support Agency who then takes another year to process the case.

Establishment of Support Obligations timeframe requires IV-D agencies within 90 calendar days of locating an absent parent or of establishing paternity to establish an order for support. If legal service of notice is needed it must be completed or documented that attempts of legal service of notice have been made. States must use diligent efforts to obtain legal service of notice. Support orders must be established within 90 calendar days of successful legal service of notice.

ACES knows of no state who complies with this timeframe, the average length of time it takes a caseworker to prepare a case for court is six months, then it takes 4-6 weeks to get a court date. ACES court monitoring project showed the following results: cases are continued about 30% of the time, the non-payor no shows 30% of the time, and about 20% of the time all needed information is not available and the hearing has to be rescheduled.

Enforcement of the support order timeframes require IV-D agencies to monitor cases and to be able to identify delinquencies of one month or more, this monitoring includes child support payments and health insurance. 303.6(b) requires the IV-D agencies to maintain and use an effective system for identifying cases in default. 303.6(c)(1) requires states to start income withholding administratively if appropriate or take any needed enforcement action within no more than 30 calendar days of identifying the delinquency, this includes beginning location attempts. If legal service of notice is needed the IV-D agency must complete it or document unsuccessful attempts. If legal service of notice is needed and successful or if it is not needed, the action to enforce must be completed within 60 days of the identification of the delinquency.

ACES surveyed all State IV-D agencies, all told us they can not meet this timeframes. They might be able to do so when statewide automated systems are in place.

Most states are meeting payment distribution timeframes for Non-AFDC cases. They are not meeting timely distribution of the $50 disregard. In fact, OCSE revised regulations requiring the first $50 paid to be distributed within 15 to 30 days. Many states continue to fail to comply.

Case Closure Criteria which is part of the timeframe regulations is being met in most states. However, some states list clients uncooperative and threaten them with case closure if they complain about slow or ineffective service, and some states refuse to collect back support due for children over age 18, even though federal regulations require such action and other states fail to meet the 60 day notice to clients.

THE FUTURE: PROTECTING CHILDREN FROM POVERTY CAUSED BY NON-SUPPORT

A national system for reporting new hires via W-4 Forms should be developed. W-4 Forms should be matched with a national child support registry, to ensure that income withholding is done quickly and effectively.

This system of income withholding, payment collection, distribution and enforcement of orders should be placed under the IRS.

We must send a national message that supporting children is a fundamental responsibility as important as paying taxes. This national agency must be given all the tools it needs, including improved information for locating absent parents and improved tools for making prompt and effective collections, to aggressively pursue child support and medical support for children.

The Federal Office of Child Support Enforcement should be placed in the IRS. An Assistant Tax Commissioner should be appointed to be the Director of the IRS Child Support Division. Initially, the division would take over current duties of OCSE. In one year, it would be required to have set up a central registry of interstate case orders and do interstate income withholding. Within two years, all new cases would be added to the registry and income withholding process, within five years the system should be fully functioning and include all child support cases.

Critics of federalization states that, "We have invested billions of dollars into state child support systems, changing it to a federal system would be a waste and state child support workers would be out of jobs". ACES believes that continuing to throw good money after bad is not good policy. States have proven their inability to run an effective child support enforcement system, the national collection rate is only 23%. The argument not to change sounds like; we must continue to make B52 bombers even though they

are obsolete, because if we change B52 bombers employees would lose their jobs. We can retrain workers and make sure that they have jobs in the new system. We cannot replace childhoods lost to poverty.

Children are the innocent victims of family break ups and they should be protected from poverty. We should adopt a Child Support Assurance program that guarantees that child support will be a regular and reliable source of income for children with an absent parent.

A system like social security is needed for children entitled to child support, to insure that they receive regular payments even if the non-custodial parent cannot be found or cannot pay due to unemployment. This Child Support Assurance program will reduce poverty in the U.S. by 42%.

Children need to be put before all other debts and support payments due to them and no statue of limitations for collections should apply. Federal law should prohibit statute of limitations on child support cases. Commission recommendations extend collection for 20 years, this is actually less than what some states have now under judgement renewal laws.

Studies show that the best way to end the cycle of poverty is through education. Children growing up in single parent households entitled to support have fewer opportunities for higher education. A federal statute making duration of support to age 23, if the child is attending school is needed.

An expanded federal parent locator system should be developed. This can be done by adding NLETS and NCIC to the existing Federal Parent Locator System and by increasing access to the system by government child support agencies. Recent regulations done by HHS, requires the states to pay for information from the federal parent locator system and fees for use of the national system by any government law enforcement agency working on child support cases should be prohibited. Child support agencies need access to NLETS, this is the system that accesses all of the State Department of Motor Vehicle records and NCIC which lists the crime records. This can be accomplished by Congress designating child support agencies as law enforcement agencies.

This lack of staff and funding severely hinders child support enforcement efforts and acts as another barrier to low income families attempting to utilize government services for child support enforcement.

A new funding structure for states to ensure that they establish orders on a timely basis should be developed. This should include elimination of the federal incentive payments to the states, and the adoption of a 90% federal match with a requirement for state maintenance of effort at current levels.

Priority of distribution on post AFDC cases should be "family first." Assisting families who become self-sufficient and free of the welfare roles should be a priority. The current system penalizes these families by paying the state government back support payments, before the family receives the back support payments due to them.

States and the Federal Government benefit through lower cost for AFDC (Aid to Families with Dependent Children) when child support is collected. As of the end of 1991, all states made a "profit" on child support collections: 66% reimbursement + 6% incentive payments + funds recouped for AFDC expenditures = more $ than what was spent on the child support enforcement program. They can afford to pay families first.

Example of making a "Profit" on Child Support Enforcement:

Expenditures of $27,086,106

Reimbursement at 66%		1.	$17,876,830
Collections:	$30,191,573 AFDC $57,562,494 Non-AFDC		
* Amount qualifying for incentives -			
$60,500,000 @ 6%		2.	$3,630,000
Amount of AFDC recouped by state		3.	$9,226,858
Total Income (1 + 2 + 3) =		$	$30,733,688

Total Income	$ 30,733,688
Total Expenses	-27,086,106
"Profit"	$ 3,647,582

* Incentive payments are based on the AFDC amount x 2, if less money is collected on AFDC cases than Non-AFDC cases. This is often called the "cap."

Profit made on child support enforcement should be reinvested in the child support enforcement program.

The government child support agency should list their clients as the custodial parent and child. Child support enforcement services should be an entitlement. Families should have a right to effective and efficient services. New federal timeframes are a step in that direction, except clients were given no rights in the 1988 Family Support Act to obtain action on their cases under the timeframes. Clients should be given a right to services, and states should be required to meet the timeframes. Non-compliance with timeframes should be a reason to request for a state fair hearing. States should be prohibited from charging fees of more than $25 to families owed support.

Child support and visitation are two separate issues. A parent who is unemployed and without income cannot pay support, this parent's rights to visitation should be protected and enforced. ACES believes that it is wrong to deny visitation when support is not paid and we believe it is wrong to withhold support when visitation is denied. These actions harm the child. We know from our experience and from studies that 13% of the parents who fail to pay child support state that they are withholding payments because the visitation is being denied. To prevent this from happening, we need an effective custody visitation dispute resolution program.

State courts should be required to have in place programs for resolution of custody and visitation problems. Prince George's County, MD, and Washington, DC, are good models for these types of programs.

PROBLEMS WITH RECOMMENDATIONS BY U.S. COMMISSION ON INTERSTATE CHILD SUPPORT

The direct income withholding process as recommended by the Commission on Interstate Child Support is flawed. It requires a non-payor to contact the child support agency in the state where he/she resides to resolve problems, such as; incorrect amount of support being payroll deducted or not owing child support. This will not work, since only the state issuing the order can correct these problems. Also, the Commission calls for employers to issue income withholding checks directly to the payee. This would mean

that the 3,000 weekly income withholdings being done by the GMC Factory in my hometown, would be by individual checks to different people rather than the one transaction to the county child support agency.

Instead of the county distributing payments to the families, GMC will have to take over this duty. Some of these checks will be for AFDC families, so Jeep will have to be told by the state agency which checks to send to the families and which to send to the state. Since the average length of time a family is on AFDC is 17 months and because many families are on AFDC more than once, GMC will certainly be kept busy sorting out who gets which check when. This distribution system being promoted by the Commission is to ensure that private attorneys can act as reception sites for payments collected via income withholding. Then they can take their fee out of the child support before passing it on to the family.

This proposed system is way too burdensome to private industry. Income withholdings should be managed by the IRS. It would not be a hardship to businesses like the Commission recommendations, since it would be part of an already existing tax collection system.

W-4 reporting of new hires as recommended by the Commission does not help solve enforcement problems on interstate cases. W-4 Forms will be sent to State Employment Service Agencies by employers. These agencies will then send them to the State Child Support Agency to match it with the child support records. Not all child support orders will be on file, because the Commission's plan includes only AFDC cases and Non-AFDC cases who choose to use the system. Those who opt in are given the choice of the W-4 match being reported to the client, their attorney or the IV-D agency. This scheme is unpractical and unworkable. Millions of cases will get lost between the State Employment Service Agencies and Child Support Agencies Non-AFDC clients will be told by their private attorney's not to sign up with the state, that it is better to have a private attorney handle the match.

In reality, the only thing that private attorneys will do better than the state government is to collect a fee from families owed support. The lack of a universal child support enforcement system will continue to be a barrier to families in need of support since most of these families are AFDC recipients for part of their child's life. But most of all, the fault of this plan resides in the fact that the states will only have their own state child support orders on file, therefore, if a non-payor leaves the original state, records in the new state which is doing the match will not list the order. For example, if the order is originally entered in New York and the non-custodial parent moves to Connecticut to work, the W-4 matched with Connecticut records will not show a child support obligation, only New York records would show a match.

Jurisdiction being based in the state where the non-payor lives rather than in the state where the child lives, gives home court advantage to the parent who has abandoned the child, the law breaker. The jurisdiction system recommended, long arm statues, would encourage people to go to court in the state where they had sexual intercourse rather than in the state where the child lives. For example, if a couple went to Florida on spring break and conceived a child, and the Mother went home to Virginia and gave birth and the Father returned to his home state of Michigan, the jurisdiction plan of the Commission would allow the case to go to court in Florida where the child was conceived or Michigan where the father lives. The case could not be taken to court in Virginia where the child lives. The Commission states that this gives the family more choices. ACES believes this gives attorneys more places to argue jurisdiction and gives non-payors more places to run and hide. It certainly does not give the custodial parent one place to count on to help them establish an order, nor does it

provide tax payers any accountability to ensure that efficient case management occurs.

Jurisdiction to establish orders should be in the state where the child lives. This requires federal statues which place jurisdiction of child support action to establish and/or modify orders in the place where the child resides. A National Jurisdiction Act should have the following provisions: (1) interstate child support cases to be cause of action, (2) the venue for the action to be where the child resides, and (3) trial court of any state should have power to serve the defendant. Parental Kidnapping Prevention Act is a model for child state jurisdiction.

The Commission had four law professors tell us that there is no constitutional impediments to national jurisdiction, one told us there could be a constitutional problem. The Parental Kidnapping Act overcame this problem. Actually, the discussions in which the decision was made to reject national jurisdiction evolved around it "just is too big of a change, that it would upset attorneys and judges".

In order to ensure an efficient system to establish paternity and orders, state child support IV-D structures should be required to be "single"-statewide. Audit failures by states show patterns of lack of services statewide in states which are state supervised county-run programs: WI, MD and PA have been found not to provide statewide services. CA, NJ, CO, IL, IN, MD, MI, MN, NE, PA, TN, OR and OH have been found to have problems with establishment of orders and collection/distribution of support payments.

Administrative establishment and enforcement was not endorsed by the Commission, even though testimony and statistics showed that it was more effective than judicial based. This is further evidence of the Commission's efforts to ensure full employment for attorneys at the expense of children. Commission members were from the national office of the ABA and the California, Oregon and Texas ABA. Only four members of the Commission were not attorneys.

Child support enforcement and establishment actions should be administrative rather than judicial whenever possible. The Commission recommends that the choice of law should be placed in the state where the non-payor lives rather than the state where the child lives. These orders will be based on the cost of raising the child, the cost of day care, and the cost of food and shelter, in the state where the non-custodial parent lives rather than the state where the child lives.

American families entitled to support need an effective and fair enforcement system. The children need it to survive, to grow up secure and safe. It is time to solve the problem of non-support. We can do it, we have the resources and ability. We need to set up a national system, which is administrative rather than judicial, and a Child Support Assurance program to protect children from poverty. It is the right thing to do for our children.

Chairman FORD. Thank you very much.
Mr. Levy.

STATEMENT OF DAVID L. LEVY, PRESIDENT, CHILDREN'S RIGHTS COUNCIL

Mr. LEVY. Hello, Mr. Ford. It is a delight to see you back as chairman.

Chairman FORD. It is good to be back as chairman.

Mr. LEVY. Great. I would like to briefly acknowledge our college student interns, Mike Wilkens, University of Redlands; Monya Vuletic, Stockton State University; Mark Funaki, Duke University; Susan Laufer, Cornell University; Jennie Givens, Furman University; and Emily Hadlow, Smith College——

Chairman FORD. Are these people in the room?

Mr. LEVY. Yes, and office staff Lynn Nesbitt, LaJuan Sykes, Anna Gbedegbebou, please rise.

Thank you, Mr. Chairman.

Three national organizations are affiliated with our Children's Rights Council, and they have authorized me to add their support to the statement I am making today. They are Mothers Without Custody, headed by Jennifer Isham of Illinois. Mothers Without Custody represents 2 million noncustodial mothers. They have chapters in more than 20 States. Grandparents United for Children's Rights, headed by Ethel Dunn of Madison, Wis. Grandparents United for Children's Rights has chapters in about 20 States. Also, the Step-Family Association of America, headed by Judith Bauersfeld, Ph.D. of Pittsburgh. SAA is headquartered in Lincoln, Nebr.

In addition, our Children's Rights Council has chapters in 23 States, half headed by women, half by men. All these groups are part of a growing national network that wants a better support system that includes financial as well as emotional support for our children and grandchildren.

Mr. Chairman, earlier you predicted that this witness would comment that the AFDC program is swelling the already swollen national debt. I am glad to see that some other speakers also have made this criticism. Congressman Santorum also acknowledged a report prepared last year by Representatives E. Clay Shaw, Nancy Johnson, and Fred Grandy which found that the AFDC system is a net loss for the taxpayers, and thus is increasing the national debt.

We also find this acknowledgment in the HHS, 16th annual report to Congress, but it is buried on page 6. Page 6 acknowledges that the reductions in AFDC benefit costs do not offset all expenditures. In other words, up goes the debt.

Of course, the States are making a profit from the system. In 1991, for example, California made $81.5 million in welfare reimbursements and incentives to collect, as reported in the 16th annual report to Congress. So States may want to keep the current system going. It profits them if not the children they are supposedly serving. But as the citizens of those States wake up to what is happening, perhaps you may have a change.

"From a Federal budget perspective the child support enforcement is an expensive disappointment," says the report from Con-

gress Members Shaw, Grandy, and Johnson. A report provided by Democratic Members of Congress by the General Accounting Office also offers grim findings.

In the report prepared at the request of Congresswoman Roukema, Congresswoman Kennelly, and Senator Bill Bradley on interstate child support cases released January 9, 1992, 66 percent of mothers with a child support order, who did not receive payment from the father, say it is because the fathers were unable to pay.

The 66 percent figure is reported by custodial mothers whether the fathers are in State or interstate; and as ridiculous as it may sound, that same GAO report cited in my written testimony reports that our Government is classifying deceased fathers as deadbeats as well as counting children due support who are already emancipated.

Also, for years researchers have been complaining that the Census Bureau only asks custodial mothers how much they receive. It does not ask noncustodial fathers or noncustodial mothers how much they pay or custodial fathers how much they receive.

We are basing public policy on one quarter of the pie. I know of no other area of government where there is such inadequate data to frame public policy. It is the reason why child support data is considered to be junk science. Junk science is poor data and poor data makes poor public policy.

In another report called "Caring and Paying," Frank F. Furstenberg and other researchers find other enormous problems with the system, find it unresponsive to both parents, custodial and noncustodial. Sanford Braver, a leading researcher from Arizona State University, states personal power over the children's upbringing is a major indicator of child support compliance, and by that he means involvement in the child's life.

The Census Bureau confirms that fathers with joint custody and visitation pay far more in support than fathers without joint custody and visitation, and I am sure if you surveyed the 2 million noncustodial mothers, you would find the same results.

The Casey Foundation recently ranked States by child wellness, and our Children's Rights Council made a correlation of States with the greatest number of single parent households. There is a direct correlation. The States with the highest amount of poverty and other indicators of lack of wellness have the highest number of single-parent families. Poverty is the symptom, single-parent families are the cause. More two-parent families, as Barbara Whitehead said in the April 1993 issue of Atlantic Monthly, may be the answer.

Dick Woods, administrator of the Iowa access demonstration grant from the Federal Government, one of seven access grants provided in section 504 of the Family Support Act, is producing a lot of information. The Federal evaluators are very pleased with how this may point us in new directions to better handle postdivorce situations.

Some groups who testify before you cannot afford to tell you what I am telling you because they may believe that custodial mothers do not want to hear that America needs a different approach. All I can say is that there are an increasing number of women, such as the women heads of the three national organiza-

tions I referred to, who are part of a growing national movement that want better data, more focus on two-parent families, more work programs, more mediation and more treating of parents as people who love their kids and want to do well by them.

We suggest you not rush into any new financial support legislation this year. Instead, study the data that exists, evaluate some of the child support programs authorized in 1988 that are only now going into effect, and collect better data.

Just a word about Prince George's County, Md., that the previous speaker mentioned. I live in Prince George's County, and our Children's Rights Council was the catalyst for a wonderful program operating there on visitation mediation, which has an average settlement time per case of about an hour and a half, a cost of only $25 per case, and keeps its kids and parents out of court.

Linda Botts, the head of the child support office in Prince George's County, is enthusiastic about this program. It is an example of how Prince George's County has taken the lead, along with the Friend of the Court in Michigan which was referred to earlier today, to try to balance the system. And Debbie Stabenow, who is running for Governor in Michigan is strongly supportive of balance. Thanks partly to Ms. Stabenow, Michigan's statute refers to both visitation and support together.

It is time to end the warfare between the sexes which has subtly underlined so much of this debate. It is time for a win-win situation, and I hope my good friend, Congressman Albert Wynn will not mind my referring to the win-win situation that we need.

Thank you.

[The prepared statement follows:]

Testimony before the
Human Resources Subcommittee
of the House Ways and Means Committee
Thursday, June 10, 1993

By David L. Levy, Esquire
President, the Children's Rights Council

Our Children's Rights Council (CRC) favors family formation and family preservation, but if families break up, we work to assure a child the two parents and extended family the child would normally have had during the marriage. Our advisors include Dear Abby, Vicki Lansky, Joan Berlin Kelly, and Senator Dennis DeConcini.

Three national organizations area affiliated with our CRC. They are:

* Mother Without Custody (MW/OC), headed by Jennifer Isham of Illinois. MW/OC represents 2 million non-custodial mothers;

* Grandparents United for Children's Rights (GUCR), headed by Ethel Dunn of Madison, Wisconsin. GUCR has chapters in about 20 states;

* The Stepfamily Association of America (SAA), headed by Judith Bauersfeld, Ph.D. of Pittsburgh, Pennsylvania. SAA has about 65 chapters around the country.

In addition, our Children's Rights Council has chapters in 23 states, about half headed by men, and half by women. Our seventh national conference in April featured major researchers from around the country in the child and family area; and we were pleased at the fine column that featured our ideas by nationally syndicated columnist William Raspberry in early May, 1993.

I talked with Congresswoman Marge Roukema recently and she said that she and Senator Bradley and other members of Congress thought they had fixed the child support system in 1984 and when they found they hadn't, they thought they had fixed it again in 1988, and now they find they still haven't fixed it, so they will have to do so again now, in 1993. Other members of Congress have expressed similar frustrations.

In a report entitled "Moving Ahead How America can Reduce Poverty Through Work," prepared by Representatives E. Clay Shaw, Nancy L. Johnson, and Fred Grandy, Republican members of the Human Resources Subcommittee in June, 1992, those members said "...even though the government Child Support Enforcement program, subsidized by tax dollars, is collecting more and more money, there has been virtually no change in the nation's aggregate child support payments in relation to the number of demographically eligible mothers, it's as if the government program is pulling cases out of the private sector, providing them with a public subsidy, but not improving overall collections."

The Report also states that the federal and state outlays and state savings in the AFDC system now produce a net loss to the taypayers, and that this has been true for three years--1989, 1990, and 1991. In other words, the well went dry three years ago! How many members of Congress know that? How many members of the media and the public know that? How many know that this is another reason that our national debt keeps going up.

Of course, the states are making a profit from the child support system. In 1991, for example, California made $81.5 million dollars in welfare reimbursements and incentives to collect, as reported in the 16th annual report to Congress by the Office of Child Support Enforcement, U.S. Health and Human Services.

So the states may want to keep the current system going--it is a profit center to them, if not to the children they are supposedly servicing. But the citizens of those states, if they know what a bureaucratic mess has been created, which is increasing the national debt, might well be upset.

And Congress ought to be upset, too.

"From a federal budget perspective, the Child Support Enforcement is an expensive disappointment," the report from Congressmembers Shaw, Grandy and Johnson says.

A report provided for Democratic congressmembers by the General Accounting Office also offers grim findings. In the report, prepared at the request of Congresswoman Roukema, Congresswoman Barbara Kennelly and Senator Bill Bradley on interstate child support cases, released January 9, 1992, 66 percent of mothers with a child support award who did not receive payment from the fathers say it is because the fathers were unable to pay!

The 66 percent figure is reported by the custodial mothers regardless of whether the fathers live in the same state or in a different state or in a different state from the mothers. This is in Report GAO/HRDD-92-39-FS.

As ridiculous as it may sound, that same GAO report states that our government is classifying deceased fathers as deadbeats, as well as counting children due support who are already emancipated! The deceased, those living in foreign countries and those who have moved back in with the mothers, are classified as living in "other" locations. None of those categories constitute more than 14 percent of the questionnaires reviewed. So as many as 28 percent of fathers classified as living in "other" locations could be either living with the mother or dead, the GAO report states.

In another report, called Caring and Paying, Frank F. Furstenberg and other researchers find that many parents, custodial and non-custodial, are ill-equipped for work and

face formidable obstacles in the job market. The report states that the government's goals of increasing family incomes for children in poverty, and removing those same families from welfare rolls, are often starkly contradictory. The report admits how unresponsive, impersonal and complex our society's child support institutions are.

On this note, Sanford Braver, a leading researcher from Arizona State University, states that personal power over the child's upbringing is a major indicator of child support compliance. In other words, how active are you in your child's life? The Census Bureau confirms Braver's findings, in the figures last year that 90.2% of fathers pay their child support, 79.1% of fathers with visitation pay their child support, and only 44.5% of parents with neither joint custody nor visitation pay child support.

In a related issues, the Casey Foundation recently ranked states by poverty. The head of our Children's Rights Council of Georgia, Sonny Burmeister, correlated the state poverty rates with the states shown in other demographic sources as having the greatest number of single parent households. He found that the states with the greatest number of single parent households also were the states with the highest poverty. The states with the smallest number of single parent households had the lowest poverty rates.

I mention this because to the extent that child support is seen as an answer to poverty, and the problems of single parents, it just isn't so.

Poverty is the symptom, and more two parent households are the answer, as the landmark article in Atlantic Monthly's April, 1993 article by Barbara Whitehead pointed out. The attempt to lay poverty at the child support doorstep is just additional misinformation!

It is similar to the problems of drugs and crime and schools, where children of single parent households are overrepresented in the statistics. Child support unconnected to parenting is another form of assistance to a single parent household. Understood in that light, child support unconnected to parenting will be a failure for the same reasons that the increase in single parent households have been a rising problem for the past 25 years. Single parents do all they can for their children, and many children of single parents turn out fine, but statistically such children are much more at risk than children in two parent homes.

Dick Woods of Iowa, winner of one of the access demonstration grants in Section 504 of the Family Support Act, is finding that parent education and information for parents on how to better handle access/visitation questions after divorce, is doing a great deal to help with parent child relations. Officials in HHS and the federal evaluators of the Dick Woods's program, who have spoken at our CRC national conferences, are also pleased with Woods'

work. We have heard it said that the preliminary report by the federal evaluators, which is due later this year, may shed light on the complex interrelationships between access, support, and other family issues.

The battleground used to be over divorce. That battleground has now shifted to custody. My fellow attorneys make out, but the children lose. By allowing that battleground to continue, with little or no attention paid to education, mediation, and parenting after divorce, we worsen the problem for children on all fronts, including financial.

The child support system is out of control. It costs billions of dollars, costs more than it is bringing in child support, and is not helping children. What it is doing is perpetuating a costly federal and state bureaucracy, increasing the national debt, and worsening the problems for society.

Some groups who testify before you cannot afford to tell you what I am telling you, because their success with their constituencies depends on picturing financial child support as a simple matter of turning the screws, and tightening the collection procedures, and then all will be o.k. The facts, unfortunately, don't support that belief. And now Congress knows it. Congress knows that you can't see one issue in total isolation from everything else. Congress knows, for example, that welfare is related to work, that spending is related to the deficit, and that child support is supposed to help children, but the groups before you today have successfully sold you a program unrelated to success. The greater the lack of success of the program, the more they want you to sell more of the same old snake oil--at tremendous public cost.

I don't like deadbeats, and if the programs now in place got deadbeats to pay up, I would say, good work--parents owe their children financial and emotional support, and if the government can get it out of them the way it is going, fine with us. Our Children's Rights Council has many other things it is working on, from child immunization, to kinship care, to mediation and education for parents, and if we can spend our time on those issues, we have plenty to do.

But with a proven lack of success to the financial child support program, and the deficit and spending climbing, a savvy President and Congress cannot afford to continue with a failed approach.

We suggest that you not rush into any new financial child support legislation this year. Instead, study and absorb the data that exists, evaluate some of the child support programs from 1988 that are only now going into effect, and figure out where you need better data, as a means of better informing public policy. Then enact that better public policy. The children of this country deserve it. Thank you.

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Chairman FORD. Thank you very much.
Ms. Paula Roberts.

STATEMENT OF PAULA ROBERTS, SENIOR STAFF ATTORNEY, CENTER FOR LAW AND SOCIAL POLICY

Ms. ROBERTS. Thank you. I appreciate the chance to be here.

I have some written remarks that are in the record and I think rather than going through those, I want to make some observations on what I have heard here this morning.

I do not envy you your task. From my notes, I can see that what we have heard this morning from Representative Kennelly is that we should give the States one more chance to reform the system.

Mr. Grubbs, on the other hand, says he was in a State, Texas, which put significant amounts of money and tremendous political will into improving the system, and they concluded it couldn't be done.

Mr. Wolf testified and extolled the virtues of the State system because it gives access to custodial and noncustodial parents and gives everyone a chance for individual representation.

That was followed by a presentation from Mr. Melia, who extolled the virtues of his State system because it is completely automated and doesn't need caseworkers.

Ms. Haynes, Mr. Jackson, Mr. Henry all told you you needed to improve the State system, and that we also needed to add a lot more staff in order to make the system work. Another witness opined that we shouldn't federalize because we would need 40,000 new employees to do that.

Indeed, I find my head spinning, and I wonder what you are to make of all of this. Well, I would suggest that perhaps what you should make of it is this: What we have right now is a 15th century child support system imposed on 21st century realities. What we need is to fundamentally rethink and restructure that system. And fundamental change scares all of us because we are used to dealing with a State-based dinosaur of a system that continues to lay some fairly gigantic eggs.

What I have suggested in my written testimony is that one of the places that we should start making fundamental change is federalizing the collection of child support. That is, at the point where the State system has done its job and obtained an order the Federal Government should collect and disburse payments.

To do this, we need to create a national registry of all child support orders. We could do that in a systematic way, beginning perhaps in 1994 with new orders, and thereafter adding new orders and orders as they are modified so that over time we would build up a national registry within IRS. It could then enforce those orders through immediate income withholding for all wage earners.

To do that we would have to eliminate the opt-outs in current law that allow people to bypass wage withholding. The child support system would then function the same way as taxes and Social Security function for wage earners.

For those who are self-employed, the IRS has an existing system which collects quarterly payments, prepayments of estimated liability. It is certainly not difficult—from the child support order—to figure out what that liability is and set up a system that the self-

employed prepay child support quarterly, the same way they prepay their taxes.

For those folks who are neither wage earners nor self-employed, but who do file tax returns, the IRS does have in its files information about where their bank accounts are, where they own property, what their other sources of income might be. Just as it is now authorized to use that information to pursue those who are avoiding their tax obligations, IRS could use that information to pursue those who are not paying their child support and for whom wage withholding and quarterly prepayments are not available remedies.

If Congress coupled this with a W–4 system where all employers sent a W–4 form to the IRS every time they hired or rehired an employee, you could create a system where anyone who changes jobs, be it within a State or across State lines, would be immediately pulled into the income withholding system. This would address the problem that now exists where there are gaps of months between the time one withholding order ends and another is put in place.

I would suggest that this type of an approach would do an enormous amount to strengthen the enforcement of child support. It would ensure that children for the most part do get the support that they are owed.

This approach eliminates cumbersome interstate enforcement problems because a national entity with nationwide jurisdiction would be collecting the support. There simply wouldn't be an interstate enforcement problem because all States would be in the same system.

It would be easier for employers to interface with this system. There would be one entity to whom they would have to be sending their W–4 reports and from whom they would receive withholding orders. This is preferable to 54 different entities that would exist in a State-based system.

It would send a message to obligated parents that we take payment of child support seriously and we intend to see that it is done. And finally it would relieve the burden of collection from the States so that they could redirect some of their current staff to doing those things in the paternity and support establishment area that previous witnesses have so eloquently requested help in doing.

I think if we did this, enacted a national child support guideline, and moved to child support assurance, we could actually have an enormous impact on child poverty in this country, and that is what this really ought to be about.

Thank you.

[The prepared statement follows:]

TESTIMONY OF PAULA ROBERTS
CENTER FOR LAW AND SOCIAL POLICY

My name is Paula Roberts and I am the Senior Staff Attorney at the Center for Law And Social Policy (CLASP). CLASP is a public interest law firm which focuses on the plight of low-income families. For the last decade, a major part of our work has been directed toward improving child support enforcement.

As the Subcommittee knows, all too many American children live in poverty and near poverty because of the failure of our state-based system to establish paternity and support orders and to enforce those orders which have been obtained. As Geraldine Jensen of ACES explains in her testimony, it is possible to improve the state system in regard to obtaining paternity and support orders. However, to improve the enforcement of support, the child support collection and disbursement system must be federalized. This statement in support of this position is submitted by CLASP and has been prepared in conjunction with the Children's Defense Fund, the National Women's Law Center, and the Women's Legal Defense Fund, all of whom also favor federalizing the collection and enforcement of child support obligations.

BACKGROUND

The child support system includes locating the noncustodial parent, establishing paternity, obtaining a support award, periodically modifying the award to reflect the situation of the parties, and making sure the award is actually honored. Historically, these functions have been governed entirely by state law. Including the states, territories, and the District of Columbia, that means that within our country 54 different systems operate.

Since 1974, Congress has made four serious attempts to streamline this state-based system. In 1974, you added Title IV-D to the Social Security Act. Under this law, every state must operate a child support enforcement program which provides free child support enforcement services to recipients of Aid to Families With Dependent Children (AFDC) and Medicaid. These state agencies must also provide services to nonwelfare families who generally pay nominal fees. The federal government underwrites the bulk of the cost of running these state systems.

The creation of IV-D agencies made child support services more accessible to those of modest means. It did not, however, address the fact that the 54 different state systems lack uniformity. In 1984, in 1986, and again in 1988, Congress tried to address this problem. You required states to enact certain similar statutes. By-and-large these statutes affected those using the IV-D system and non-IV-D families. The major changes required states to: (1) allow paternity to be established at any time prior to a child's 18th birthday; (2) except in unusual circumstances, set child support awards pursuant to a state child support guideline; (3) process cases expeditiously through quasi-judicial or administrative processes; (4) enforce support orders by withholding the ordered support from the obligated parent's wages before arrears accrued ("immediate wage withholding"); and (5) collect arrearages through withholding state income tax refunds, the imposition of liens on real and personal property and garnishment. Congress also established a Federal Parent Locate System (FPLS) to track down noncustodial parents and authorized the Internal Revenue Service (IRS) to both intercept federal tax returns to pay off child support arrears and use its resources to collect in particularly difficult cases.

While Congress was attempting to bring some uniformity to the state-based systems, two trends were also occurring. The first was demographic. The divorce rate began to soar and now stands at 50 percent. The rate of birth outside marriage also rose dramatically, and is now near 30 percent. Thus, the number of children needing efficient and effective child support services has increased enormously. The second trend was toward mobility. The reasons range from better employment opportunities, remarriage, or the need to be closer to supportive family members but the reality is that parents who once lived in the same household may find themselves in different states after they separate. Indeed, nearly 30 percent of all child support cases now involve parents residing in different states.

Results of Congress' Past Reform Efforts

To date, Congress has identified and addressed two basic issues: lack of access to child support enforcement services, and lack of uniformity in state laws. To address the former problem, Congress has provided substantial federal funding to states to provide free or low-cost services. While potentially extremely helpful to custodial parents, these state systems have a dismal performance record. They actually collect child support in only 20 percent of their cases according to the latest Annual Report to Congress. The state IV-D system has also failed to become more cost-efficient. In 1991, $3.82 was collected per dollar of administrative expense. This is a decrease from 1988 when $3.94 was collected for every dollar in administrative expense.

The creation of these state child support enforcement agencies has also brought about a two-tiered family law system. One group of families uses private lawyers while another uses the services of state IV-D agencies. This becomes problematic in the area of enforcement. A family which uses the private system may receive support directly from the noncustodial parent leaving no formal record of payment. When payments stop and the family seeks the services of the state IV-D agency, there is no way to prove how much support is in arrears. By then, the custodial parent may also no longer know where the noncustodial parent lives or works. This makes the job of the state IV-D agency very difficult. If the noncustodial parent has relocated to another state, the state agency's job is nearly impossible.

Congress' efforts at streamlining state law have also had mixed results. For example, there is a good deal of difference in how and when immediate income withholding is being implemented. Some states have yet to enact immediate income withholding laws in non-IV-D cases. Likewise, while every state has adopted child support guidelines, there is great variation in the amount of support ordered for similarly situated children. For example, two children whose mother earns $1,000 per month and whose father earns $1,500 per month will receive $523 per month in support if they live in Connecticut but only $431 if they live in neighboring Rhode Island. In Minnesota, the amount would be $331.

Thus, despite recent efforts, the child support enforcement picture remains bleak. The average award is less than $3,000 per year. And forty-two (42) percent of custodial mothers do not have a child support award. Of those with an award, not even half actually collect what is owed. As Chart 1 shows, these numbers are not much different than they were in 1978.

Chart 1. Child Support Performance Over Time

	1978	1981	1983	1985	1987	1989
% of Mothers With An Order	59	59	58	61	59	58
% of Mothers Obtaining Full Amount Ordered	49	47	51	48	51	48
% of Mothers Obtaining Partial Payment	23	25	25	26	25	26
% of Mothers Obtaining No Payment	28	28	24	26	24	26

Source: Bureau of Census: Child Support and Alimony: 1989

Of particular concern is the picture in interstate cases: 57 percent of mothers with interstate child support orders do not receive regular payments.

THE NEXT ROUND OF REFORM

Child support enforcement needs swift and dramatic improvement. On this there is broad agreement. There is, however, deep disagreement about how to accomplish needed change. Some believe that, despite its shortcomings, the existing state-based system can be further streamlined and the IV-D system improved. The U.S. Commission on Interstate Child Support ("the Commission") is the most vocal proponent of this approach.

The Commission's recommendations rely heavily on a belief that many of the problems inherent in the system can be addressed by the development of an integrated, automated IV-D computer network linking all the states. In such a system, state IV-D agencies would be able to help each other locate absent parents and their assets, and more aggressively pursue interstate income withholding. Since federal legislation requires all states to have automated statewide computer systems by October 1995, the Commission envisions that it will be possible to build these systems into an integrated national system. Unfortunately, a recent General Accounting Office Report suggests that many of the state systems are seriously flawed and will not be functioning on time. Even if they could be functioning by 1995, there is some question as to how quickly (if ever) these 54 independently developed automated systems will be able to communicate with one another. Moreover, this reform affects only IV-D cases.

Another cornerstone of the Commission's approach is to require all states to adopt the newly promulgated Uniform Interstate Family Support Act (UIFSA). This would bring some coherence to the processing of all (IV-D and non-IV-D) interstate child support cases, but only if every state adopts it verbatim. Otherwise there will be 54 different versions of UIFSA, replicating the current problems with URESA.

The strength of the state-based approach is that it is consistent with past methods of reform. It thus generates less political controversy among powerful interests such as judges, lawyers and state legislators/officials. Its weakness is that it rests on the questionable assumptions that 1) a flawed IV-D automation system can be saved and then rebuilt to enable interstate communications; and 2) enactment of UIFSA will radically improve interstate support enforcement. The computerization solution also does nothing to address enforcement problems in non-IV-D cases and the issues which arise in cases which move back and forth from non-IV-D to IV-D status.

This has led others to propose adoption of a national child support guideline and a federalized system for collecting and disbursing child support. A national uniform federalized collection, disbursement and enforcement effort, housed at an experienced federal agency such as the Internal Revenue Service (IRS), would ensure that the highest possible proportion of children receive child support payments from their noncustodial parents. Under a federal system, all child support orders would be enrolled in a national registry. The registry would contain an abstract of the order, the parents' current addresses and Social Security numbers, and relevant employer information. In most cases, enforcement would be through immediate wage withholding. When the obligor changed jobs, he/she would fill out a form for the new employer stating whether or not there was a child support obligation and the amount owed. The employer would send this form to the IRS to match against the registry of orders. (Alternatively, employers would be able to match the forms themselves against information in the registry through electronic and telephonic on-line access to registry data.) If the registry confirmed the information, withholding would proceed. If the employee failed to report the obligation or understated it, the registry would inform the employer of the correct withholding. The IRS would collect the payment, record it, and promptly disburse it to the custodial parent or AFDC agency.

In the case of non-wage earners, the IRS could implement quarterly reporting and payment for current support. If an obligated parent failed to pay, the IRS could access

information from the parent's previous tax return to find income, assets, bank accounts, and the like and begin enforcement.

The IRS could also be given new enforcement tools. Obligors should be required to report child support obligations on their federal income tax form and pay – with their taxes – any outstanding child support obligations. Moreover, an individual who fails to pay child support should be prosecuted to the same extent as an individual who fails to pay income taxes.

Use of the IRS would highlight for noncustodial parents the seriousness with which the government views child support obligations and bring the full weight of the IRS enforcement authority to bear on the collection of support. Moreover, collection would be more efficient, as a single federal agency would be involved and high-volume payment-processing and enforcement technology could be used.

This approach should also make income withholding much easier for employers. As immediate income withholding becomes the primary method of payment, employers will come to see child support withholding to be the equivalent of tax withholding. Withholding can be built into the payroll system. In interstate cases, if only IRS is doing the collecting, employers will not have to be dealing with up to 54 different state agencies each with its own procedures and regulations.

Federalizing the collection of child support greatly increases the likelihood that most noncustodial parents will pay their support regularly and on time. This, in turn, makes the cost of a Child Support Assurance system fairly small. Indeed, for an investment of $2.1 billion, we could make a substantial dent in the poverty of America's children.

Conclusion

Despite several attempts at change, the nation's child support enforcement system remains inadequate. The result is that too many children face a future stunted by poverty and near poverty.

Hard decisions have to be made. Do we continue to try reform in the state-based model as the Interstate Commission suggests? Or do we recognize, after nearly 20 years, that this approach has failed? Shouldn't we try a national child support guideline and move enforcement into the IRS?

In making this decision, we might also look beneath the surface. Is it any the less "federalization" if Congress requires state legislatures to adopt laws than if Congress federalizes the function altogether? Perhaps the choice here isn't "to federalize or not to federalize." Perhaps the real question is which type of federalization will yield the greatest benefit to children.

Chairman FORD. Thank you very much.

Ms. Roberts, you have heard the testimony from other witnesses here. You have been in the committee room all day. How would you respond to earlier opposition to the federalization of the child support system?

Some have indicated that the Federal Government is having problems at times trying to collect Federal taxes. How can you respond to some of their earlier comments said here before this subcommittee?

Ms. ROBERTS. I think it is always frightening to contemplate change. Part of what we are seeing here is a reaction to change, part of it is that there are vested interests out there. There are people with jobs in the child support agencies, there are lawyers whose jobs depend on the need for a fairly cumbersome system, and they all see that a change could affect their livelihood.

We have nonpaying parents who resist paying who can certainly see that a national system that can reach out swiftly and easily to them, wherever they are, means they will have to pay. And so I think that there are a lot of reasons why people's initial reaction is what it is. My guess is that if we talk about this——

Chairman FORD. What about the Massachusetts plan, automated systems and State, local, and Federal data base?

Ms. ROBERTS. I think the question becomes this: Is it any different federalization if you order everyone to do what Massachusetts has done or if you create a federalized collection system?

It seems to me that it is still federalization if you order everyone to be Massachusetts. Moreover if you order everyone to be Massachusetts, what the history of the 1975, 1984, and 1988 amendments tell us is that they will not comply with your directive. They will drag their feet, they will take their time.

We still have States that haven't fulfilled their obligations under previous laws, so you are taking the chance that once again you are going to tell the States to do something and they are going to drag their feet in doing it.

Chairman FORD. Thank you.

Ms. Ebb, let me ask you, do you have any estimates on how much this nationwide system would cost if we are talking about a child support assurance program? Do you have any idea as to what the cost would be?

Ms. EBB. There is a wide range of estimates that varies greatly depending on the level of the benefit and the assumptions that you make about the efficacy of child support enforcement.

Irv Garfinkel at the Institute for Poverty Research estimated that it would be $2.1 billion for a system that had a $3,000 benefit and that included assumptions of improved enforcement and higher child support guidelines resulting in higher orders.

Chairman FORD. You said about $2.1 billion has been one estimate, right?

Ms. EBB. Right, although even Professor Garfinkel had a range of estimates that varied greatly, depending on different assumptions about the program.

Chairman FORD. We would need to assure the taxpayers that we are not going to implement a program that is going to be substantially higher than anyone could estimate. That is not that I don't

support the plan, but I am just wondering how do we sort of narrow it to a cost factor here.

Ms. EBB. That is right. That is one reason that we believe so strongly that it is essential to include improved enforcement as a piece of the plan in order to contain those costs.

Chairman FORD. Thank you very much.

There are two bells on, and I am going to end the hearing. I know you all have been here for a long time, but I want to thank you.

As I have said to the other panelists who have appeared before the subcommittee today, during the course of this year this subcommittee will have contact with many of you and many more throughout this country in helping us to draft and craft a bill that will, in fact, address the real problems in the child support area.

Your testimony today has been very helpful to all of the subcommittee members, staff as well, as we go about the business of trying to craft some legislation that will address these many, many needs. Again, thank you for waiting, thank you for your testimony, and thank you for coming.

The subcommittee is going to stand adjourned subject to the call of the Chair at this time.

[Whereupon, at 2:27 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

A Vision of Child Support Reform:

A Written Statement for the Record

June 24, 1993

Submitted to the Human Resources Subcommittee
House Ways and Means Committee
United States House of Representatives

by

AYUDA, CLINICA LEGAL LATINA
1736 Columbia Road NW
Washington, DC 20009
(202) 387-0434

CENTER FOR LAW AND SOCIAL POLICY
1616 P Street NW
Washington, DC 20036
(202) 328-5140

CHILDREN'S DEFENSE FUND
25 E Street NW
Washington, DC 20001
(202) 628-8787

NATIONAL WOMEN'S LAW CENTER
1616 P Street NW
Washington, DC 20036
(202) 328-5160

UNITED STATES CATHOLIC CONFERENCE
3211 4th Street NE
Washington, DC 20017
(202) 541-3190

WOMEN'S LEGAL DEFENSE FUND
1875 Connecticut Avenue NW
Washington, DC 20009
(202) 986-2600

Introduction

As advocacy groups that care deeply about the plight of single-parent families plagued by the epidemic of non-support, we have joined together to develop this vision for a child support system that delivers on its promise to support children. Most of the groups submitting this joint statement have worked closely together as an informal, but close-knit, task force on national child support policy for ten years.

We worked hard to help shape and build consensus for child support improvements made by the federal Child Support Enforcement Amendments of 1984 and the child support provisions of the Family Support Act of 1988. We followed this legislative work with intensive work on federal regulations implementing the program. Many of us have worked as well on the state and local level, trying to ensure that the theoretical promise of federal child support reform becomes a reality at the grassroots level.

We are heartened by the many improvements that have been made. At the same time, we are deeply disturbed by the continuing failure of the child support system to deliver on its promise: that child support should provide a regular, reliable source of support for children in single-parent households. It is time for fundamental reform of the system.

Our statement provides a pragmatic blueprint for that reform. We believe strongly that child support assurance, coupled with aggressive, improved enforcement of child support is essential. This statement outlines how to achieve reform in key areas: improved enforcement; child support assurance; outreach; paternity establishment; uniform national guidelines; expedited procedures to establish paternity and child support obligations and to enforce support; medical support; and provision of adequate resources, training, and auditing procedures to make the system work.

The group also has a joint position on how to design and implement a child support assurance program. This approach is outlined in written testimony submitted by the Children's Defense Fund for this hearing record. Rather than reiterate the same testimony, we state our support for the positions on child support assurance taken in the Children's Defense Fund written submission and incorporate them by reference.

Different members of our task force took responsibility for preparing sections of this statement. Sections on paternity establishment and medical support were drafted by Paula Roberts of the Center for Law and Social Policy, who also worked with Nancy Duff Campbell of the National Women's Law Center to prepare the section on expedited procedures. Nancy Duff Campbell and Sarah Craven of the National Women's Law Center drafted the enforcement section. Diane Dodson of the Women's Legal Defense Fund drafted sections on outreach and national child support guidelines, and Nancy Ebb of the Children's Defense Fund drafted the section on resources as well as testimony on child support assurance incorporated by reference into this document.

Enforcement

Prior to 1974, establishment and enforcement of child support obligations were purely a matter of state law. Since that time, however, the nation's child support enforcement system has been undergoing a process of federalization. To date, this process has been accomplished by the provision of substantial federal funding to the states to provide child support services, by the enactment of federal laws which require the 54 states and territories to enact state legislation (e.g., immediate income withholding) and by limited use of federal locate and enforcement mechanisms.

This method of federalization has not achieved the desired results: according to census data, 40 percent of custodial mothers still do not have a child support award and, of those with an award, only half actually collect what is owed. These numbers are the same as they were in 1978. The picture for those using the state IV-D system is even more bleak: according to OCSE data, the average state paternity establishment rate is 45 percent and a collection of support is made in only 19.3 percent of IV-D cases. Of particular concern are interstate cases, where 57 percent of custodial mothers with orders do not receive regular support. Since 30 percent of all cases are now interstate, this is a very serious problem.

The current state system has also failed to become more cost-efficient. In 1991, $3.82 was collected per dollar of administrative expense. This is a decrease from 1988 when $3.94 was collected for every dollar in administrative expense.

In short, the federal government is losing over half a billion dollars yearly on a program which is failing to provide even minimally adequate services. The resulting direct and indirect costs to children are beyond measure.

The dismal record of the states has many causes. Chief among them are insufficient staff and resources at the state and local levels; a multiplicity of actors (e.g., judges, court clerks, district attorneys, process servers, sheriffs) who are outside the control of the IV-D agency but who must act efficiently if the agency is to do its job; diverse, and frequently inconsistent state laws which make processing interstate cases particularly difficult; and a lack of automation. While the Family Support Act requires states to automate their systems, 42 U.S.C. § 654 (24), a recent GAO report reveals that many states will not meet the 1995 deadline as required by the law. More importantly, even if all 54 states become automated, they will not necessarily be able to interface with the automated systems in other jurisdictions.

We, therefore, believe that the enforcement of child support obligations should be moved to the federal level. This would accomplish several things: 1) free up state staff to perform other functions (i.e., locate, paternity establishment/modification), easing the current caseload problems; 2) provide a uniform national collection system which could reach obligated parents wherever they live or work; 3) greatly ease the burden on employers involved in income withholding, who would only have to deal with one entity with one set of policies and procedures, not several different entities depending on where the custodial parent resides.

THE NEED FOR FEDERALIZATION

A federalized collection, disbursement and enforcement effort, housed at an experienced federal agency such as the Internal Revenue Service (IRS), would ensure that the highest possible proportion of children receive child support payments from their noncustodial parents. As discussed below, this system would work best when implemented with child support assurance, a national child support guideline, and income reporting on W-4 forms.

Under a federal system, all child support orders would be sent to a national registry at the same time as the initial notice of withholding is sent to the obligor's current employer. The registry would abstract the order and maintain the abstract with the parents' current addresses and social security numbers, as well as relevant employer information. In most cases, enforcement would be through wage withholding. When the obligor changed jobs, he/she would be required to fill out a W-4 form stating whether or not there was a child support obligation and the amount owed. The employer would immediately begin withholding the reported amount owed and without delay send the form to the IRS to match for accuracy against the abstracted order. (Alternatively, employers would be able to match the forms themselves against information in the registry through electronic and telephonic on-line access to registry data.) If the employee reported the obligation incorrectly, the IRS would inform the employer of the correct withholding amount. Payments withheld would be sent to IRS for recording and prompt disbursement to the custodial parent or AFDC agency.

We believe that the IRS has both the tools and the experience to collect and enforce child support obligations. Use of the IRS would highlight for noncustodial parents the seriousness with which the government views child support obligations and bring the full weight of the IRS enforcement authority to bear on the collection of support.

The IRS could also use its extensive information system to assist in locating absent parents and their assets, both to help states establish and modify orders and for its own enforcement purposes. For example, IRS data could be used to supplement data from other federal and state records -- including tax, deed, motor vehicle, public utilities, criminal, correctional, occupational/professional/ recreational licensing, and vital statistics records.

Finally, to improve collections the federal government must be given new enforcement tools. For example, obligors should be required to report on their federal income tax form and pay with their taxes (including quarterly estimated taxes, for the self-employed) any outstanding child support obligations. Accordingly, an individual who fails to pay child support would be prosecuted to the same extent as an individual who fails to pay income taxes. In addition, the federal agency should be required to 1) report to consumer credit agencies the existence of a child support obligation (not just the existence of a delinquency); 2) automatically issue a lien when an asset is located and there is an arrearage (as now done in Massachusetts); 3) intercept lottery winnings and other awards/prizes; and 4) collect child support arrears after the child reaches the age of majority or the age at which support is otherwise scheduled to cease under the order.

REFORM AT THE STATE LEVEL

Our strong preference is for a completely federalized system. If complete federalization of the child support enforcement system is not feasible in the short term, immediate improvements in the federal-state system must nevertheless be made. As described below, necessary improvements in the state system would include the creation of both a central federal and state registry; improved employer withholding; greater integration with the federal income tax system of collection and enforcement; and enhanced state locate and enforcement tools. The interim remedial measures suggested here are effective steps towards achieving a fully federalized system and will improve state collection, disbursement and enforcement efforts as well.

- **A central federal registry of all child support orders.** In order to streamline and improve state enforcement efforts, a central federal registry should be established. As discussed above, the federal registry would contain a basic abstract of all child support orders issued or modified by a state including the names, social security numbers and addresses of the parties which could be matched against employer records. The federal registry would receive W-4 reports from employers, match the reports against the registry's abstracts and confirm that support is owed, to whom it is owed, and in what amount. This information would then be forwarded to the appropriate state registry which would collect and disburse child support payments. A federal registry would significantly enhance the state registry's ability to collect and enforce interstate orders in particular as it would allow individual states to access a universal data base that could quickly identify obligors' current employers as well as red flag the existence of orders issued in other states and/or multiple orders. In addition, access to a federal registry could assist states in locating absent parents in intra-state cases.

- **A central state registry of all child support orders.** Each state would be required to maintain a central registry of all child support orders issued in the state. As described above, the state registry would receive employment information from the federal registry and then utilize an automated system to receive, record and disburse payments collected through wage withholding for all orders recorded in the state registry. The state registry would monitor the receipt of payments and would commence appropriate enforcement actions when payments were not received on time or notify an appropriate agency to do so. A single state entity for collection and disbursement would streamline the enforcement process and increase the likelihood that child support payments would be made promptly to custodial parents.

- **An improved system of employer withholding.** To enhance and coordinate wage withholding, employees would be required to report child support obligations on W-4 forms that would be promptly forwarded to the federal registry. Unless and until corrected by the federal registry, the W-4 information would be used as the basis for the employer's withholding and the state registry's collection and enforcement efforts. Interfacing between the state and federal registry would boost state collection efforts as the federal database would include both child support orders and employment records from all the states.

- **Integration of collection and enforcement with the federal income tax system.** Even without enforcement and collection by the IRS, child support collection should be integrated to a greater degree with federal income tax collection. For example, child support arrears should be treated as a tax liability subject to collection by the IRS with obligors required to report on their federal income tax form and pay with their taxes any outstanding child support payments. As discussed previously, such integrated efforts would improve enforcement as well as send a national message to noncustodial parents about the serious nature of child support obligations.

- **Enhanced locate and enforcement tools.** States should be given the enhanced locate and enforcement tools described above to expand access to state records. Thus, states should increase the use of automatic liens, credit bureau reporting, interception of awards/prizes, and collection of arrears beyond the child's age of majority. In addition, they should expand data bases and be allowed to deny professional and recreational licenses to noncustodial parents with outstanding child support obligations.

OUTREACH AND ACCESSIBILITY

A child support award is a precondition for the receipt of child support for most children of single parents. Many of the child support assurance schemes proposed to date would provide assured benefits only on behalf of children with awards. Yet, two out of five single mothers in the U.S. lack child support awards

for their children. And, three out of five single mothers with household incomes below the poverty level lack such awards. Low income minority and never married single mothers are most likely to lack awards.[1]

Many of these parents lack child support awards because they have never sought help from the child support system--often because they are unaware of how to do so or the benefits of doing so. Many others reach the child support system, but the system fails them by failing to obtain a support award for their children.

It is clear that the child support system must improve its outreach and accessibility if the first problem is to be overcome. In order to do so, federal law should require the following:

- **That a uniform federal application form be used by all states**--written in a language and format useable by low literacy individuals. This federal application form should be translated into commonly used languages and made available to state and local agencies.

- **That each child support agency identify groups which are underserved by its programs and consult with representatives of those groups to identify barriers to their successful utilization of child support services.** Outreach efforts should be targeted to these groups and detailed in a plan to be submitted by the state to the Department of Health and Human Services for approval.

- **That local child support programs reach agreements with local food stamp, head start, and maternal and child health programs to ensure that information about child support services is made available to clients of these other programs.**

- **That all state child support agencies establish a 24 hour a day, 7 day a week 800 number to provide general information and to provide information on individuals' cases.** For example, the District of Columbia currently provides information by telephone on the payment status of child support cases to parties when they key in their personal identification numbers.

- **That all child support agencies establish weekend and evening hours.**

- **That each child support agency make its services available throughout the geographical area it serves either by providing transportation for clients when no public transportation is available or by providing services in locations near clients' homes--for example by mobile intake units, co-location of offices with other agencies, or by a system of telephone intake.**

- **That each local agency make its services accessible in each language used by a significant population group in its community and assure that services are accessible to persons with disabilities.** In addition to providing the federal application form in the languages commonly used in its community, interpreters should be available to translate in all languages commonly used in the community--including American sign language.

- **That each state coordinate IV-A and IV-D intake to ensure that each AFDC applicant will receive accurate and understandable information on the child support program, client responsibilities in it, how to pursue a child support case and his or her right to claim a good cause exception.** This information must be provided by the time information is gathered for pursuing a child support case. AFDC workers must be trained to provide information on the child support program or IV-D staff must be outstationed at IV-A intake locations to provide this information.

Paternity Establishment

Last year, almost 30 percent of the babies born in America were born to unmarried parents. Unless paternity is legally established, these children will never have the right to receive child support or to inherit from their fathers. They will also be ineligible for Social Security Survivors' benefits, veterans benefits and the like. They are likely to grow up in poverty, further increasing our unconscionably high rate of childhood poverty.

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[1] Census Bureau data is available only on percentages of single mothers with child support awards. However, the data the Census Bureau is currently gathering on this subject will cover single fathers as well.

Unfortunately, most states still have antiquated paternity establishment procedures. **President Clinton's FY 1994 budget contains several solid proposals for moving to a more streamlined system.** These include proposals to require states to adopt 1) a simple affidavit process for establishing paternity voluntarily at the hospital or birthing facility where the baby is born; 2) simple procedures for establishing paternity voluntarily at the state birth records office for those who did not have the hospital procedures available (e.g., those with older children) and those who did not use the in-hospital process; and 3) state laws setting up a rebuttable presumption of paternity in contested cases when genetic test results yield a high probability of paternity. We also applaud the use of enhanced paternity performance standards for the state IV-D agencies.

In conjunction with these reforms, we suggest two other steps be taken. First, federal financial participation should be made available to offset the cost of voluntary paternity establishment in all cases, not just those handled by the IV-D agency. While this would entail some federal cost in the short run, we believe it would be sound policy and would save money in the long run because:

- many unmarried mothers, and especially first-time mothers, are not IV-D clients at the time of their baby's birth. Yet, the chances are very good that they will eventually be in the IV-D system. For example, in Washington's in-hospital paternity program only one-quarter of the mothers were IV-D clients at the time of the birth: a year later, nearly half were.

- research by Esther Wattenberg and others suggests that fathers frequently come to the hospital at the time of the baby's birth. Two years later, the parents are likely to have lost contact with one another. Then, expensive services like parent locate, genetic tests and jury trials may be necessary to establish paternity. If the mother is then a IV-D client, the state may have to absorb several hundred dollars in costs to obtain a paternity finding.

Our second recommendation is that states be required to have quasi-judicial or administrative processes available for establishing paternity in contested cases. Federal law now makes this optional, 42 U.S.C. §666(a)(3)(B). We believe it should be mandatory as clients in many states report lengthy delays in getting courts to calendar and hear contested paternity cases. For example, a four-state study found that mothers needing paternity established frequently waited more than one year for the order to be issued.

After requiring the states to enact expedited processes for paternity cases, the current federal regulations, 45 C.F.R. §303.101(b)(2), should be expanded and the *case processing standards* contained therein should apply to paternity actions.

National Child Support Guidelines

When Congress adopted the initial state guidelines requirements of the Child Support Enforcement Amendments of 1984, concern was expressed by members over the lack of uniformity in the treatment of similarly situated obligors and over low award levels which resulted in unfairly reduced living standards and often poverty for children. While no minimum standards were set for state guidelines, it was hoped these problems would be addressed by the states in devising their support guidelines.

It is now clear that the state-by-state guideline approach has resulted in orders that are still often too low to meet the needs of children and which vary significantly from state to state, even though they should lead to some increase in award levels. The state guidelines requirements of the CSEA and the Family Support Act have led to a useful period of experimentation among the states. This has increased our understanding of alternative approaches to child support guidelines. Now is the time to correct the inequities that result from state efforts to date.

A national child support guideline which requires significantly higher award payments than the average state guideline requires today is an essential component of a system in which child support assurance benefits are provided by the federal government and in which the federal government undertakes to collect child support awards. A child support assurance system will be prohibitively expensive unless children's absent parents are asked to pay a fair share of the cost of maintaining them in decency. If a uniform national guideline is not followed, the federal government would subsidize the obligations of absent parents in some states to a greater degree than those in other states because of nonuniform state guidelines. Similarly, the IRS would be involved in enforcing different award levels against similarly situated noncustodial parents in the absence of a national guideline.

However, a national guideline or new federal minimum standard for state child support guidelines should be adopted even if we do not move directly to a national child support assurance

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scheme and federal collection of child support. This should lead to a reduction in child poverty and a savings on public benefits even under the current system.

We have reached considerable agreement, but not consensus on the precise contents of a national guideline. We all believe that a national guideline generally should achieve higher award levels than is typical under the current state guidelines. Legislation should require the establishment of a national child support guideline commission to develop a national child support guideline.

That group should include economists, lawyers or judges, and representatives of public child support agencies. It should also include representatives of organizations which represent the interests of both custodial and noncustodial parents, organizations which represent the interests of children, and academic, governmental and other researchers on the costs of raising children and comparative living standards in households of different sizes and compositions.

A number of us support a guideline based on the principles described below:

- **Award levels under the guideline should ensure that children will enjoy a minimum decent living standard (at least 1.5 times the federal poverty level) if it is possible to provide this without placing the noncustodial parent at a lower living standard**; when there is insufficient family income to reach this goal, at least a poverty level living standard should be provided to children when this is possible without impoverishing the noncustodial parent. Nominal support should be required in any event to establish the principle of the obligation, create a habit of payment and provide a basis for increased collections as income increases.

- **Once above a minimum decent living standard, award levels under the guideline should ensure that children will enjoy a living standard which is comparable to that of the higher income parent.** (This might, for example, be based on assuring that both households were in the same quintile of family income, rather than on assuring precise equality.)

- **Award levels should represent a "progressive tax" structure for payment of child support: both parents' incomes should be considered and the parent with the higher income should be asked to pay a higher percentage of her or his income toward supporting the child than the lower income parent.** This principle should cover both a basic child support award and coverage of child care costs, health costs, and special needs of the child(ren). This will result in award levels which are sensitive to the needs of children in low income custodial parent households by requiring significantly higher payments from the noncustodial parent when the custodial parent has lower income and permitting lower payments when the custodial parent's income is higher.

- **So long as the costs of health care and child care are borne primarily by individual families and so long as their actual cost to different families continues to vary dramatically, child support awards should take into account the actual cost of these items in each family.** The same principle should apply to the costs of meeting children's special needs.

- **No paying parent should be asked to pay child support at a level which would put her or his living standard below the living standard provided by AFDC and other public benefits to the custodial household.** However, a parent with income below this level may be required to pay a nominal level of support or may participate in an appropriate and agreed upon employment and training program.

- **The presence of additional children of either parent should result in further examination of the support award level.** Guidelines should ensure that the children in the two households are treated in a comparable way.

Two members favor the percentage-of-income approach, believing that its simplicity is a virtue. Since it requires a court or administrative agency to obtain information from only one parent (to enter a basic support award), it should ease the process for establishing and periodically modifying awards. Indeed, if awards were set as a percentage of income, rather than a dollar amount, extensive modification proceedings would be unnecessary.

However, they believe that the percentages now in use in the states which use the percentage-of-income approach are too low and should be increased in a national system. Also, the basic guideline amount should be supplemented to pay for child care costs and medical expenses for families which face these costs. This would require information from both parents.

Expedited Processes

In child support cases, speed is of the essence. The longer it takes to obtain or enforce an order, the greater the chance that children will go hungry or lack medical care. Despite a requirement in the law since 1984 that states use "expedited processes" in obtaining and enforcing child support orders, 42 U.S.C. §666(a)(3)(A), cases still are not being processed in a timely way once a case is prepared for filing. Few states are in compliance with the federal standards for processing cases.

Federal law requires states to use expedited processes within the state judicial system or under administrative processes for obtaining and enforcing child support orders. Id. The federal regulations, in turn, require that under expedited processes 90 percent of actions to establish or enforce support obligations must be completed within three months of service of process, 98 percent must be completed within six months and all must be completed within a year. 45 C.F.R. §303.101(b)(2).

Unfortunately, many states are not in compliance with these standards. Nor has HHS collected data to ascertain the source of problems states are having in meeting the standards. Accordingly, our ability to suggest remedies for the states' widespread failure to meet the standards has been hampered.

Some of us believe that the problem lies in the failure of states to adopt administrative processes for obtaining and enforcing support orders. The advantage of a wholly administrative process is that it places within the executive branch the ability to keep the process moving expeditiously. It does not make processing dependent on placement on a court calendar or the ability to hire more judges or court clerks to process cases. For these reasons, many states that use administrative processes report that they are faster, less costly and less formal. Indeed, in a recent survey nine states cited administrative processes as the best feature of their state's system. Equally telling perhaps, 10 percent of the states surveyed identified a backlog of court cases and/or lack of an administrative process as the most serious flaw in their state's system.

Others of us are not convinced that the simple adoption of administrative processes will resolve states' inability to meet the case processing standards. Because some states with expedited judicial processes move cases quickly and some states with administrative processes move cases slowly, it appears that either system can be made to work. In our view the way to improve the speed with which the states process cases is to strictly enforce compliance with the processing standards.

Those of us who believe the failure to adopt an administrative process is the basis for the states' problems recommend that states that do not currently meet the case processing standards be required to enact and implement administrative processes for obtaining and enforcing child support orders.

Those of us who believe the failure to enforce the processing standards is the basis for the states' problems recommend that states that do not currently meet the standards be strictly audited on their compliance with the expedited processes regulations. If they are not in compliance, they should be required to develop a corrective action plan which could include, if appropriate, a required shift to an administrative process. As part of the audit review, HHS should be required to examine the states' use of expedited processes to determine whether differences exist in speed of processing between states with administrative processes and states with expedited judicial processes, and whether those differences are attributable to the processes used.

Although we have posed different approaches to solving the problems of case processing, we are united in our belief that states must be required to process cases more quickly. Under either approach, that goal must be reached.

Medical Support Enforcement

According to the GAO, 13 percent of those who lack health insurance are children. This number would be much higher were it not for Medicaid. Yet, Medicaid represents the expenditure of tax dollars on a population, some of whom could be covered by private health insurance. The President's budget estimates that $15 million in Medicaid costs could be saved in FY 1994 through better medical support enforcement. Thus, greater attention to establishing and enforcing medical support obligations could both help children and reduce Medicaid costs.

To date, this has not been done. According to the Census Bureau, only 39 percent of existing support awards provide for health insurance coverage: the number is even lower (32%) for families whose income is below poverty. **Within the IV-D system, there have been efforts in the last two years to give**

medical support greater attention. This emphasis should continue. However, the current incentive payment system does not reward state efforts in this regard and this leads many states to ignore medical support. The current audit criteria also do not emphasize the need to enhance efforts in this area. Both audit reform and a different incentive system are needed.

However, making sure medical support orders are obtained is only half the battle. **Orders also need to be enforced.** As the President recognized in his budget, employer's insurance plans which cover children must offer the coverage even if the children are not living in the noncustodial parent's household. Such plans must also allow open enrollment at any time for health insurance coverage required by a court or administrative order.

There are three additional issues which need to be addressed: 1) requiring the employer to enroll the children or former spouse in the company's health insurance plan when the court or administrative agency orders this and the obligor does not quickly or voluntarily do so; 2) granting the obligee access to information about the plan coverage and claim forms; and 3) honoring the obligee's signature on the claim forms so that (s)he can be directly reimbursed. Five states have enacted legislation to deal with all three issues in recent years. Eight others have addressed some but not all the issues. A federal mandate that all states adopt legislation covering all three problem would be highly desirable.

Unfortunately, such state laws do not reach employers covered by ERISA. **Thus, it is also very important to amend ERISA for the limited purpose of making insurance plans offered by employers who are self-insured subject to the state laws recommended above.**

Each of these recommendations is supported by the GAO in its June 1992 report, *MEDICAID: Ensuring That Noncustodial Parents Provide Health Insurance Saves Costs.*

Also in the medical support area, a number of issues may arise as health care reform is implemented. We look forward to addressing these issues as they arise.

Resources

Resources in a Federalized System

As we discuss in the section on enforcement of support, federalizing collection and enforcement of support is vital to the long-term success of the child support system. Under our proposed scheme, a federal agency would perform most enforcement functions, while state systems would continue to establish paternity and child support obligations. This scheme uses the federal government to do what it does best -- to deal with enforcement issues that frequently cross state lines -- and focuses state agencies on cases that may require more intensive work and more personal contact at the time a support order is initially established or paternity determined. This proposal frees up resources in overburdened state agencies and allows them to concentrate on what they have the potential to do best.

This structure has the greatest promise for making the child support system work. Even such a structure will not work, however, unless adequate resources are allocated at both the federal and state levels. Without these resources, the efficiencies gained by a national approach to enforcement will not be enough to dramatically improve performance. **To ensure that the federal component of the program has sufficient resources, the Secretary of the federal agency responsible for enforcement should be required to establish timelines for provision of federal services, report to the Executive and Congress on federal staffing levels necessary to comply with these timelines, and request a budget that assures that such levels will be achieved.**

Additionally, it will be important to ensure that state agencies have the resources to establish paternity and child support obligations in a timely fashion. As outlined in the discussion below, states should be subject to staffing and training requirements, and should be held accountable for meeting regulatory timelines for prompt establishment of paternity and child support obligations. Similarly, funding formulas should be revised along the lines discussed below, to provide states with an adequate funding base and to reward states that provide timely services and meet performance-based outcome measures.

Resources in a State-Based System

Even if the present system of delivering services is retained, enhanced resources are essential. Providing the resources to enable states to do a better job requires improvements in four areas: ensuring there is adequate staff to do the job, training staff to provide high-quality and effective

services, ensuring sufficient program funding, and revising the audit process.

• **Staffing Problems.** High state agency caseloads reflect the fact that HHS has never issued staffing guidelines despite a longstanding statutory requirement that the Secretary establish minimum staffing standards for states (42 U.S.C. Sec. 652(a)(1)). Many state child support enforcement agencies have such high worker caseloads that workers cannot provide timely, effective services, no matter how dedicated and well-intentioned they may be. While increased automation should enable workers to handle larger caseloads more efficiently, in many states caseloads are so high that automation alone cannot possibly provide a solution. For example, in 1990, the federal Office of Child Support Enforcement conducted an informal review of sample child support cases and found that one West Virginia office had three paralegals to work 3,500 cases. One study found that the average FTE child support worker has over 1,000 cases. Center for Human Services, U.S. Department of Health and Human Services, A Study to Determine Methods, Cost Factors, Policy Options and Incentives Essential to Improving Interstate Child Support Collections: Final Report, 36 (1985).

• **Staffing Recommendations. The Secretary should, after consultation with state administrators, program operations experts, and affected groups, promulgate a federal methodology and outcome expectations for determining state staffing requirements.** Final regulations should take effect no later than September 30, 1994. Because staffing levels are likely to vary depending on a state's system and its level of automation, establishing a federal methodology seems preferable to a single federal staffing standard. Using this methodology, each state should be required to evaluate its child support system and to report to the Secretary on its existing staffing levels and the level of staffing required to meet federal staffing expectations. This report should include a plan for steps the state will take to ensure that staffing expectations are met by September 30, 1996 (one year after the date states are expected to be automated).

Federal audits after September 30, 1996 should measure compliance with these staffing standards. States that fail audits for periods before and after September 30, 1996 should be required to meet staffing standards as part of their corrective action plan.

• **Training Problems.** The poor service that results from high caseloads is exacerbated by the lack of effective training programs for workers. For example, a 1990 informal OCSE review of Oklahoma found that staff providing child support services in one site are "usually hired with very limited credentials including no formal education or training, and the [child support] training program is not adequate to equip these workers with the skills necessary to do their jobs." Administrators across the country have reported similar training concerns in other contexts.

• **Training Recommendations. The Secretary should establish national expectations for training of child support workers.** Compliance with training requirements should be measured as part of the audit process. The Secretary already has authority to establish such a standard as part of the statutory directive that the Secretary establish minimum organizational and staffing requirements. Section 452(a)(2) of the Social Security Act.

• **Funding Problems.** High caseloads also reflect the fact that states have not been willing to invest sufficient state funds to draw down the federal matching funds necessary to hire adequate staff. Although the combination of federal administrative matching funds and incentive payments results in a relatively rich federal reimbursement package, advocates and administrators report that the funding scheme is complex and difficult to explain to state legislators in order to convince them of the favorable returns for increased state investments. Moreover, incentive payments, which total over a quarter of a billion dollars nationally, are earned by state child support efforts but are not necessarily reinvested in child support. Rather, in a number of states, incentives are used either for other human services or are returned to the general treasury.

• **Funding Recommendations. The current federal administrative match (66 percent FFP) and incentive payment system should be replaced with a consolidated administrative match rate of 82.5 percent.** This rate, which roughly approximates the current value of matching funds and incentive payments, will ensure that federal funds are invested in child support services rather than in other programs, enabling states to expand resources for enforcement. It will encourage states to invest more in enforcement because it will be easier for administrators to make the case that limited state investments leverage significant program resources.

If a state fails a program audit and fails to submit or to comply with an approved corrective action plan designed to eliminate audit failures, this consolidated administrative matching rate should be reduced by 1 - 5 percent, depending on the severity of the non-compliance. This penalty would replace the reduction of federal AFDC matching funds as a penalty for IV-D non-compliance. A penalty against IV-D matching funds more directly holds the IV-D agency responsible for its failures and does not have the effect of

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penalizing AFDC children for systems failures beyond their control.

To encourage states to improve performance, the match should be increased to 90 percent for states that demonstrate through the audit process that they have:

(a) achieved a paternity establishment rate of 75 percent (using the formula outlined in Section 452(g) of the Social Security Act);

(b) met state performance standards published by the Secretary pursuant to Section 452(h) and (i) in 75 percent of cases;

(c) collected child support, or taken another step to enforce support (including but not limited to imposition of a lien; a successfully prosecuted action for contempt; certification of a case for IRS full collection services; referral of the case for income tax refund intercepts) in 75 percent of cases with an established child support obligation;

(d) established and, when necessary, enforced medical support in 75 percent of cases where medical coverage is available to the absent parent at reasonable cost; and

(e) complied with steps outlined in an approved plan to reach required staffing levels (see staffing recommendation above).

To ensure that the altered federal match does not result in a reduction of investment in child support, or a shift of state and local resources from other programs that have benefitted from incentive income, there must be a maintenance of effort requirement. This maintenance of effort should apply to both state and local funding, and should apply to both child support funding and to Aid to Families with Dependent Children. In some states, child support incentives have been used to fund human resources programs such as AFDC; changing the child support matching formula should not have the effect of penalizing AFDC recipients by reducing funding available for AFDC once states no longer have incentives to allocate to AFDC funding.

• **Audit Problems.** The current auditing scheme, which consumes huge proportions of the federal agency's personnel time, is burdensome on states. Despite the cumbersome nature of the process, it produces information that is so dated that it is of little use in measuring or improving current state performance. The audit process should be streamlined so that it reduces the burden on states that are doing a good job, produces timely analysis of troubled systems, and frees up staff to do technical assistance that will help states improve.

• **Audit Recommendations. The current audit schedule should be revised to eliminate burdens on states that are satisfactorily complying.** This will enable the federal agency to emphasize timely audit results and to focus attention on troubled programs:

- If a state passes a federal audit, it should be put on a three-year audit cycle.
- If state compliance with audit criteria is marginal (based on criteria established by the Secretary), the state should be audited every two years.
- If a state fails a federal audit, it should be required to submit a corrective action plan for federal approval. It should be audited twelve months from the date of approval of the corrective action plan, and annually thereafter for a period of three years. Until an audit shows that the state has achieved substantial compliance, the federal IV-D match rate should be reduced (see above). At the end of the three-year audit cycle, if the state has not complied with its corrective action plans and shows continuing, substantial non-compliance with audit criteria, then the program should be placed in federal receivership.

STATEMENT OF LINDA R. WOLF JONES, D.S.W., DIRECTOR OF INCOME SECURITY POLICY, COMMUNITY SERVICE SOCIETY OF NEW YORK

The Community Service Society of New York (CSS) has been actively working to improve the conditions of the poor for almost 150 years. As part of its mission, it identifies problems that contribute to poverty and the changes needed to eliminate such problems. One of the ways in which we carry out the mission is through social welfare policy analysis and advocacy at all levels of government. In that context, we have reviewed a number of recent proposals for child support policy change, including the Child Support Enforcement and Assurance Proposal released last year by two members of the 102d Congress, Representative Thomas Downey (D-NY) and Representative Henry Hyde (R-IL). The following comments focus on that proposal and its implications for people in poverty.

The failure of existing child support mechanisms to provide adequate income for poor women and children is a major problem contributing to poverty in the United States today. For that reason, we agree with the premise of the Child Support Enforcement and Assurance Proposal that an overhauled child support enforcement system coupled with a back-up program to assure a minimum annual income would have a dramatic effect on reducing poverty among low income single parent households with minor children. We would note that we strongly believe that an assured minimum annual income package should be at least adequate to provide families with a decent standard of living. We also have a number of questions - of both a philosophical and technical nature - about the Child Support Enforcement and Assurance Proposal that was released last year.

The comments below are organized section-by-section to follow the format of the above-referenced proposal. We appreciate the opportunity to express our opinion, since we believe that many of the same provisions will resurface for inclusion in future proposals. We hope that the concerns which we raise will be taken into consideration when future bills to change our child support enforcement system are being drafted and debated in the Ways and Means Committee.

SECTION-BY-SECTION COMMENTS

Administrative Structure

- We are not entirely convinced that it makes sense to set up another massive, new federal program, from the point of view of 1) the bureaucracy that it will require, 2) the data collection/ sharing that it will entail, and 3) the involvement of the federal government in what had been individual and state matters. However, we recognize that the proposal is premised on the establishment of such a program. We urge that the needs of custodial parents and children, and the effects of proposed program policies and

procedures on them, be of primary concern in developing the details of any new legislation. It is easy to get so caught up in program design ideals and models that the human beings at the end of the line are lost. The potential for impersonalization and error inherent in a large bureaucracy must be continually guarded against when dealing with vulnerable populations; client concerns must take precedence over philosophical beliefs or the convenience of the design.

• It is unclear how, exactly, the new federal office would function. The interaction between the IRS and the SSA needs to be more clearly spelled out, with an indication of where the ultimate authority would be housed. Since the reputations of the IRS and the SSA for dealing with the public (e.g., courtesy, accuracy of information given out) are very different, it is important to delineate which system would be responsible for each function assumed by the federal government. The collection of employer-withheld funds; child support payments by the self-employed; recordkeeping of amounts owed, collected and disbursed (including child support payments, child assurance payments, and advance EITC payments); data collection, retrieval and confidentiality; answers to client questions; dealing with client problems; liaison with relevant state agencies; and numerous other functions could take on a very different face in the hands of one agency as compared to the other.

• The proposal indicates that the SSA would be responsible for reviewing and modifying support awards, but it is unclear whether it would also be responsible for the 2 or 3 year review that would be based on the parents' tax returns. We could not tell from the proposal whether the multi-year review is envisioned as an IRS function or whether the IRS would simply turn all of the returns over to the SSA. (If the former, is such income tracking and comparing an appropriate IRS function? If the latter, are bad precedents being set by the increased data sharing between government agencies?) In either case, we would urge that if a computerized, purely mathematical formula is utilized, it must leave room for individualized consideration of changes in income, family structure, needs, and other support-related issues.

• The proposal states that SSA would be responsible for distributing payments to custodial parents, but it has also been suggested that a single agency (presumably, the IRS) would be responsible for the collection and distribution of payments. We would oppose turning the distribution function over to the IRS.

Paternity Establishment

• The proposal would set up federal requirements and guidelines for state paternity establishment programs, but it does not offer any incentive for states to want to carry out the

function of establishing paternity. On the contrary, a state would save money by letting the SSA be responsible for it. Since we believe that paternity establishment is more appropriately and more effectively handled at the state level, we are concerned that a new system look for ways to continue to have states carry out the paternity establishment function rather than provide reasons for them to walk away from it.

• Although the proposal appears to support voluntary acknowledgment of paternity, it is ultimately coercive. A male who doesn't "volunteer" can be required to take a genetic test. Unless specifically excluded by the test results as a potential father, a presumption of paternity would be made which he would have to rebut in order not to be responsible for support of the child. (Although there is a slightly different procedure depending upon whether the probability of paternity is above or below 99 percent, there is a presumption of paternity under either set of circumstances.) We are concerned for the economic well-being of women and children, but worry that we may be going overboard in our zeal to "nail" irresponsible men.

Establishment of Child Support Orders

• Because the income shares model is based on the income of both parents, and women traditionally earn less than men, certain anomalies are automatically built into the results. For example, assignment of financial responsibility on a basis strictly proportional to income does not take into account the amount of disposable or discretionary income left to each parent after obligations are met. We are concerned that arbitrary application of support formulas could result in one parent being left relatively well-off while the other parent had barely enough cash left to meet expenses. We would also hesitate to support a policy which could lead to taking away from the custodial parent the option of not working, depending upon the circumstances of the individual case. It is not entirely clear, for example, what would happen in a situation in which 1) the custodial parent has income-earning skills, but either has not worked for several years while raising children or feels the need to stop working because of the new and/or additional responsibilities of being a single parent; and 2) the noncustodial parent insists on the unfairness of a full-support obligation, despite having more than enough income to support the children, just to "punish" the custodial parent. We fear the likelihood of situations in which women with fewer resources, less earning power and greater family responsibilities than the fathers of their children would tend to be the losers.

• The proposal indicates that for noncustodial parents with little or no income, the support guidelines would be based on assumed income equivalent to a full-time minimum wage job. Following this statement through to its logical conclusion leads to

several inequitable possibilities:

1) If both parents are working, they would both be responsible for a share of the support, but if neither is working, only the noncustodial parent (generally, the father) would have income imputed to him and would therefore be responsible for providing support.

2) If the noncustodial partner is a nonworking male, a working woman would be legally required to provide a share of the child support, but a nonworking woman would not be legally required to provide anything.

We believe there is a need to calculate how these and other possible situations would work out in actual practice, vis-a-vis both work income and eligibility for various benefit programs, and to analyze the findings before specific legislative proposals are made.

Collection and Enforcement of Support Orders

• The frequently-referenced "federal office" needs more clarification regarding its structure, how it would operate, and where it would be housed. Since the proposal indicates that this federal office both collects and distributes support payments, it is unclear how it corresponds to the earlier description of allocation of responsibilities. Theoretically, it could be envisioned as a part of the IRS, as a part of the SSA, or as an independent agency calling on the expertise and resources of both of those agencies. Of those three options, we would favor making the program an arm of the SSA and utilizing the IRS as necessary. The idea of the IRS as responsible for contact with people caught up in the child support enforcement system is least desirable: the agency has experience with payroll withholdings and audits, but it is not known for its ability to deal with vulnerable people, its helpfulness, or its concern for clients. (Our concerns about the program administration responsibility are also discussed in the Administrative Structure section above.) The cost of establishing a large new bureaucracy, on the other hand, is probably not feasible.

• The proposal refers to "certain limited circumstances" under which noncustodial parents would be exempt from automatic wage withholding, but those circumstances are not delineated. If the exceptions are too extensive, the program might become too complex or too watered down to function effectively. If they are too limited, it runs the risk of unduly hurting noncustodial parents who ought to be exempt for one reason or another.

• The proposal refers to state cooperation in the imposition of penalties on noncustodial parents for failure to report income.

This cooperation would be a condition for the receipt of federal reimbursement for the costs of the state's paternity establishment program. However, under the terms of the paternity establishment section of the proposal, a state could choose (or be required) to let the SSA handle that function. If a state was not carrying out the paternity establishment function, there would be no question of reimbursement and therefore no incentive for the state to cooperate in imposing penalties (e.g., withholding of driver's license, automobile registration, or other permits).

• "An ALJ also could reduce arrearages by reducing the present value of Social Security retirement benefits based upon changes in the earnings records of noncustodial parents." -- This proposal is somewhat obscure, but presumably it means that arrearages would be paid to the custodial parent in the present out of government funds and the government would eventually recoup the money by "adjusting" (falsifying?) the noncustodial parent's Social Security earnings record (i.e., putting down a lower amount than actually earned so that he would be eligible for a smaller benefit upon disability or retirement). If that interpretation is essentially correct, we would strongly oppose it as having dire implications for the Social Security program. Not only does it open the door for changing entirely the concept of Social Security (a most undesirable possibility), but its ramifications cannot possibly have been thought through. As much as we want to maximize income for children, increasing future poverty among the aged is not the way to do it. Further, the proposal potentially reduces the income available in later years to the divorced mothers of these children, to spouses and widows of subsequent marriages, and/or to other surviving children, since benefits for all of these categories depend on the earnings record of the primary wage earner.

Work and Training Requirements and Opportunities for Certain Noncustodial Parents

• The post-JOBS "other activities" component is very vague, particularly the requirement for inclusion of activities that "promote the involvement of the noncustodial parent in activities that benefit his or her children (e.g., attendance at parenting classes or parent-child literacy classes, the provision of child care or other in-kind services to his or her children)." It is also undesirable for several reasons - it has nothing to do with what the JOBS program was intended for; it has little to do with income support; it plays without basis into the "social engineering" and "behavior modification" trends that have begun to permeate public benefit programs; and it makes unfounded assumptions about noncustodial parents. (Why would anyone assume that an unemployed or low income noncustodial parent who is unable - not unwilling - to pay child support is in need of parenting classes?)

Medicaid Eligibility and Medical Child Support Establishment and Collection

• The proposal needs to indicate which category of medical support obligation a noncustodial parent with an annual income of exactly $20,000 would fit into (i.e., it is methodologically incorrect to have the two categories labeled "under $20,000" and "over $20,000").

• The proposal states that "centralized information available via the Federal collection and enforcement system would increase third party recoveries from employer plans." The details as to how this would work need to be spelled out, since it could have policy implications for data sharing and privacy issues.

• One of the criteria for whether a noncustodial parent with income below $20,000 has to use employer-provided dependent medical coverage is whether "the employee payment for the dependent coverage is less than the cost of Medicaid coverage." This provision needs to be spelled out in much greater detail with regard to what costs are meant, who is now responsible for meeting them, who would be responsible if the suggested change were made, and the implications for assured, continuing medical coverage for the children who would be affected.

Assured Child Support Benefit

• The proposal states that noncustodial parents of children without support awards could petition for an assured benefit, that eligibility would be granted if the noncustodial parent has cooperated in seeking to locate the custodial parent, and that regulations will be promulgated re: granting of eligibility to a noncustodial parent of children who have not been awarded support. -- All of the above is stated backwards: it needs to be corrected to say just the opposite with respect to custodial and noncustodial parents.

Advance Payment of the Earned Income Tax Credit

• Advance payment of the EITC is a good idea, but the details need to be spelled out. It is unclear whether the advance EITC payments would be made by the IRS or the SSA (i.e., the same question as pertains to other program distributions) and whether that same agency would be responsible for the calculations, the accompanying paperwork, and the coordination of the EITC and child support payments. We support the concept of receiving "the EITC on a regular basis ... along with the child support payment", but we would stress that the logistics involved in implementing a program of advance/coordinated payments need to be both efficient and reasonably streamlined. (A woman with children by two different

men who receives child support, assured benefit, and EITC should not have to deal with 5 or 6 separate monthly checks that need to be coordinated, cashed, etc.)

Interaction With and Modification To Other Government Programs

• In calculating AFDC benefits, "a State would be required to assume that an AFDC unit is receiving the full amount of any private child support obligation (or, where applicable, the maximum assured child support benefit), unless notified otherwise by the Federal office." -- It is simply not realistic to assume that there would not be errors as well as paperwork and reporting delays on the part of the Federal office. All such errors and delays would impact negatively and unfairly on the income available to the poorest single parent families. At the very least, since the proposal indicates that the program would make extensive use of modern technology, an "800 number" should be established with coded access to the data files. A state would be required to call and ascertain the private and federal benefits actually received in all cases where the amount is in question or dispute. If it did not make such a call, the state would be required to give the benefit of the doubt to the recipient in calculating the AFDC benefit amount, with a provision for recoupment in cases of overpayment.

• "Social insurance program benefits based on a noncustodial parent's work history (i.e., disability and survivors' benefits) and received by his or her children, would be deducted from the child support owed by the noncustodial parent. In addition, the assured payment would be reduced dollar-for-dollar." There are several issues that are disturbing with respect to this provision and would seem to merit further consideration:

1) In calculating the reduction in the assured benefit, there would have to be an allowance for the fact that the assured benefit covers all of the children in a family, whereas the social insurance program benefits may be payable only to one or some of the children.

2) There ought to be provisions for social insurance benefit income disregards. (Certain disregards are included in the description of the program's interaction with AFDC benefits, but are not mentioned vis-a-vis social insurance benefits.)

3) Survivors' benefits would be deducted from the child support owed? -- Doesn't death absolve a parent from further responsibility for making child support payments? The issue here is that the assured benefit assumes the existence of a noncustodial parent and a support order. The only possible reason for deducting survivors' benefits from the child support owed would be to insure that the assured benefit is lowered by virtue of receipt of this income, but it opens up

the whole question of eligibility if the noncustodial parent is deceased. We would hope that program eligibility would extend to the low income child of a deceased noncustodial parent.

Other Provisions

• "The Federal government must obtain demographic, income and asset data on both custodial and noncustodial parents on a regular basis." -- The implications of this statement are rather frightening, regardless of whether the data are to be collected on all such parents or on a research sample, unless provision of the information is on a purely voluntary, non-coercive basis. Otherwise, anyone who has the misfortune of being the parent of a child in any circumstance other than a traditional two-parent intact family could be required to participate in a massive, intrusive, highly personal and non-confidential data collection effort.

Testimony Presented Before

Subcommittee on Human Resources
Committee of Ways and Means
U. S. House of Representatives

Submitted by Howard P. Schwartz, Ph.D.
Judicial Administrator
State of Kansas
(913) 296-4873

On Behalf of the
Conference of State Court Administrators (COSCA)

Effective child support enforcement is vital to children and families who depend upon it, and by extension, to society at large. Child support helps provide the basic needs of ever growing numbers of children, basic needs that must be met for an individual to eventually grow and contribute to society. We have a vested interest in our children and child support enforcement continues to be one of the most important issues facing state courts.

Court involvement in the implementation of child support enforcement is immense. Many of the current federal mandates for Title IV-D program significantly impact state courts, such as support guidelines, expedited process, review and adjustment, income withholding, and automation requirements. Too often, federal legislation and resulting federal regulations attempt to exclude or reduce the role of state courts in the Title IV-D program. I strongly believe this is the wrong approach which harms the program. Close attention should be paid to the impact of proposed legislation on state courts. Any proposed legislation should bring state courts into the Title IV-D programs as a partner in solving the problems.

There are several specific issues I would like to bring to your attention for consideration.

Non-AFDC Cost Recovery Fees for the Title IV-D Program

As you are aware, costs of the Title IV-D program are escalating and not all persons needing services are receiving them because of lack of resources. It is unrealistic to expect increases in federal administrative or incentive payments to states. We need to consider other funding sources. I believe state courts would support legislation that proposes a minimum percentage fee be charged for each successful child support collection. This idea was recommended in the General Accounting Office (GAO) report, "Opportunity to Defray Burgeoning Federal and State Non-AFDC Costs."

This system has been used by Kansas court trustee programs since their inception in 1972. Further, effective January 1, 1992, our state required any fees collected by court trustee programs be reinvested in the programs to expand child support enforcement services. We are now seeing the benefits of this reinvestment. This fee system is relatively easy to administer, and it is fair. The fee, a minimum percentage of any amount collected, is assessed against those individuals who financially benefit from the support enforcement services. While many IV-D agencies oppose any such fee, both from historical and philosophical perspectives, the reality of today's economy dictates that the financial burden be shared by those who directly benefit from the services. Providing free services to those who can afford to pay no longer makes sense in the frugal climate of today's economy.

An additional benefit is that fees for Non-AFDC services could reduce the federal government's financial burden. I strongly urge Congress to consider mandating states adopt a Non-AFDC cost recovery fee as recommended in the GAO report. Further, any monies generated by Non-AFDC cost recovery fees be reinvested to expand the state child support enforcement services.

Interstate Child Support Enforcement Act (ICSEA)

The proposed Interstate Child Support Enforcement Act (ICSEA) would streamline and improve child support enforcement and collections generally, however, state courts have concerns with several aspects of the act. The time frame allotted to accomplish implementation of the numerous proposals contained in the ICSEA is far too optimistic. The scope of the changes required by this act is immense, complicated, and expensive. The implementation date of January 1996 is not realistic.

In addition to an unrealistic deadline, state courts have additional concerns. The automation required by the ICSEA will be a major expenditure for many if not most state court systems. New software and updated hardware will be necessary to accomplish the act's goals. The development and testing of software requires time and expertise.

This act permits income withholding issues to be contested in a far too complicated manner. Contesting these issues in a state other than the state with original jurisdiction defeats the purpose of having uniform procedures, and would cause unnecessary delay to support recipients.

The proposed administrative fee, to be collected after current and past due support and interest charges are collected, is an unrealistic assessment of most child support collection situations. Collecting current child support due is frequently impossible. It would be more efficient to assess any proposed fee as a percentage of successful collections, as mentioned above.

Finally, the proposed centralized disbursement centers would defeat efficient distribution and tracking of child support. States should be ordered to be as efficient as possible; however, getting money to the custodial parent and child in a timely manner should be the states priority, not a method of disbursement. Currently, Kansas clerks of the district court process child support payments in all 105 counties. The clerks disburse child support the same day it is received. Implementing a centralized disbursement center in Kansas would not speed up disbursement, would be a more costly system, and would be counterproductive in my view. Congress should address the results they want: timely disbursement, and provide states the flexibility to determine the most effective and efficient system considering available resources and existing systems.

Downey/Hyde Proposal

Many of the proposals originally brought forth in the Downey/Hyde proposal are still under consideration. While well intentioned, these proposals would not improve the situation for those persons they are intended to benefit. Federalization of child support enforcement would needlessly complicate the process. States currently must work vigilantly to keep up with increasing demands of processing cases and disbursing payments to recipients. If child support enforcement for all 50 states was completely centralized, the amount of time required to process payments, handle inquiries, and track compliance and modifications would be totally unacceptable. Centralization would increase the chances for cases being lost, overlooked and bungled. A case would go from being one among thousands to one among millions. What is already viewed by many of its recipients as a cold and impersonal system would suddenly become even more so.

Further, involving Social Security Administration (SSA) and the Internal Revenue Service (IRS) will not streamline the process. These federal agencies are already overwhelmed. Splitting jurisdiction of domestic cases increases the likelihood for confusion, and probably would make time standards almost impossible to meet if implemented on the federal level. Federally assured child support benefits would be no different, for all intents and purposes, than the welfare payment it envisions replacing. Our children would be better served by letting states continue handling child support enforcement. Minimizing federal involvement would reduce confusion and increase efficiency to the families and children involved.

Finally, we strongly encourage funding grants which allow states to fund efforts to comply with federal mandates. Each state court system is unique, and has its own exigencies and agencies. Each state is in the best position to know what will work best for its own individual situation. Historically, however, the judiciary has not been brought into the process early enough to make a meaningful contribution. State courts today need to be a significant partner in improving child support collection. Federal child support legislation has a major impact on the operations of the judiciary; however, no funds have been made available to assist in compliance with such legislation. A grant program would be invaluable in aiding state courts in meeting federal mandates and to make genuine progress in improving the welfare of children. Funds to assess procedures and functions related to child support enforcement would allow courts to identify areas of need which are most critical to efficiently applying our dwindling resources. Treating the judiciary as a partner in this process would improve procedures in child support cases more than any arbitrary mandate could ever do.

STATEMENT OF HUGH COLE, PRESIDENT

EASTERN REGIONAL INTERSTATE CHILD SUPPORT ASSOCIATION

before

SUBCOMMITTEE ON HUMAN RESOURCES
WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

June 23, 1993

On behalf of the Board of Directors and 4000 members of the Eastern Regional Interstate Child Support Association (ERICSA), I appreciate this opportunity to comment on various proposals for reforming the child support system.

My name is Hugh Cole. I serve as the Business Officer and Program Administrator for the Child Support Program in Durham County Department of Social Services, Durham, North Carolina. I am testifying on behalf of the Eastern Regional Interstate Child Support Association, of which I currently serve as President.

ERICSA is a not-for-profit corporation representing child support professionals nationwide, including caseworkers, child support administrators, attorneys, judges and other judicial officials, and administrative decision-makers. Since 1968, ERICSA has conducted an annual training conference whose main focus is the interstate child support enforcement process. Our annual conference has served as a forum to improve communication and cooperation among states and jurisdictions, to propose reforms in the courts and child support enforcement systems, and to advance training and professional knowledge for all persons actively participating in the child support program.

The testimony which I am submitting has been approved and recommended by the Executive Committee of ERICSA's Board of Directors.

I. State-Based Reform

We commend this committee for its longstanding commitment to improved child support enforcement. The Child Support Enforcement Amendments of 1984 and the Family Support Act of 1988 were greatly needed legislation. However, the current child support system continues to be in need of reform. This reform requires federal and state legislation, as well as an infusion of resources.

Much of the curent debate has centered on whether some or all of the child support services provided by state child support agencies (IV-D agencies) should be federalized. ERICSA agrees with the conclusion of the U.S. Commission on Interstate Child Support that reforms to the child support system should occur within the context of greater uniformity in the current state-based system, <u>not</u> the creation of a new federal administrative system.

ERICSA opposes federalization of child support for a number of reasons. It would fragment a case between state and federal courts and agencies, resulting in the children and parents having to appear in different forums in different locations. It would likely decrease accessibility of services to custodial parents and further remove accountability. It would not improve locate or enforcement against the self-employed, two problems which states face and have begun to develop innovative strategies to address. It prematurely declares state efforts as "failed" when states have yet to "bear fruit" from automated systems. Such systems are not required until 1995 and should greatly improve enforcement by allowing batch processing of cases such as done in Massachusetts. Given such results, ERICSA does not believe that federalization is in the best interest of children.

Finally, we oppose federalization because it will result in huge costs, with no guarantee of improvement, at a time when the federal government is trying to reduce the federal deficit.

Rather than duplicating at the federal level evidentiary procedures, resources and procedures for hearing contested cases, and staff for handling uncontested cases -- all of which are already addressed by state laws and procedures -- ERICSA strongly urges Congress to give states the necessary tools to effectively carry out the mission of the Title IV-D program. The remainder of this testimony spells out what ERICSA believes are the most crucial tools the states need, all of which are premised on the existence of strong proactive leadership from the Federal Office of Child Support Enforcement.

II. State and National Registries of Support Orders

To facilitate interstate enforcement, ERICSA recommends that each state be required to establish state registries of support orders. At a minimum, these registries should include orders being enforced by the State IV-D program, and all nonIV-D orders where at least one of the parties has requested placement of the order on the registry. The registry should contain abstracted information from the support order, such as the names and addresses of the parties, names and dates of birth of the children, and support payment terms, including arrearage payback amounts.

ERICSA strongly believes that such registries should be maintained at the state level. It is crucial that states have quick access to information about support orders in order to comply with the review and adjustment requirements of the Family Support Act of 1988.

In addition, ERICSA recommends the creation of a national registry of support orders. Such a registry should <u>not</u> duplicate information on file with state registries of support orders. Such duplication would not only be an unnecessary expenditure, but would also result in concerns about ensuring the registry promptly and accurately receives updated information as orders are modified. Rather, the national registry should contain extremely limited abstracted information. We recommend that the information be limited to the names and social security numbers of the parties, and the state that issued the support order. Such a registry would facilitate interstate enforcement by serving as a "pointer." It would quickly identify all states with a support order involving the obligor, thereby allowing the national network discussed below to target W-4 information about the obligor to those states.

III. National Computer Network

ERICSA strongly supports a national computer network that is built upon linkages between state automated child support systems and the federal parent locate service or CSENet. Such a network would allow control to be maintained at the the state level where program information is needed yet allow states to work with sister state agencies and their state data bases.

IV. W-4 Reporting

ERICSA strongly supports a federal requirement that all employers be required to report new hires. We recommend that such reporting be to state child support agencies in order to ensure that an agency with a "vested" interest in child support enforcement is in a position to monitor employer compliance. Through the national computer network, the W-4 information can be matched against support orders maintained on any state registry of support orders. The ultimate outcome is the same as a national data base of employees without the additional cost. ERICSA is also concerned that if the employee data is maintained at the national level there will be delays in matching the W-4 information against support orders. The Congressional Budget Office estimated that there would

be 30 million W-4 forms filed each year under the Commission's recommendations. It will be necessary to match these W-4 forms against the potential of 10 million child support orders. Since almost 2/3 of child support cases are intrastate where the obligor lives in the same state as the obligee, a state-maintained W-4 data base matched against a state registry of support orders will result in much prompter enforcement for the majority of cases than a federally maintained system. For example, the current delay in getting locate responses from the Federal Parent Locate Service is from six weeks to several months. The national registry of support orders would facilitate the W-4 matching in interstate cases and reduce costs.

Contrary to the Interstate Commission's recommendation, however, we do not recommend that the W-4 form solicit information from the employee about his or her child support obligations. Such a requirement may result in inaccurate information which must then be corrected at administrative costs and delays. The most important reason for implementing a national W-4 reporting system is to improve the ability to locate obligors. Therefore, what is most crucial is address information about the employer and employee. Additionally, it is crucial that the information be reported to the child support agency within 10 working days -- not a longer period that is tied into payroll.

ERICSA also strongly supports a federal requirement that all employers be required to recognize and enforce income withholding orders issued by any state, regardless of whether the employer does business in the rendering state.

V. Locate Resources

ERICSA strongly supports the Interstate Commission's recommendation that the federal statutory definition of "locate" include income and assets. We support both automated and nonautomated interfaces between a state child support agency and state data bases, such as identified by the Interstate Commission. However, ERICSA has concerns about who should be required to pay for automating state data bases. ERICSA recommends that IV-D agencies should only be required to pay for any reprogramming necessary to allow tape or on-line transmission. Such a limitation would also limit federal expenditures.

To further facilitate matches between obligors and persons on state data bases, ERICSA recommends that a person's social security number should be required as the identifier on all state-maintained data bases.

Finally, ERICSA strongly supports access by child support agencies to NCIC and NLETS. Such access puts child support payment collection on equal footing with other law enforcement activities. It is important that obligors recognize the seriousness of their child support obligations. The current system is anomalous in that child support offices located in prosecutor offices have access to NCIC and NLETS data but child support offices located in state department of human services do not. To facilitate access to NCIC and NLETS information, we strongly support the Interstate Commission's recommendation that states define child support agencies as law enforcement agencies so that they can obtain an ORI number.

VI. The Uniform Interstate Family Support Act

The most frequently used remedy for establishing and enforcing child support in interstate child support cases is the Uniform Reciprocal Enforcement of Support Act (URESA). The name is actually a misnomer as the Act is not uniform. Not only does URESA exist in a different version in every state, but the Act itself predates the establishment of the IV-D progam in 1975.

The National Conference of Commissioners on Uniform State Laws recently overhauled URESA by drafting a new act, the Uniform Interstate Family Support Act (UIFSA). This Act contains a number of significant changes which ERICSA has long advocated:

o UIFSA allows only one support order to be in effect at any one time. It provides for modification only in the state that issued the support order, unless all parties have left that state or agreed in writing for another state to exercise jurisdiction.

o UIFSA provides for one-state proceedings, such as a support or paternity action pursuant to a long arm statute, and enforcement by direct income withholding. UIFSA also retains, with modification, the traditional two-state URESA proceeding.

o UIFSA authorizes transmission of evidence by electronic means and provides for telephone hearings.

o Information transmitted in the interstate forms is made prima facie evidence.

In order to ensure that UIFSA is truly a uniform act, ERICSA urges Congress to require states to enact UIFSA verbatim. If, however, Congress allows states to enact the Act in a "substantially similar" form, it is essential that the Secretary of Health and Human Services promulgate regulations defining what is a substantially similar act.

VII. Paternity

ERICSA strongly supports a requirement that states establish nonadversarial procedures for the establishment of paternity. We support hospital-based paternity acknowledgment procedures. Any acknowledgment should detail the parties' due process rights, including notice of any right to gentic testing and consequences if a party fails to request a genetic test. The acknowledgment should be signed by the mother as well as by the putative father. State legislation also needs to address how an acknowledgment would be obtained where there is a presumed father other than the person acknowledging paternity. We also support procedures whereby a paternity acknowledgment can be filed with the court and create a presumption of paternity. If there is no objection in a specified time period, the court should then be able to administratively enter a paternity adjudication based on the acknowledgment.

Where paternity is contested, ERICSA recommends that Congress require states, as a condition of receiving federal funds, to have state statutes that (1) create a presumption of paternity based on genetic test results and (2) authorize the admissiblity of the genetic test results without further foundation if the tests are performed by a laboratory accredited by the American Society for Histocompatibility and Immunogenetics (ASHI) or the American Association of Blood Banks (AABB), subject to specific objections filed by any party within 20 days of the filing of the genetic test report with the court or administrative agency.

VIII. Staffing

Child support workers currently operate under staggering caseloads. The average caseload for a fulltime employee is over 1000 cases. It is crucial that Congress and state legislatures address the situation in order to ensure that children receive effective, timely child support services. ERICSA strongly supports the recommendation of the Interstate Commission that the Secretary of Health and Human Services conduct state-specific staffing studies. States should then be required to comply with the recommended ratios in order to continue receiving federal funds.

IX. Training

Custodial parents and caseworkers alike complain that filing an interstate case is like sending it into a black hole. Often inappropriate remedies are selected. Cases are ineffectively prosecuted, and communication and cooperation are often lacking.

Child support professionals receive almost no education about case processing requirements in other states. Attorneys and judges receive very little training about child support enforcement in their own state, much less in anyone else's.

The American Bar Association provides interstate training but attendance at a course is limited to encourage group participation. The few professional associations, such as ERICSA, that provide child support training do so mainly in the form of annual training conferences, which by definition, cannot get into the nuts and bolts of interstate case processing in particular states.

ERICSA recommends that the Federal Office of Child Support Enforcement place a high priority on developing training on interstate child support enforcement, as well as other child support issues. States should also devote adequate resources to training. Joint regional seminars and training material are a highly appropriate vehicle for this endeavor.

X. Medical Support

ERICSA strongly supports the Commission's recommendations regarding improved health care support. We urge Congress in any health care reform to address these issues. In particular, we urge Congress to remove the ERISA preemption which prevents state regulation of self-insured plans. Without such federal legislation, self-insured plans are not subject to state legislation that prohibits discrimination in dependency coverage or requires direct dealing with a child's custodian who has paid the medical bills, regardless of whether that person is the insured employee.

XI. Conclusion

In conclusion, ERICSA reiterates its support for the report of the U.S. Commission on Interstate Child Support. The report presents visionary, as well as practical, recommendations for reform of the current child support system. Many of the Commission's recommendations have been incorporated in the Interstate Child Support Enforcement Act, recently filed by Senator Bradley and Congresswoman Roukema, and in the Interstate Child Support Act of 1993 introduced by Congresswoman Kennelly. ERICSA is committed to working toward the swift passage and implementation of the provisions in these bills.

Thank you again for giving me the opportunity to testify on behalf of ERICSA. We look forward to working with you to ensure that children have the financial stability they so desperately need.

Roger F. Gay, Independent Research Consultant, 303 S. Tuxedo Dr., South Bend, Indiana, 46615

WRITTEN STATEMENT OF ROGER F. GAY
INDEPENDENT RESEARCH CONSULTANT

SUBMITTED FOR THE RECORD TO
THE SUBCOMMITTEE ON HUMAN RESOURCES,
COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES

ON THE SUBJECT OF CHILD SUPPORT ENFORCEMENT

IN CONJUNCTION WITH THE OVERSIGHT HEARING
HELD THURSDAY, JUNE 10, 1993

Child Support Reforms in Perspective

The accumulation of child support arrearages will slow as the real rate of employment improves. The rate of payment, as a percent of what is awarded, will not reach historical highs because award levels and policy on past due payments are no longer realistically related to children's needs and ability to pay. Greater and more immediate gains would occur if child support policy is modified to enable adjustment to individual circumstances. The strongest barrier to improvement is that there are many interests that conflict with the health and well-being of families and children, outside government as well as within, that have taken control.

Non-custodial parents have been scapegoats for increases in the rate of poverty and unemployment. This deception went out of control in the 1980s, and lent itself to a variety of corrupt purposes. Non-payment of child support was used in the 1980s as the basis for the development of a system that transfers billions of dollars annually from federal coffers to state pork barrels, illegally forces private transfers of billions of dollars annually to a special interest constituency, and has bred a wide range of human rights abuses. There is not any reasonable basis for the current level of funding of child support enforcement or the government powers that have recently been created and are being imposed on non-custodial parents. There is certainly no excuse for increasing either funding or government power for the purpose of enforcing child support awards or further increasing child support orders.

I am submitting testimony as an independent researcher and citizen. I have studied child support and the 1980s child support reforms for the last four years. My work has been focused on improvement of child support guidelines, but has crossed over into many related areas including enforcement. I have submitted testimony to this subcommittee twice before on topics directly related to this hearing; once on the "Downey / Hyde child support and assurance proposal" and on child support and trends in poverty. [1,2] I was also a major contributor to the minority report of the U.S. Commission on Interstate Child Support submitted by Commissioner Don Chavez. [3]

In addition to those specifically mentioned in the hearing announcement, I am familiar with several proposals currently under consideration by Congress, which are included as parts of bills on a variety of subjects from credit regulation to employment programs. The popularity of the child support issue in political rhetoric can lead to redundancy of purpose in various proposals. I believe it is better to consolidate child support proposals so that we can address the whole subject, not just look at one piece out of context. Hearings such as this are important for that and other reasons.

I have stated in previous testimony that the dramatic reforms of the 1980s have not served the purpose stated in public discourse on the subject. We have had child support enforcement programs for decades. We have spent many billions of dollars to see if such programs could be cost effective. At current spending levels, the program loses money. Every bit of real data we've had indicated that such a program would lose money. Every bit of real data we have indicates that increases in the enforcement

budget will result in increases in the loss to taxpayers. The fundamental problem is that the child support enforcement program has not been designed for support of children, but to support a corrupt political agenda. As a citizen, I am deeply embarrassed to submit that. Yet, after a decade of unchecked growth and irrational spending increases, Congress and now a third president, continue to support expansion of a program that has served only corrupt political interests.

There has been an increase in gross child support payments as a direct result of 1980's child support reform. The mandate of presumptive child support guidelines in all cases involving the award of child support has led to dramatic, arbitrary increases in awards, mostly to middle and upper income mothers. These payments are still paid mostly by middle and upper income fathers. These are the same fathers who were paying voluntarily before an all encompassing federal enforcement system was put into place in the last decade. The payments they had been making were, at least in theory, based on some sort of reasonable analysis of children's needs. The award increases resulting from federal reforms are not related to the needs of children. In cases where one parent receives public assistance, presumptive child support formulae are not a new development and have not led to substantial increases in child support awards.

Less than one percent of all child support cases fit the stereotypical model underlying the child support enforcement program that grew in the 1980s; that of a women and children receiving public assistance, and a father under court order to pay child support who is absent by choice and is financially capable of lifting himself, the mother, and the children out of poverty but refuses to do so. Yet, the policing of people who owe child support has evolved into an attack on every aspect of life for all divorced and never-married fathers. Some politicians still discuss this issue as though it is a new and unexplored option in welfare reform, promising whole new vistas of spending and expansion of government powers. Taxpayers have been told, and are still being told by agents from local government to the President, that there is great untapped income potential in child support enforcement. President Clinton includes child support enforcement in his budget proposal, claiming that exponential increases in spending on child support enforcement will *eventually* lead to savings.

What They are Not

The Child Support Enforcement Program

I would like to state briefly what the child support enforcement program has not been. It has not been a program aimed at reducing dependency on public assistance programs sufficiently to save money. No one has ever shown sufficient *collections potential* for such a program to be successful, let alone to justify increased spending and government powers from where we are today. The program is not primarily focused on the problem of poverty, and it *offers no solution to the problem of poverty.* I want to be perfectly clear that I am talking about programs aimed directly at extracting more money from or punishing non-custodial parents; something that seems to have become mostly political sport.

The primary effect the Child Support Enforcement Amendments of 1984 and the Family Support Act of 1988 on private finances has been *outside the legal limits of federal government authority* to become involved in family law issues; arbitrarily increasing private transfers from adult males in the middle and upper income group to a constituency that contributes millions of dollars to political campaigns, adult females who are in the middle and upper income group. In addition, the program has increased the transfer of federal tax dollars to state pork barrels. The latter effect has created a clear conflict of interest for state legislators, the judiciary, and enforcement agencies and has led to policies that have successfully invited human rights abuses.

Besides what have become well known as obvious abuses; the denial of due process and the jailing of fathers for being unable to pay support for example, I want to point out another mechanism of abuse that is enjoying a new openness. Known as the

"unclean hands doctrine", courts throughout the nation routinely deny non-custodial parents fair consideration in any hearing, including hearings dealing with access to children (an internationally recognized fundamental right for both parent and child) whenever child support payments are past due. In some jurisdictions, fathers are not allowed to bring an action to court without first bringing their payments up to date. I remember the case of a landlord who left his buildings in horrible condition and was sentenced to live in one of those buildings. It seems to me that more than a few judges and quite a few legislators and bureaucrats could use some time as a non-custodial parent, behind in payments that he knows are unrelated to his children's needs, denied the right to parent his own children, and repeatedly punished in as many ways as people can think of, including loss of employment, destruction of credit, and public humiliation. The proposals being considered in this hearing continue this same trend of bringing more pain into already bruised lives, with no legitimate excuse for the abuse that occurs even while many *humane alternatives for helping families* are available.

Parents Who Are Subject to Child Support Orders

It is equally important to say what parents are not. The child support enforcement program geared up in the 1980s on a fraudulent premise. Proponents claimed that "deadbeat dads" were a primary cause of child poverty. An example comes from a report from the U.S. Office of Child Support Enforcement (OCSE), for the period ending September 30, 1990 (page 5).

> Financial deprivation due to non-support from a living parent is the primary cause of welfare dependency in the United States, at great cost to children and to the taxpayer. The problem of non-support has become ever more serious over the years because of the increased number of single-parent families, the great preponderance of which are headed by women.

What can anyone say about someone else who can actually believe that fathers who can, but are unwilling to pay child support are primarily responsible for child poverty in America? What; no poverty? That's not really believable to anyone with common sense. If there is any accurate way to interpret the OCSE statement, it is only by solving a built-in puzzle. Why are these parents not supporting their children? The answer is that the vast majority are financially poor and unable to provide enough financial child support to keep their families off welfare. Parents that "deprive" their children of financial resources typically do not do so willingly. It would be much less misleading if the statement had been rephrased to read as follows.

> The primary cause of welfare dependency is poverty, effecting adults and children alike. Programs such as AFDC, food stamps and housing subsidies are costly. Many AFDC recipients are single mothers. The number of single-parent households, the great preponderance of which are headed by women, is higher than it was two decades ago, but the most important factor contributing to the increase in the number of people eligible for welfare is the economic recession, which is characterized in part by a relatively high rate of unemployment.

Recent data on the poverty rate shows that since the 1980's child support reforms took effect, the poverty rate in single-mother households has increased disproportionately to the rest of the population. [1] Other characteristics of families with children in poverty were given in a recent report from the *Children's Defense Fund.* [4]

> In the 1980s, poverty reached a cross-section of American families regardless of marital status. The chief causes were a decline in wages, especially for young workers, declining effectiveness of government poverty programs, and changes in the job market.
>
> Only one-third of poor children are black.

> More than two in five poor children live in families in which the father is present.
>
> Most poor families with children have one or more workers.
>
> ... nearly one in five poor families with children cannot escape poverty even though the head of household works full time throughout the year.

Just like their married counterparts, divorced and never married fathers have problems with unemployment, employment that doesn't pay enough to support a family, and other causes of poverty. But I want to quote a year old television news story as best I can remember it, to illustrate the perceived difference between married and unmarried parents -- a stereotype that has been promoted by members of Congress, especially candidates running for office, and by Presidents from 1980 to the present day. The summary of this national news story, which I could tell was filled with information from government sources, was that "it's bad enough that some fathers don't love their children enough to support them; what's worse is that we let them get away with it."

I hope at least some who read this testimony or saw the news story are as disturbed by that summary as I am. What's worse is the amount of effort by OCSE and it's state and local agents, at taxpayer expense, that has gone into creating this sort of bigotry. [10] What's worse is that our government has played and is playing on deep emotional pain experienced by men and women who have gone through divorce or are struggling to raise children alone, and built an agency with a multi-billion dollar annual budget from fear and prejudice. The accusation that poor people don't love their children is bigoted. Linking such an accusation with non-payment of court-ordered child support, or even lack of paternity establishment does not provide a valid excuse for making such charges.

The following is from the same OCSE report cited above.

> According to the Census survey, the aggregate amount of child support received in 1989, whether or not paid through the program authorized by title IV, part D of the Social Security Act, was $11.2 billion, or 68.7 percent of the $16.3 billion due.

I want to make five specific points in reference to this data. The first is that this data was taken on payments ordered before awards calculated by rigid formulae were required to be treated as presumptively correct as mandated in the Family Support Act of 1988. (The effective date of the mandate was November, 1989.) Support orders written or updated since 1989 are higher on average, due to the use of the new formulae. It has been quite apparent that new orders are often more than parents can pay, which increases the amount of support that is overdue and the amount of support that will never be paid.

The second point is that this data includes only what was actually due, in contrast to the many reports that include mothers who aren't being paid because there is no support order, the father is dead, or the children have reached the age of majority and the order is no longer valid. It is not comparable to state data since states often report arrearages redundantly.

The third is that the Census Bureau questioned mothers only. The results are known to be biased. One study shows a potential bias of minus 20 percent. Although I doubt adding 20 percent to the amount reported as paid would give a very accurate result, it is important to remember that the truth is probably that somewhere between 70 and 90 percent of what was due was paid. The primary source of revenue was payments made voluntarily by fathers who were fully employed. Studies show that payments made by mothers, who compose approximately 20 percent of all non-custodial parents, are few and far between.

Fourth; even a low end figure of 70 percent would be understandable given employment rates and the quality of employment in 1989. Recent data from the GAO indicates that 66 percent of custodial mothers with a child support award who do not receive support, report that the reason they do not receive support is that the father is unable to pay. Especially considering source bias, it is easy to see that this data confirms what study after study, year after year has concluded; the primary cause of non-payment is that the payer is unable to pay.

Finally, when fathers can pay but don't, there is evidence that even this behavior is often linked with a strong commitment to the well-being of their children. The limited family model that government has chosen to enforce, where the role of father is confined to financial provider to the mother, is not always considered to be in the children's best interest. [5] Parents know what is best for their children more reliably than government. *There is no excuse for distant legislative and regulatory bodies and commissions trying to second guess the decisions and actions of individual parents.* The worst examples of public policy development I have seen, are the lumping of all divorced and never married fathers into a single group subject to new constraints on individual freedoms, and the lumping of all women receiving public assistance into a single group that in public policy debate are consistently treated as freeloaders who don't really need help.

President Clinton, as most people know, has not only endorsed the Reagan era welfare reforms, but has taken personal credit for the idea as head of the National Governor's Association during that time. In promoting his new "investment" proposal, which includes a sharp increase in the child support enforcement budget, President Clinton has stated that we should make parents responsible, that twenty billion dollars in child support is owed each year, and that we should not let twenty billion dollars in child support go unpaid. I have gone to some effort to find out just what twenty billion dollars the president has been referring to, but haven't been able to get an answer. On one hand, current awards stand at about twenty billion dollars. But even biased data indicates that the majority of that is paid, not overdue.

On the other hand, he could be referring to families that do not have a support order. A recent article in *Speak Out For Children*, a newsletter published by *Children's Rights Council*, a top national children's advocacy organization, summarized information from a recent GAO report as follows. [5]

> Where there is no child support award (and therefore, no child support is due from the father, or the father may not know of the existence of the child), the mothers report:
>
> ... 76 percent of mothers who live in the same state as the father ... report that child support collection is not an issue in their case.
>
> ... In cases where the father lives in another state: ... 68 percent where child support is not an issue.

The Real Agenda

The federal government pays much of the cost of operating the child support enforcement program for a caseload composed of both AFDC and non-AFDC cases, pumping billions of dollars into states. In addition to paying a percentage of the cost of maintaining the program, the Child Support Enforcement Amendments of 1984 provided an incentive program that was designed as though it was intended to promote efficiency. The program pays a bonus to states, amounting in total to billions of dollars, for operating a child support enforcement program. The amount paid to any given state can vary depending on a ratio of "collections" to a fraction of the cost of administering the program. The definition of "collections" includes payments that would be made voluntarily even if the program didn't exist, but have been ordered to be paid through the child support enforcement agency.

In that same act, OCSE was given funds and authority to provide "technical assistance" to states for creation of child support guidelines, which were to be used with judicial discretion. The Family Support Act of 1988 altered the application of child support guidelines from discretionary tools to rigid formula for calculation of a child support award. Support enforcement agencies are judged by the "efficiency" formula and potentially benefit from the outcome. But OCSE was given control of the development of child support guidelines, and the authority to regulate states and their application of guidelines. *The result was not an increase in efficiency or a dramatic reduction in AFDC. The agency managed to manipulate award levels, gouging fathers who were able to pay and already were, in order to artificially inflate the amount of "collections" recorded.*

Data taken since the mandate took effect in late 1989 indicates with great consistency that awards calculated by use of these formulae are irrebuttable. Parents who were already voluntarily paying a reasonable amount of child support became the subject of new unreasonable support orders, which in turn served --- not children or taxpayers --- but the state arms of the OCSE bureaucracy, and a special interest constituency well known for generous contributions to political candidates; single, middle and upper income women represented by groups with an expressed interest in transferring wealth and power from men to women. By illegal means, OCSE has managed to force an arbitrary transfer of billions of dollars from divorced and never married fathers, to these single mothers. In the process of doing so, they have taken billions of dollars in federal incentive payments for purposes unrelated to the interests of federal taxpayers.

Conclusion

The child support enforcement process today, begins by depriving the soon-to-be paying parent of his / her right of due process by application of irrebuttable child support formulae. It is very easy for most parents who are able to pay higher awards, to see that the amount being awarded is unrelated to their children's needs. Approximately half the total gross award of child support under current formulae is spousal maintenance. The award of spousal maintenance as part of a child support award is illegal in most states because spousal maintenance can be awarded separately when it is appropriate. For those states in which spousal maintenance is not allowed, the award of spousal maintenance as part of a child support award is illegal because spousal maintenance is not allowed.

Past increases in spending on enforcement came at a time when low income families were most vulnerable. During an economic recession marked by high unemployment, everybody wanted somebody to be angry at. In this cycle, single fathers and mothers became scapegoats. In the process, a variety of government powers have been created; taking unjustifiably from fathers the fruits of their labor, their relationship with their children, and ultimately their children's health. Certainly, the child support reforms of the 1980s have detracted from the nation's health as well.

People with little or no income can't pay more child support. So far, they have unwillingly served by staying in jail, often for arbitrary lengths of time, providing publicity for officials wanting to look tough for their own local constituency. Money from this program gets passed to local officials who have not been monitored on the basis of remaining within Constitutional boundaries. Local judges have become profiteers, working for, instead of separate from the administrative branch of government. Corruption of the relationship between the branches of government has led to the most serious threat to human rights.

For more than a decade, government has consistently taken the position that parents are responsible for their children and therefore solely to blame for child poverty. Only the inverse is absolutely clear. With a very small percentage of the population as the exception to the rule; when parents are able to care for their children, they do. We should not make the mistake of crediting an enforcement agency for what

parents are willing to do, and have always done themselves when possible, or condemning parents just to provide a government agency an excuse to exist. Vilification and subsequent punishment of adults and children whose families have been shattered or were never adequately formed is not a helping hand. Assuming improvement of economic conditions, especially the availability of education and training and good jobs for more people, it is the parents themselves who will deserve credit for improvements in the record of child support payments.

Now this hearing asks for comments on proposals for more federal spending on the child support enforcement program and greater police powers for the enforcement of child support. I've said too little so far about the systematic elimination of human rights that has occurred in the name of child support enforcement. But let me point out that almost every proposal I have seen on reform of the child support system relates to more spending and some rather bizarre expansions of government power linked to elimination of human rights. Trials where due process is intentionally denied, arbitrary transfers of private funds, creating criminal penalties for fathers who cross state lines while owing child support, unjustifiable intrusions on privacy and jailing people indefinitely for owing a debt are among the human rights abuses either occurring or proposed. There is even a section in a proposal that I otherwise favor, that would create forced labor camps for fathers who fall behind on their payments.

It is perfectly clear that the primary driving force behind the explosive growth of our child support bureaucracy and the accompanying explosion in federal police powers isn't a desire to reduce the burden on taxpayers by reducing welfare rolls, and the momentum toward abusive treatment of fathers doesn't fit anywhere in a "helping hand" agenda. Whether we look at the correlation between poverty and formation of single parent households also in poverty, or simply cite the failure of expensive enforcement programs to move sufficient numbers of women and children from public assistance programs, the root reality is the same. It is in fact, quite difficult to misinterpret the situation so badly as to suggest greater investment in child support enforcement is worthwhile. It is also difficult not to conclude that police action is already over-stepping rational and Constitutional boundaries.

References

1. Gay, Roger F., *Written statement on the subject of Changes in the Poverty Rate and Distribution of Income*, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, September 10, 1992.

2. Gay, Roger F., *Written statement on the subject of the Downey / Hyde child support enforcement and assurance proposal*, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, July 17, 1992.

3. Chavez, Don, Commissioner (editor Phil Holman), *Minority (Dissenting) Report of the U.S. Commission on Interstate Child Support*, presented to Congress in June, 1992.

4. Johnson, Clifford M., Leticia Miranda, Arloc Sherman and James D. Weil, 1991, *Child Poverty in America*, Children's Defense Fund, Washington, D.C. ISSN:1055-9221.

5. Furstenberg, Frank F., *Caring and Paying: What Fathers and Mothers Say About Child Support*, Manpower Demonstration Research Corporation, Family Support Act of 1988 authorized the Parents' Fair Share Demonstration, July 1992.

6. Children's Rights Council, *Mothers Say Fathers Unable to Pay*, a review of a GAO report on Interstate Child Support entitled; *Mothers Report Receiving Less Support From Out-Of-State Fathers*, GAO/HRD-92-39, January 9, 1992, review in

Speak Out for Children, Children's Rights Council Washington DC, Winter 1992/1993.

7. Gay, Roger F., *An Alternative Child Support Guideline for States to Consider, Preliminary Draft*, Prepared as a Handout for Presentation at the Seventh National Conference of the Children's Rights Council held April 28 - May 2, 1993 Holiday Inn Bethesda, Maryland.

8. Gay, Roger F., *Rational Basis is the Key Focus in Emerging 'Third Generation' Child Support Technology*, in Proceedings of the Seventh Annual Conference of the Children's Rights Council, Holiday Inn, Bethesda, MD, April 28 - May 2, 1993.

9. Gay, Roger F., *A Brief History of Prevailing Child Support Doctrine*, in Proceedings of the Sixth Annual Conference of the National Council for Children's Rights, Arlington, VA, March 19-22, 1992.

10. The federal Office of Child Support Enforcement is a leader in taxpayer funded propaganda, but states are also guilty. Residents of Washington State for example, can call a toll free number, (800) 442-KIDS, and hear the claim that 87% of people who receive welfare, are eligible because they do not receive child support. For a more detailed information on the relationship between poverty and child support, see 1 & 9.

Subhen Ghosh

Children's Rights' Advocate

The Best Parent Is Both Parents

Member: Children's Rights Council (National), Children's Rights Council of Illinois, Parents' and Children's Equality, Indiana Council for Children's Rights, National Congress for Men and Children, and other Children's Rights organizations.

P.O. Box: 389, Hutsonville, IL 62433 Tel: 317-297-5202

THE JUDICIAL SYSTEM IS A ZOKE-- ENGAGED IN DESTROYING CHILDREN

Honorable Congressman Harold Ford c/o/ Re. Family Support Act 1988

Ms Janice Mays, Chief Counsel and Staff Director

Committee on Ways and Means, U.S. House of Representatives

Dear Chairman Ford: June 10, 1993

I came to the U.S. in 1976 with an american dream of equality, justice, and to have a better family life. My dream became nightmare when I was forced to be a "visitor" to my own son. My son and I cried every day in our efforts to have my son both his parents as "parents". I could not believe that this was happening in a civilized country like the United States

Family values are too important to me. I live with my new wife, a beautiful daughter, my father and my brother. I fought in all levels of courts -- states and federal to remain in my son's life and to be recognized as a parent. Unfortunately, just like all other 96% fathers, I lost in all levels of our judicial systems and sanctions were imposed on me as I "was pressing the matter vigorously." Now I admit with many others that the judicial system is a ZOKE. The judicial system runs a parallel government of their own and ignores legislative intents and mandates. For last few years the law makers have done a lot to provide children with two parents after divorce-----atleast that was the legislative intent. But the judges have ignored all these legislative intents for economic gain. Therefore, there is a strong need to rewrite and write statutes in clear and simple languages so that they are binding.

Bar association and others who oppose this matter --do it for the purpose of economic reasons--- nothing else. There will be a drastic reduction of court litigation related to child custody and visitation and power model syndrome. Each State will save atleast (22 cir x 2 Judges x $150,000.00) =$6600000.00/yr (6.6 million dollars per year). Ofcourse, judges and attorneys love litigation --its their bread and butter----therefore they have reasons to oppose.

But under no circumtances the future of the children of this nation should be substituted for economic gain. Other oppose this bill as a matter of power model behavior ---who wants to control, and want to take revenge at the cost of the lives of children --nothing else. Anger and personal feeling of revenge should be set aside for the betterment of our children's lives.

Many argues that presumptive joint custody should not be there as the parents can not get alone with each other--i,e, they got divorced. This argument is vague and is without any scientific basis. Disagreements between the parents are present in all families -- divorce or no divorce.

Sole custody and 98% of the fathers as visitors to their own children have been destructive to our children. All most all criminals, and "problem-children (person)" come from single parent mat ernal homes. My own son suffers from Attention Deficit Disorder, Parental Alienation Syndrome , Attention Deficit Hyperactivity and other psychological Disorders due to this sole-custody / visitor imposition, and Courts inability to recognize and admit facts. There are mountain of research which shows that Presumptive Joint Custody is in the best interest of children and is also a constitutional mandate.

Dr. Frank Williams of the Cedars-Sinai Hospital in Los Angeles, after extensive research over period of several years found that even warring parents, with a small amount of parenting education, can learn to function sufficiently to share the parenting of their children post divorce. Dr. William says that the worst thing we can do to children is to create a "parentectomy" -- the removal of a parent from the child's life.

Dr. Joan Kelly, co-author of "Surviving the Break-up" also finds that a small amount of parenting information enable many parents to function better after divorce in raising their children.

Dr. John Guidubaldi of Kent State University, Kent, Ohio, who conducted the largest impact of divorce on children research, (699 children over 7 years) finds that children need both fathers and mothers, for healthy child development.

According to studies done by Drs. Jessica and Nancy Thoennes on 900 families in various custody arrangements that were followed over a period of several years, parent with Joint Physical Custody reported the most cooperation, even three years following divorce.

There is the myth in some legal and judicial thinking that joint custody can only be effectively undertaken by cooperative parents. To the contrary joint custody provides one of the best methods of stimulating a degree of significant and meaningful cooperation in warring parents who would otherwise continue years of battling to the detriment of their children. The reason of battle between parent is parental loss. This simple thing has never been understood

by our primitive judicial systems. The judicial systems in the U.S.A. are engaged in destroying the future of children of this nation for their personal business gain. The sole custody arrangements have created many problems, including:

Psychological, Abduction, False Allegations of Abuse, Visitation Problems etc etc.

The Judicial System in the USA has never done anything meaningful to cure visitation problems. The are years of battling between the parents, particularly ferociously when one parent abuses the power of sole custody and the other parent fights the abuse in an attempt to gain back his or her lost parental identity. The only way to solve most of these problems is to keep both parents as parents--------and i,e,------JOINT CUSTODY. - PRESUMPTIVE.

Emotional support is more important than Financial support. When a father does not get to see his children---and the zoking judicial does not resolve that most important problem-----how do you expect that father to pay child support???? Children need fathers and mothers for proper development. Why children are forced to divorce their fathers ??? IS IT A CIVILIZED ACTION IN A CIVILIZED COUNTRY who is worried about human rights all over the world, and treats their own divorced fathers as 4th class citizens. If you want fathers to be financially responsible--then you have to treat fathers as parents --not as disposable parents.Bring a Federal Law - imposing compulsive Joint Custody and enforce visitation-- and abolish absolute immunity of judges and punish the judges who ignores legislative mandates and intents. THEN YOU WILL COLLECT CHILD SUPPORT MONEY.

Sincerely,

Subhen Ghosh

cc: Congressman Hamilton, Jacobs.

Testimony of June Castellano, Esq.
Staff Attorney
Greater Upstate Law Project
87 N. Clinton Avenue, Rochester, New York 14604
(716) 454-6500

Introduction

I am submitting this testimony based on my experiences as a New York state legal services attorney concentrating on family and public benefits issues. I will focus my remarks on two areas of requested comments - the status of child support enforcement programs and child support assurance.

Child Support Enforcement

As a legal services attorney, I network regularly with other poverty law advocates throughout the state. I have a view of the child support system based on the perceptions of low-income custodial and non-custodial parents. I will briefly summarize some of our experiences in New York state. From the standpoint of custodial parents, the system still engenders delays and frustrations despite legislative improvements over the years.

I am currently counsel on two pieces of litigation that have arisen as a result of the infringement of the rights of IV-D clients by the state. One case deals with the lack of adequate notice and grievance procedures for public assistance recipients who fail to receive the $50 pass-through disregard. The other case involves the failure of child support offices to pay support to former AFDC families and keep AFDC families on the public rolls indefinitely even when they have adequate support.

When they do leave AFDC and eventually start collecting support, these families usually do not receive arrears monies owed them. The state opts to reimburse its own arrears first, leaving the family to manage solely on current support. The months following welfare dependency are financially critical for a household. Such a state policy, allowed by the federal government, is not sound public policy.

Custodial parents often complain to legal services staff that their local child support offices do not pursue absent parents in a vigorous and timely fashion. This occurs despite the enactment of timeframes standards and may require additional enforcement though litigation.

Low-income non-custodial parents represent a large segment of the enforcement pool within the child support system. Here in New York, we have a minimum monthly order of support which the courts apply against any support obligor. Many public assistance and Supplemental Security Income recipients face child support obligations. Those obligors with low wages often face large income executions to pay off accrued arrearages or retroactive support. In legal services we often see family relationships that stabilize and de-stabilize over time. In some instances we represent intact families against the IV-D system because the child support agency has continued to garnish the income of the former non-custodial parent, to satisfy arrears owed the state for assistance paid to the family. In one such instance, the children who were the original subjects of the support order were going hungry because of the amount of support being taken from the now re-united father's wages. There is a clear need to prevent the government from enforcing support obligations against intact or reunited families.

Child Support Assurance

New York's Child Assistance Program (CAP) is an excellent model for any child support assurance proposal. The factor in New York's program that has the greatest impact on families is the work incentive percentage built into the formula for receipt of benefits. New York's program does not take a dollar for dollar reduction in benefits with earnings levels. Instead, benefits decrease very gradually in an indexed fashion to allow recipients to retain more of their earnings. In contrast to AFDC, which cuts a family's benefits by nearly a dollar for every dollar earned, CAP reduces benefits by only 10 percent of earnings below the poverty level and 67 percent of earnings above the poverty level for a given family size. This, together with the benefit payment, is what makes families better off on CAP than AFDC.

A child support assurance proposal should not be silent as to work incentives. For low-income households to fully appreciate the benefits of child support assurance they need earnings and they need access to a large percentage of those earnings. Without a generous work incentive disregard, households have no incentive to leave AFDC and may in fact be worse off if the assurance benefit is below the AFDC levels for the entire household in a given state.

The federal initiative needs to set benefit levels at realistic levels. The proposed level of $2000 for one child does not provide enough income to the household. Furthermore when linked to the amount of child support expected for one child, it represents a minimum amount of under $39.00 a week. Under New York's present guidelines only non-custodial parents with annual income just below $12,000 would pay such a low amount. New York's CAP amounts of $350 per month for one child (with no earnings) and $443 for two children offer a more appropriate supplement to earnings.

The federal proposal seeks to address what happens when a family does not have a support award. The legislative draft should incorporate as fully as possible all of the parameters that dictate exceptions to the requirement that the family have a support order. By making the program available only to households with orders, the government would penalize many families who through no fault of their own cannot obtain an order. Custodial parents on AFDC assign their rights to support to their state to establish and collect obligations. Despite numerous improvements in the child support systems state and local governments often fail miserably in their attempts to obtain prompt orders of support.

The new federal program should not exclude any household which has attempted to obtain support, particularly through the current IV-D system. The legislation should be clear as to its intent to allow custodial parents to participate in child support assurance whenever the parent has sought to obtain support throughout the local IV-D agency.

Likewise, the proposal should offer a good cause exception to households who cannot obtain support, as in cases of domestic violence where harm may come to the family if it pursued support. These exceptions should be modelled after existing AFDC regulations concerning good cause for failure to cooperate. They should also reflect instances when support collection is impossible, such as where the non-custodial parent has died. Children should not be excluded from a more advantageous benefit program because of circumstances beyond their control.

Those families remaining on AFDC should not be relegated to a second-class welfare system. Two-parent families should receive AFDC without an unemployment requirement. The benefits they then receive should compare favorably with the assurance program. Applying a monthly $50 disregard to all AFDC households in which a child support order exists would also ensure that all families entitled to receive support actually obtain some benefit therefrom.

A child support assurance program should begin implementation on a voluntary basis to allow households to judge for themselves in conjunction with their caseworker whether or not they would be better off making the switch from AFDC. Families on child support assurance benefits will still need access to child care and health benefits. These should continue for families opting for the new system.

Conclusion

Child support enforcement and collection activities need to be streamlined and made more equitable for both custodial and non-custodial parents. Further, to improve the lives of children in the United States a child support assurance proposal must offer families a better alternative to AFDC. Child support assurance moves in that general direction with the addition of a work incentive and by opening the program to those seeking to obtain child support.

Illinois Task Force on Child Support

June 22, 1993

Janice Mays
Chief Counsel and Staff Director
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: Oversight Hearing on Child Support Enforcement

Dear Ms Mays:

The Illinois Task Force on Child Support thanks Representative Ford and you for the opportunity to submit the following comments to be included the record of the June 10th hearing on child support enforcement.

Status of the State Child Support Enforcement Program

The Illinois Task Force on Child Support is the only watchdog of the Illinois Child Support Enforcement Program. Unfortunately, many custodial parents are not well served by the Illinois program. The fact that the IV-D program in Illinois made a collection in only 7% of its cases in FY90 is proof that the program does not function as it should.

The program is not responsive to custodial parents enrolled in the program. If custodial parents enrolled in the program have questions or new information about their cases they are instructed to call an 800 number. The 800 number is constantly busy. It can literally take days to get through on the 800 number.

A major drawback of the Illinois program is accountability. No one is responsible. Custodial parents are not given the name of someone to call with information or questions on their case. Instead, every IV-D worker is suppose to be equally knowledgeable. This approach fails miserably. The system creates enormous frustration for clients and ultimately fails to produce results.

The requirements of the Family Support Act of 1988, particularly child support guidelines and wage withholding, have improved the lot of custodial parents and their children. The guidelines have resulted in higher support awards. Unfortunately, the currents guidelines in Illinois are not based on the true cost of raising children and, therefore,

28 East Jackson Boulevard • Suite 605 • Chicago, Illinois 60604
(312) 786-0293 • Fax (312) 427-4463

woefully inadequate. Immediate wage withholding is the single most important tool in child support collection and enforcement.

Child Support Enforcement and Assurance Proposal

The Child Support Assurance Proposal is an excellent idea. a guarenteed cash payment and medical benefits would go a long way towards eradicating poverty among custodial parents and their children.

The Task Force also endorses education and job training for non-custodial parents unable to contribute to their children's financial needs.

The Task Force opposes federalizing the state IV-D programs. The ineffectiveness of the state IV-D programs inspires radical proposals. But we fear that a system operated by the federal government would be even worse than what we have now. We are concerned that a federally operated system would be even less accessible and accountable to custodial parents.

The proposed system is too complicated for custodial parents to decipher. Some tasks remain the responsibility of the states, while others are transferred to the federal government. Custodial parents won't know who to contact about their cases. Such a system would create a myriad of opportunities for information on cases to be lost or fall through the cracks.

Instead of creating an entirely new system, the Task Force urges the federal government to exert more control over the state IV-D programs through its oversight authority. Presently, the Office of Child Support Enforcement is four to five years behind in its audits of the state IV-D programs. If a state program is found not to be in compliance, it's too easy for the state director to claim the problem existed five years ago, but has since been fixed. Audits must be done promptly at the end of the year to be meaningful.

The Office of Child Support Enforcement should develop effective sanctions to impose on state IV-D programs that are not in compliance. The threat of withholding federal funding does not have much impact since it is rarely done.

The Task Force encourage the federal government to implement programs so that agencies such as the Social Security Administration and the Internal Revenue Service can assist the state IV-D programs in establishing and enforcing child support orders.

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National Conference of Commissions on Uniform State Laws

The Task Force urges Congress to pass the Uniform Interstate Family Support Act (UIFSA). UIFSA is a revision of the Uniform Reciprocal Enforcement of Support Act (URESA). UIFSA was adopted by the National Conference of Commissioners on Uniform State Laws last August.

Congressional action mandating all the states adopt UIFSA verbatim would significantly increase the establishment and collection of interstate child support orders. The current system simply does not work. The best way for non-custodial parents to avoid child support is to move out of state. By replacing URESA with UIFSA the interstate system will be streamlined and simplified. No longer will children and custodial parents face the prospect of chronic child support problems when either they or the non-custodial parents move to another state.

Again, thank you for the opportunity to submit comments.

Sincerely,

Marion Wanless

Marion Wanless
Executive Director

National Society of Professional Engineers

Statement for the Record
of the
National Society of Professional Engineers
on
Child Support Enforcement
before the
Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives

June 10, 1993

The National Society of Professional Engineers expresses its opposition to provisions contained in legislation introduced in the 103rd Congress that adversely impact professional licensure. We are opposed to Section 408 of the Interstate Child Support Enforcement Act (S. 689 - Bradley, D-NJ))/H.R. 1600 - Roukema, R-NJ), and Section 406 of the Interstate Child Support Enforcement Act of 1993 (H.R. 1961 - Kennelly, D-CT), which require the states to adopt "procedures under which the State occupational licensing and regulating departments and agencies may not issue or renew occupational, professional, or business licenses" of individuals who are delinquent in their child support obligations or individuals who are the subject of outstanding failure to appear warrants. We urge you not to incorporate these provisions in future versions of child support enforcement legislation.

The National Society of Professional Engineers was founded in 1934 and represents 75,000 engineers and engineering students in 535 local chapters and 54 state and territorial societies. Over 75 percent of our members are licensed professional engineers. NSPE is a broad-based interdisciplinary society representing all technical disciplines and all areas of engineering practice, including government, industry, education, private practice, and construction.

While our members strongly support efforts by the federal and state governments to use enforcement procedures to execute court judgements, we do not feel the sanctions mandated upon the states in Section 408 of S. 689/H.R. 1600 or Section 406 of H.R. 1961 are an appropriate use of this authority. Federal and state efforts to revoke, limit, or disqualify licensees from lawful practice based upon non-practice related criteria, as proposed by these sections, are troublesome on constitutional grounds and will set an alarming precedent by placing the discretion and authority to determine the practice qualifications of licensed professionals outside of the authority of the appropriate state licensing board. We oppose such efforts for the following reasons as well:

1420 KING STREET
ALEXANDRIA, VA 22314-2794
703 • 684 • 2800 FAX 703 • 836 • 4875

- Non-practice related criteria restrain the right of citizens to practice a profession by creating a wholly unrelated and arbitrary standard by which one's fitness to practice a profession is judged;

- Non-practice related criteria are typically vague and overly broad and grant too much discretion and authority to enforcement officials;

- Non-practice related criteria are applied selectively only to those individuals required to hold a license to practice a profession, thus discriminating against those individuals;

- Non-practice related criteria frequently require, under penalty of law, that all seeking licensure or renewal make self-incriminating statements or face fines or other penalties;

- Non-practice related criteria distract the state licensing authority from its primary obligation of regulating professional practice to protect the public interest.

We are also concerned that the sections, by mandating that state governments adopt these punitive licensure procedures (as a condition for receiving federal financial assistance), are an infringement on the traditional prerogative of state governments to regulate professions and occupations. We are not alone in this sentiment. In fact, several members of the U.S. Commission on Interstate Child Support, upon whose recommendations the legislation is based, expressed similar objections to the recommendation embodied in Section 408 of S. 689/H.R. 1600 and Section 406 of H.R. 1961. Those Commissioners appropriately recognized that licensure matters were within the province of state government. We urge you to strike from the legislation these provisions, which clearly do not have the unanimous support of the Commission members.

Again, we support general efforts to improve and strengthen traditional judicial and other enforcement procedures to enhance the collection of child support obligations, but we oppose efforts, such as that recommended in Section 408 of S. 689/H.R. 1600 and Section 406 of H.R. 1961, which limit or disqualify licensees from lawful practice based upon non-practice related criteria.

We appreciate the opportunity to submit comments on this issue and look forward to continuing to provide assistance as you develop comprehensive child support enforcement legislation. Thank you for considering our views.

NEW JERSEY COUNCIL FOR CHILDREN'S RIGHTS

POSITION PAPER: CUSTODY, VISITATION, AND THE WELFARE OF CHILDREN

February 8, 1993

Introduction

The current divorce laws of New Jersey do little to assure children of their right to frequent and unimpeded contact with, and the love, care, company, affection and support of the non-custodial parent [1]. The loss of contact or insufficient contact with one parent has been shown to lead to significant problems both for the individual children and for society at large.

According to the recent Census Report [2] approximately 16 million children nationwide are living in single-parent homes. A significant portion of these children suffer financial hardship. Additionally, many of these children display social and psychological problems which include inability to relate to authority figures, poor academic performance, emotional instability, drug and alcohol abuse, promiscuity, inability to maintain close relationships, insecurity, and criminal activity. These problems carry a high cost to the children, their parents, the State and the future of this nation.

Financial Needs of Children

About 69% of the child support owed in 1989 was collected, according to reports of the women owed the support [3]; the true percentage may be considerably higher, as these women will tend to underreport [4]. Nevertheless, a significant amount of child support -- in 1989, possibly as much as $5.1 billion -- was not paid and was owing. The New Jersey Council for Children's Rights (NJCCR) considers the underpayment of child support to be a serious problem that needs to be addressed by legislation to assure children of adequate means of support. Recent Federal legislation, designed to encourage the states to increase the amount of child support paid, has utterly failed: between 1987 and 1989, the percentage of child support collected (of that owed) has remained constant [3].

The federally-mandated Child Support Enforcement program in this state is costly and inefficient. "Deadbeat Dad" raids average about 10% collected of arrears claimed [5]. Fathers who are jailed cost taxpayers between $75 and $150 per day [6]; and for many of these fathers, jailing ignores the underlying economic causes that are the root of the problem. The current enforcement program involves significant State resources: the state Office of Child Support Enforcement, the various county Probation Departments, the state Family Court system, the various county Sheriff's, and, of course, "space" in already overcrowded county jails [7]. In addition, jailing for debt is unconstitutional.

> "Statutes or ordinances, designed as debt collecting devices under the guise of penal laws, contravene the constitutional prohibition against imprisonment for debt." [8]

The Census Report [9] also shows that 38% of all fathers not living with their children do NOT have visitation with their children. Incredibly, 45% of these fathers pay their child support . This

is in contrast with 79% of fathers with visitation who pay their child support; 90% of fathers with joint custody pay their child support. These figures clearly show that fathers that see their children pay child support. In fact, then, there is a direct and significant correlation between a father's involvement with their children and their willingness to pay child support. NJCCR feels that applying **positive** pressure on fathers -- by giving joint custody, or in the alternative, extensive visitation to fathers -- is going to be significantly more successful that the current **negative** practice -- putting fathers in jail. Partial payment and nonpayment frequently results from economic matters beyond the control of the nonpaying spouse. In addition, it is questionable whether the "average" citizen can afford to pay the mandated guideline amount [10].

Another factor that must be mentioned is the extremely high percentage of fathers with visitation that experience visitational interference [11]. NJCCR feels that violations of the custody/visitation portion of a court Order are just as serious as violations of the child support portion of a court Order. Even though there are criminal penalties [12] for custody/visitation interference, this law is not "enforced." This failure on the part of law enforcement demoralizes fathers and contributes to failure to pay child support. In addition to that, the failure to address the problems such interference cause children, as well as their non-custodial parents, can only exacerbate an already stressful situation for all.

Many of our federal and state officials claim that child support -- money -- and custody/visitation -- emotional and psychological support -- are completely unrelated. NJCCR cannot agree for the reasons given above. NJCCR feels that every child deserves two involved and contributing parents, and further feels that money is not more important than time, for the reasons given below.

The Social and Psychological Welfare of Children

It is established that children from "broken homes" have more problems and lead less healthy and less productive lives. NJCCR submits that an emerging body of research will reinforce conclusively that many problems are a direct result of single-parent households and father absence.

Many people subscribe to the view that, if only some stability could be interjected into the child's post-divorce life, children, being "so resilient," will soon come around. Many unthinking individuals feel that this stability is best had with Mom -- subscribing to the Tender Years Doctrine, or as it is called today, "the primary psychological parent doctrine." The best research shows that the effects of divorce on children are very much long-term.

> "A potent force links the child's self-esteem with continued contact with the father in the post-divorce family. At the 18-month follow-up mark, and again at 4 to 5 years afterward, we found a significant connection between low self-esteem and depression in the child, and continued disappointment with the father's infrequent or erratic visiting." [13]

The study just mentioned was again done at the 15-year mark, and the continued effects of the divorce were observed [14]. NJCCR feels that the law must take a hand in rectifying the severe damage that has already been perpetrated on countless children.

> "If anything, the courts and the embattled partners and their respective attorneys have

> directed their energies toward imposing restrictions and conditions that further encumber a relationship which, under even the best of circumstances, requires care and encouragement." [15]

Most criminal offenders in New Jersey come from single-parent homes. One study shows that 71% of all criminal offenders were not raised in two-parent homes [16]. Representatives from the highly-acclaimed, youth-intervention program, Scared Straight, confirm this conclusion [17]. As it is expected that the current divorce rate will continue unabated, and the number of children living in single-parent homes will continue to increase, society will have to pay the price for increasing crime and the number of people incarcerated [18].

Presumptive Joint Custody and Minimum Visitation

Joint custody must be given presumptive preference over all other forms of custody, and it must be made impossible for a parent to defeat this presumption by merely being uncooperative. NJCCR does not support the commonly-held view that only cooperative parents can "work together" when it comes to the children. NJCCR feels that parents with joint custody, no matter how uncooperative they may be in the midst of divorce litigation, will tend to eventually put their differences behind themselves [19]. In fact, the inequitable situation that exists today, where the mother gets sole custody in 95% of the cases [20] and the father gets to pay child support and see his children infrequently, if at all, can only breed intense resentment, which is many cases will lead to all the more litigation, and, in turn, to less cooperation, and so on, in a endless cycle.

NJCCR also feels that it is necessary to have a minimum visitation standard that guarantees parents the opportunity to remain involved in their children's lives. NJCCR supports this minimum contact standard notwithstanding the legal custody arrangement. One such Minimum Visitation Law has already been passed in Texas [21].

Conclusion

New Jersey lawmakers have already acknowledged that children who have regular access to BOTH parents are much less likely to have enduring social and psychological problems.

> "The Legislature finds and declares that it is in the public policy of this State to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and and responsibilities of child rearing in order to effect this policy." [22]

Unfortunately, the State Family Court system is doing little or nothing to effect the clearly stated intent of the Legislature. Judicial discretion in family matters allows family courts to ignore this law, and for all practical purposes, this law is ineffective in achieving its highly desirable purpose. Good laws, already on the books, are not properly enforced, and this is not the only example of this phenomenon, as we have seen above.

It is in the interests of the State to encourage fathers to become more involved in their children's

lives. A Minimum Visitation Law and a Presumptive Joint Custody law will give fathers the opportunity to become more involved in the upbringing of children that do not live with them, will increase child support payment compliance rates, reducing the need for the involvement of costly State agencies, and will greatly increase the likelihood that children living in single-parent homes will be brought up to become functional, capable, responsible, law-abiding citizens.

NEW JERSEY COUNCIL FOR CHILDREN'S RIGHTS

Appendix 1: The Cost of Child Support Enforcement

The original purpose behind the Family Support Acts of 1984 and 1988 was to reduce the amount of Aid to Dependent Families (AFDC) paid by the federal government. To that end, it was decided that states should be required to pursue the establishment of paternity for children born out-of-wedlock and to better enforce existing and resulting child support awards; states that did not comply would risk losing federal funding. Any money obtained for the support of AFDC families (already paid to those families by the federal government) would be paid to the federal and state governments as reimbursement, not paid to the AFDC families (though the first $50 paid each month does go to the family). An additional "incentive" was given to the states: all support payments obtained by the state through measurable (and reportable) means would be "rewarded" by a federal payment to the state equal to some fraction of the reportable support payments obtained. Practically speaking, New Jersey must obtain the support through wage garnishment, payment through the probation department, or lump-sum payment as a condition for release from incarceration, in order for the payment to be measurable and reportable. In this appendix several facets of the cost and efficiency of these methods of child support enforcement are discussed. The figures presented are from the Annual Report of the U.S. Office of Child Support Enforcement (OCSE)[23].

Total Collections, Incentive Payements, and Caseload

The federal goverment has statistics *vis a vis* the various states concerning total collections (over $6 billion nationwide in 1990), incentive payments (nearly $260 million nationwide in 1990), and caseload (nearly 13 million nationwide in 1990). The interelation of these statistics reveals some interesting further statistics. First we look at New Jersey's child suppport caseload, broken down into its AFDC and non-AFDC components [24]. We note that the caseload is nearly equally divided between the two subcategories.

Table 1: New Jersey Child Support Caseload

Category	Number of Cases
AFDC	204,733
Non-AFDC	221,276
Total	426,009

Table 2 shows total collections divided by caseload for some selected states. This table shows the average amount of child support collected (in dollars) per case [25].

Table 2: Total Collections/Caseload

State	1986	1987	1988	1989	1990
California	$364	$451	$475	$482	$494
Florida	$160	$154	$208	$292	$318
Massachusetts	$896	$927	$698	$651	$603
Michigan	$559	$640	$650	$637	$634
New Jersey	$687	$743	$767	$700	$665
New York	$522	$390	$412	$405	$478
Ohio	$219	$288	$474	$551	$615
Pennsylvania	$619	$641	$671	$711	$736

Some states are strictly increasing (California, Florida, Ohio, and Pennsylvania); some states rose at first and then declined (Massachusetts, Michigan, and New Jersey); some states were erratic (New York). No explanation is given for these trends. It is interesting to compare New Jersey with its two neigboring states: New York and Pennsylvania; it would appear that Pennsylvania succeeds in collecting far and away the most child support per case, and New York lags significantly behind New Jersey. Note also the the average amount of child support collected by the state is a little over $50 per month.

Table 3: Total Collections/Incentive Payments

State	1986	1987	1988	1989	1990
California	15.46	15.72	14.17	14.47	14.95
Florida	15.47	16.28	19.97	16.85	22.75
Massachusetts	14.67	17.38	14.30	16.85	15.50
Michigan	18.73	24.39	26.41	25.98	27.42
New Jersey	31.67	32.99	32.51	33.33	34.27
New York	22.56	22.53	21.60	21.89	21.44
Ohio	12.88	15.37	23.06	41.95	47.22
Pennsylvania	41.84	48.03	42.70	42.66	44.10

Table 3 shows total collections divided by the (federal) incentive payments to the states [26]; in 1990 the total incentive payment to New Jersey was $8,265,849. This table, then, shows the num-

ber of dollars collected per dollar paid (by the Federal government to the states) in incentive payments. Of the states listed, New Jersey falls behind Pennsylvania and Michigan (in 1990), but is by no means at the bottom of the list.

Table 4: Incentive Payments/Caseload

State	1986	1987	1988	1989	1990
California	$23.56	$28.75	$33.53	$33.30	$33.06
Florida	$10.33	$9.46	$10.42	$13.59	$13.97
Massachusetts	$61.09	$53.31	$48.82	$38.64	$38.89
Michigan	$29.83	$26.24	$24.61	$24.51	$23.12
New Jersey	$21.73	$22.53	$23.58	$20.99	$19.40
New York	$23.12	$17.33	$19.09	$18.50	$22.30
Ohio	$17.02	$18.80	$20.56	$13.15	$13.02
Pennsylvania	$14.80	$13.35	$15.72	$16.67	$16.70

Table 4 shows the number of incentive dollars (paid to the states) per case [27]. New Jersey falls in the middle of this list (4 states above, 3 states below), is about half of Massachusetts (the highest), and is about 50% higher than Ohio (the lowest). Note particularly that New Jersey only gets about $20 a year for each child support case that it handles.

The relationship between total collections and caseload could be construed a measure of the efficiency of the various states collection procedures; of course no account is taken of cost (see below). The relationship between total collections and incentives payments shows how much "bang" the federal government gets for its incentive "buck." The relationship between incentive payments and caseload indicates how well the states are "banging" the federal government for a "buck."

Collection of Child Support

In 1990, New Jersey collected $283,314,540 [28] child support owed, that figure is broken down by method of collection as follows.

Table 5: NJ Child Support Collection, FY 1990

Method	Amount
Federal Tax Refund Offset	$16,054,133

Table 5: NJ Child Support Collection, FY 1990

Method	Amount
State Tax Refund Offset	$3,572,539
Unemployment Intercept	$3,596,460
Wage Witholding	$108,953,521
Other	$151,137,887
Total	$283,314,540

Of the total amount of support collected, the two most significant methods are wage witholding and "other" [29]. Of course, this latter method could only be payment through the probation department and payment to be released from incarceration. NJCCR does not know (at this time) how much of the "other" is paid through the Probation Department or how much comes through the courts.

It is interesting to see how New Jersey stacks up with other states on collections. Table 6 shows where New Jersey is in terms of percent of current year's (1990) support collected [30].

Table 6: Percent of Current Year's (1990) Support Collected

State	Percent
Maine	99.9%
Connecticut	86.6%
Missouri	80.7%
Louisiana	79.5%
S. Carolina	79.4%
(22 states)	
New Jersey	58.8%
(19 states)	

New Jersey falls very close to the middle of the states in current year (FY 1990) child support collection; the national average is 57.2%. Looking further at performance in collecting current support AND past due support, we turn to Table 7 [31].

Table 7: Percent of Current Year's (1990) and Prior Years' Support Collected

State	Percent
Puerto Rico	79.9%
New Hampshire	67.4%
Pennsylvania	51.2%
Arizona	49.7%
Delaware	48.5%
(39 states)	
New Jersey	12.4%
(2 states)	

Overall, New Jersey's collection of current and prior support ranks almost dead last.

Federal Administrative Expenditures for Child Support Enforcement

Overall the federal government LOST over $526 million in 1990 [32]. Table 8 shows the administrative expenses FOR NEW JERSEY ALONE, broken down into the federal share and the state's share.

Table 8: Child Support Enforcement Administrative Expenses: Federal vs. New Jersey

Expense	Amount
Federal	$50,267,601 [33]
State (NJ)	$26,845,316 [34]
Total	$77,112,917 [35]

These expenditures, borne partly by the state and partly by the Federal government, can also be broken down into AFDC and non-AFDC (note: the discrepancy between the totals in Tables 8 and 9 is the Report's mistake, not NJCCR's) [36].

Table 9: Child Support Enforcement Administrative Expenses: AFDC vs. Non-AFDC

Expense	Amount
AFDC	$55,361,499

Table 9: Child Support Enforcement Administrative Expenses: AFDC vs. Non-AFDC

Expense	Amount
Non-AFDC	$21,065,141
Total	$76,426,640

The AFDC support program consumes the most of these expenses, over two-thirds. This total can also be broken down by type of activity, as in Table 10 [37].

Table 10: Child Support Enforcement Administrative Expenses by Type of Activity

Type of Activity	Expense
Paternities	$5,618,920
Locates	$11,025,315
Orders Established	$7,850,703
Enforcement	$27,812,070
Financial Distribution	$24,119,632
Total	$76,426,640

We note that apporximately one-third is spent on enforcement, and one-third is spent on distribution of payments! The reader is reminded that Tables 8 to 10, above, concern federal and state administrative expenses for New Jersey alone; we turn now to New Jersey's administrative expenses.

New Jersey's Administrative Expenses for Child Support Enforcement

Firstly, New Jersey's staffing is given in Table 11 [38].

Table 11: New Jersey Child Support Enforcement Staffing (FY 1990)

Staff	Number
State and Local IV-D Agency	531
Under Cooperative/Purchasing Agreement	1296
Total	1827

The overall figure is growing at about 50 new staffers a year [39]. These staffers are afforded salaries and benefits as shown in Table 12 [40].

Table 12: New Jersey Child Support Enforcement Salaries and Benefits(FY 1990)

Staff	Cost
State and Local IV-D Agency	$19,393,991
Under Cooperative/Purchasing Agreement	$41,297,732
Total	$60,691,723

The average salary for a State or Local IV-D worker is $36,500, for a Cooperative/Purchase Agreement worker it averages to $32,000, and overall the average is $33,200.

The Cost of Child Support Enforcement

The federal cost of child support enforcement is shown in Table 13.

Table 13: Federal Cost of Child Support Enforcement (FY 1990)

Income/Expenditures	Amount
Net Federal Share of AFDC collections	+$534,742,015 [41]
Net Federal Share of Administrative Expenses	-$1,060,872,473 [42]
Net Loss	-$526,130,458 [43]

The cost to federal tax payers is, then, over one-half billion dollars. New Jersey's "share" of this is: -$33,260,224 [42]. Table 14 shows the Federal Government's calculation of the "savings" to New Jersey.

Table 14: New Jersey Cost of Child Support Enforcement (FY 1990)

Income/Expenditures	Amount
NJ Share of Distributed AFDC Collections	+$25,420,967 [44]
Incentive Payments	+$8,251,463 [45]
NJ Share of Administrative Expenses	-$26,845,316 [46]
Net Gain	+6,836,114 [47]

A measure of "cost effectiveness" is given by dividing collections by expenditures [48].

NEW JERSEY COUNCIL FOR CHILDREN'S RIGHTS

Table 15: New Jersey Cost Effectiveness (FY 1990) according to OCSE

Category	New Jersey	National Average
AFDC/FC $s Collected per $s Total Administrative Expenditures	.80	1.09
Non-AFDC $s Collected per $s Total Administrative Expenditures	2.86	2.65
Overall	3.66	3.74

Be this as it may, we note that Table 14 shows that were it not for the incentive payments, New Jersey would not have a net gain at all, but a couple of million dollars net loss, instead. It would appear that the federal government is saving New Jersey's tax payers nearly $7 million a year by enforcing child support payments. Not so; the New Jersey tax payer is also a federal tax payer: as a federal tax payer the cost of enforcing child support payments in New Jersey alone is over $33 million. Ultimately, the balance sheet shows an OVERALL LOSS of $26,424,110.

NJCCR is concerned about the huge cost of this endeavor which certainly does not pay for itself. The question has to be, is there anything, that will not cost the tax payer more, that can be done to improve child support compliance? The answer is, yes, give more fathers joint custody, and generous minimum visitation, and enforce it; the collection of child support will automatically improve AT NO FURTHER COST [49].

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SOURCES

[1] In 95% of the cases, the non-custodial parent is the father. See Shrier, Simring, Greif, Shapiro & Lindenthal, *Child Custody Arrangements: A Study of Two New Jersey Counties*, **Journal of Psychiatry & Law**, Spring, 1989.

[2] Gordon, Lester, *Child Support and Alimony: 1989*, Current Population Report, Consumer Income, Series P-60, No. 173, published by the U.S. Department of Commerce, Bureau of the Census, page 1.

[3] *ibid.*, Table F.

[4] *ibid.*, page 28.

[5] R. Rainville, Director of the NJ Office of Child Support Enforcement Services.

[6] E. Rocheford, Morris County Sheriff.

[7] See Appendix 1 of this paper; see also NJCCR's position paper: *Child Support Guidelines*.

[8] State v. Madewell, 63 N.J. 506, 512 (1973); see also the **New Jersey Constitution**, Article I, Paragraph 13: "No person shall be imprisoned for debt in any action ..."; U.S. v. Safeway Stores, 149 F.2d 834, 839 (5th Cir.): "Civil contempts are sometimes civil in name only, entailing what are in reality criminal punishments"; Uphaus v. Wyman, 360 U.S. 72 (1959).

[9] Census Report, *op. cit.*, pages 6 and 7.

[10] The following (perhaps overly) simple example illustrates this.

Gross income: $40,000 a year
Taxes: 35% *
Housing: 35% **
Child Support: 15% (one child)

Leaving for personal support: 15% (same as that given for child support), or $6000/year. Car insurance of $1000 leaves $5000; car payments of $200/month, or $2400/year leaves $2600, or $50/week for food, clothing, commuting costs, unreimbursed medical, entertainment, and visitation expenses.

* using the federal, state, FICA, and HI included in the Child Support Guidelines Tax Table, plus $2000/year of "hidden" taxes: sales, gasoline, alcohol, tobacco, ...

** using an annual study on housing costs done by Harvard University (including utilities); probably higher for the NY metropolitan area.

[11] See McKeon, "Courts Don't Treat Fathers Fairly," Chicago Sun-Times, May 15, 1991, page 34; Braver, Wolchik, Sandler, Fogas & Zvetina, *How Much Do Divorced Fathers Visit Their Children? It Depends on Who You Ask*, Arizona State University, 1988: claims that 1/4 to 1/3 of all fathers experience visitational interference; Nichols & Vanini, *Visitational Interference: A National Study*, Father's Advocacy, Information & Referral Corp., 1986: claims that 3/4 of all fathers experience visitational interference. The 3/4 figure jibes with NJCCR's survey of its own members.

[12] N.J.S.A. 2C:13-4.

[13] Wallerstein and Kelly, *The Father-Child Relationship after Divorce*, in Cath et al. (eds.), **Father and Child, Developmental and Clinical Perspectives**, Little, Brown and Co., Boston, 1982, page 454.

[14] Mattox, *The Parent Trap*, **Policy Review**, Vol. 55, No. 6, Winter, 1991.

[15] Wallerstein and Kelly, *op. cit.*, page 456.

[16] Ph.D. thesis of K. Herud, currently Director of Psychology at East Jersey (formerly Rahway)

State Prison, formerly School/Clinical Psychologist at the Woodbridge Child Diagnostic and Treament Center: *Locus of Control in Relation to Sex and Race in Adolescent Offender Groups*, Seton Hall University, 1988.

[17] Lt. Alan August, of Scared Straight Juvenile Awareness Program.

[18] Cf. Bowen v. Gilliard, 483 U.S. 587 (1986), J. Brennan, dissenting, pages 613-15.

[19] Williams, *Child Custody and Parental Cooperation*, paper presented to the American Bar Association, Section of Family Law, San Francisco, 1987.

[20] Shrier *et al, op. cit.*

[21] Texas Codes Annotated, Title 2, Section 14.033 *et seq.*

[22] L.1990, c. 26, section 2, effective August 19, 1990; now at N.J.S.A. 9:2-4.

[23] *Child Support Enforcement, Fifteenth Annual Report to Congress*, For the Period Ending September, 1990, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement.

[24] *ibid.*: Table 45.

[25] *ibid.*: Table 3 divided by Table 45.

[26] *ibid.*: Table 3 divided by Table 16.

[27] *ibid.*: Table 16 divided by Table 45.

[28] *ibid.*: Table 3.

[29] *ibid.*: Table 19.

[30] *ibid.*: Table 114.

[31] *ibid.*: Table 92.

[312 *ibid.*: Table 25.

[33] *ibid.*: Table 28.

[34] *ibid.*: Table 29.

[35] *ibid.*: Table 27.

[36] *ibid.*: Table 31.

[37] *ibid.*: Table 37.

[38] *ibid.*: Table 65.

[39] *ibid.*: Table 66.

[40] *ibid.*: Table 67.

[41] *ibid.*: Table 13; Net Federal Share of AFDC Collections is defined as the portion of AFDC collections that is kept by the Federal Government as a reimbursement of its share of past assistance payments under the AFDC program, after deducting the incentive payments made to the states..

[42] *ibid.*: Table 28; Net Federal Share of Administrative Expenses is defined as the portion of total administrative expenditures claimed during the fiscal year that were paid by the Federal Government at the appropriate Federal financial participation rate, reduced by the amount of fees received from the states for use of the Federal Parent Locator Service.

[43] *ibid.*: Table 25.

[44] *ibid.*: Table 13.

[45] *ibid.*: Table 15.

[46] *ibid.*: Table 29.

[47] *ibid.*: Table 26.

[48] *ibid.*: Tables 69-71.

[49] See further NJCCR's position paper: *Child Support Guidelines*.

STATEMENT OF JOAN S. KEENAN, DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

Thank you for the opportunity to submit a written statement on the status of state child support enforcement programs. I write to offer you the perspective of New York State's IV-D program, a program which has more than 1.1 million active child support cases, which collected in excess of $500 million dollars last year, which has the first federally certified automated case tracking and monitoring system in the nation, and most importantly, which is fully committed to the idea that children are entitled to the support of both their parents, regardless of whether or not those parents are able to live together. In providing the "large state" perspective, I urge you to keep the following principles foremost, regardless of the specific reform proposals which will soon be adopted:

1. **The right of a child to an adequate and equitable amount of child support is absolute.**

Under no circumstances should should any parent be "exempt" from a child support obligation, even where that parent is currently unable to satisfy the obligation. New York has a minimum $25 per month order in such cases to confirm our belief that the financial obligation of parent to child is irrevocable. For such "poverty" orders, however, the amount of arrears which may accrue is capped at $500 so that we do not provide a disincentive for the noncustodial parent to obtain employment. At the same time, New York State operates a highly successful automated interface between the IV-D agency and the Unemployment Insurance Benefits (UIB) agency through which we receive child support collections of **$1 million per week**. An unemployed parent who lives with his or her children shares UIB benefits; an unemployed parent who lives apart from his or her children should do the same.

Under no circumstances should arrears of child support be excused or modified retroactively. The 1986 passage of the Bradley Amendment to Title IV-D of the Social Security Act, which bars the retroactive modification of child support debts, was a major victory for the children of this country. If I may quote Senator Bradley, "Debts that accumulate to children must be treated with the highest regard. . . . We must send a message loud and clear that responsibilities to one's children are to be taken seriously." Certainly, a non-custodial parent's circumstances can change; he or she can become unemployed. Under our current laws, that parent has an unwavering obligation to notify the court and the custodial parent of this change in circumstance, and no modification in a child support order is permitted prior to this notification. We simply cannot permit the honoring of an obligation to one's children to become an afterthought, a matter of convenience.

The provision of training or employment services to unemployed noncustodial parents should never be instead of an enforceable obligation, but rather in addition to it. It has been the experience in New York State and everywhere else that noncustodial parents default at rates far greater than can be accounted for by unemployment; we have reached the sad but inevitable conclusion that noncustodial parents do not pay child support because they do not want to pay child support, not because they cannot afford to pay child support.

2. **Child support initiatives should be developed and implemented in ways which permit the greatest degree of automation.**

As indicated earlier, New York State currently serves 1.1 million IV-D cases, approximately one third of which have court orders. Our most successful enforcement remedies have been immediate wage withholding, income tax refund offset, reporting to credit agencies, and lottery prize offset, **all** of which are automated processes with system-generated actions taken in all cases meeting system-identified criteria. Based on New York State's recently enacted 1993 legislation, we are about to undertake the following: an automated issuance to employers of executions for medical support enforcement; an automated match with the New York State Department of Taxation and Finance in support of the Family Support Act of 1988 requirement for review and adjustment of all child support orders being enforced under Title IV-D; and an automated property execution process for the attachment of financial institution accounts based on leads provided through the IRS 1099 match.

We are aware, of course, that there is a great deal more which can be accomplished in the location of noncustodial parents and the enforcement of child support obligations. The recommendations of the U.S. Commission on Interstate Child Support do truly provide a "blueprint for reform" in these areas; we would urge, however, that the implementation of the remedies described, such as occupational license holds, vehicle registration and driver license holds, W-4 reporting, national location network, etc., provide the maximum flexibility to states in automating these processes. For states such as New York there is no other way to make them work.

3. **Congress should reconsider the Family Support Act of 1988 repeal of 90% federal reimbursement rates for automated data systems for child support enforcement which becomes effective September 30, 1995.**

Where new location sources and enforcement remedies would be most effectively implemented through automation, the federal participation rate should remain at 90%. Also, as certified IV-D systems begin to age and are no longer able to integrate and take advantage of new technologies, 90% federal funding for re-engineering should be made available.

4. **Child support initiatives should be developed and implemented in ways which eliminate, to the greatest degree possible, the involvement of the courts.**

The Family Support Act of 1988 seems to recognize the need to routinize the establishment and enforcement of child support orders with minimal involvement of the courts as demonstrated by requirements for (a) the use of a rebuttable presumption in the determination of child support awards; (b) immediate income withholding in all IV-D cases without return to court; and (c) the periodic review and adjustment of IV-D child support orders which may take place without the return to court.

New York State has consistently crafted legislation in the area of enforcement which leaves the courts as the "last resort" for noncustodial parents who object to actions taken by the child support enforcement agency based on arrears of child support **which have not been reduced to judgment**. Our success with including an additional amount to reduce arrears of child support on income executions, state and federal income tax refund offset, lottery prize offset, reporting to credit agencies, and other automated enforcement remedies is based solely on the fact that we are not required to seek or obtain court "approval" before we act, nor are we required to obtain judgments or warrants. The U.S. Commission on Interstate Child Support recommendation that that the issuance and renewal of driver's licenses and vehicle registrations be held based on outstanding warrants should be amended to permit the holding of such issuances and renewals based on arrears of child support, and without return to court.

Our new legislation, which was designed to accommodate the review and adjustment of the 100,000 child support orders being enforced under Title IV-D which are more than 36 months old, permits the IV-D agency to submit a proposed order based on New York's child support guidelines to the parties and the court. The proposed order becomes effective thirty-five days after mailing unless one of the parties has objected and requests a hearing, thereby retaining the notion that the court is only involved in child support matters where there is an objection to administrative action. There is absolutely no possibility that New York State could meet federal review and adjustment standards if a court hearing was required in every case. There are simply not enough courtrooms, hearing examiners and IV-D staff to accommodate the workload, nor is there sufficient funding available to provide for a court-based process in the future.

New York State also has new legislation which will permit, where both parents of a child born out of wedlock complete a notarized acknowledgment of paternity, submission of this acknowledgment to the Registrar of Vital Statistics of the district in which the birth

occurred to establish the child's paternity and the parents' liability to support. Once again, where matters can be resolved without the involvement of courts, they should be so resolved.

Future New York State and federal legislative initiatives should expand the concept of enforcement, paternity establishment, and review and adjustment outside of court to include establishment of initial orders of child support based on a state's guidelines outside of court.

5. **The child support enforcement program is properly situated in the states. The IRS can and should provide critical information to states which will greatly enhance the ability of the states to improve performance, and can and should continue to be an enforcement tool for states.**

The Child Support Enforcement and Assurance Proposal (CSE&AP) has sparked debate over the proper placement of the child support enforcement program. The "Background, Need and Rationale" material provided with CSE&AP contains a section entitled "The enforcement powers and reputation of the IRS are needed", which puts forward the notion that IRS, based on its experience in the collection of income taxes, would be more effective than states in the enforcement of child support. We would suggest that while IRS may have that reputation, it is an agency which enforces by exception, and is not structured to deal with a population of noncustodial parents of whom 70+% will default at one time or another. A September 30, 1992 article from the Albany Times Union states that IRS currently audits nine taxpayers per thousand, and has plans to divert auditors which will lower that rate. The article further states that in excess of 10 million persons and businesses do not file returns; it is probably safe to assume that the overlap between non-filers and non-payers of child support is significant.

The critical element which would enable both initial establishment and review and modification to work with great efficiency in the states, is the provision to the states of access to IRS tax return information for noncustodial parents who do file returns. The value of IRS is in the information it already collects, not in its ability to utilize the information. Major gains in the effectiveness of child support enforcement would accrue if this information was provided to states, all of whom will have automated systems to receive and utilize this data within the next several years, and all of whom at least attempt to enforce every child support case in default. Through the existing Parent Locator Service and with the advent of the Child Support Enforcement Network (CSENET), the capacity exists for the federal government to provide computer access to critical data to the states who can best utilize it.

CSE&AP also proposes that a federal agency, the Social Security Administration, assume the role of distributing child support. Unlike the cases for which the Social Security Administration so capably handles disbursement, the receivers of child support are not a stable population and are likely to move frequently; they are accustomed to receiving payment weekly or biweekly rather than monthly; the amount of the child support obligation changes frequently; and the money to support the disbursement, despite wage withholding, will very often simply not be there. This is a system, after all, which is characterized by payers in default.

Additionally, a child support enforcement system which assigns critical roles to three different agencies, IRS, SSA and the states, poses extraordinary challenges in coordination and in its ability to provide meaningful and timely responses to the custodial parents, non-custodial parents, employers, and others who use the system. It is important to guarantee that all participants in the system, particularly IRS, have the capacity to provide the extensive coordination and customer service that we know will be necessary.

New York State is fully supportive of having unpaid child support owed at the end of a year become a federal liability with precedence over federal tax liabilities, and strongly urge that this provision of CSE&AP be implemented immediately, as it would provide immediate relief to millions of children in poverty.

6. **New means must be found to address interstate child support cases.**

New York State is supportive of the interstate measures provided in the Report to Congress of the U.S. Commission on Interstate Child Support. We agree that some fundamental statutory restructuring of interstate child support, such as passage of the Uniform Interstate Family Support Act (UIFSA), is required before we can make significant progress in this area.

We would also support the CSE&AP proposal to create one single national central registry of child support orders. Please be aware, however, of the complexity of undertaking the creation of such a registry; under the wide range of current State statutes, there is frequently more than one valid order of child support in existence for a single child support case. While UIFSA would address this problem prospectively, there are millions of existing child support orders for which some commonly agreed upon set of "rules" would have to be developed.

7. **Centralization offers state child support enforcement programs the opportunity to provide more and better service for less money.**

New York State believes that the centralization of the support collection and disbursement functions is a logical way to create efficiencies and fully utilize state-of-the-art technology which is not cost-effective on a small scale. In January, 1993, we entered into a contract with a fiscal agent who will perform all such functions for New York State at one central location, at a considerable reduction in the costs currently associated to those functions. The experience of New York and other jurisdictions which are centralizing child support functions should be carefully studied prior to finalizing any program of child support reform.

8. **A national child support guideline should be established.**

New York State supports the idea of a national child support guideline, but has several concerns about the construction of the guideline. New York considered and rejected a guideline based on an "income shares model" utilizing adjusted gross income. It was the consensus of New York child support experts and legislators that the "income shares" model was simply too cumbersome and can provide a major disincentive to the reentry into the workplace of custodial mothers. It was our finding that custodial parents do share their income with their children in amounts far exceeding statutory percentages, and that the real need is to establish an appropriate support amount for the less willing noncustodial parent. This is most readily accomplished by the application of percentages to gross income, those percentages being determined by studying the percentage of income parents in intact families spend on their children. Percentages which account for the appropriate amount of federal and state income tax withholding obviate the need to determine net (or adjusted gross) income.

We support the mandatory inclusion of health care, child care and educational expenses, all of which should be apportioned between the parents according to each parent's share of combined parental income. Generally, care should be taken that the level of support awarded under national guidelines is not lower than that currently provided under existing state laws.

9. **Specific actions should be taken to improve location efforts.**

The U.S. Commission on Interstate Child Support has proposed the establishment of a reporting network which would permit state IV-D agencies access to the W-4 forms for all new hires within a state, and which would require that this information be broadcast to other states as part of a national network to all states. Such a network would be invaluable to states for location and the early establishment of wage withholding. Furthermore, the newly developed CSENET is the obvious vehicle to create an all-inclusive interstate locate network. New York State would recommend that all states be mandated to participate in CSENET as a way to ensure its access to the widest range of state data bases.

The Interstate Commission also proposed mandating the accessibility by the state IV-D agency to a wide range of additional data bases, including those of unions, recreational, occupational and professional licensing agencies, recorders of real property records, utility and cable television companies, private credit reporting agencies, and vital statistics agencies. These data bases, in addition to those for which New York State law already permits IV-D access (e.g. Motor Vehicles, Tax, Criminal Justice, Labor, and public assistance), would be a tremendous enhancement in both location and enforcement efforts. A federal mandate that such access be granted to IV-D in all these areas would ensure that state legislatures enact the laws necessary to overcome the existing confidentiality requirements of each individual agency.

In closing, I readily acknowledge that the current federal-state system of child support enforcement has not, to date, been able to fully serve and satisfy the children on whose behalf we labor. We should never forget, however, what child support administrators and every custodial parent who requests child support enforcement services have learned the hard way: noncustodial parents do not support their children because they do not choose to support their children. Further, courts, whatever their reasons, are notoriously reluctant to make orders in amounts which will actually assure the support of children, and are equally reluctant to enforce the orders they do make.

The "child support reform" which can change this pattern of economic child abuse is within the power of Congress to provide: please structure the child support system and any new legislative mandates to operate based on automated, administrative mechanisms for the establishment and enforcement of child support obligations; permit us access to already existing data bases which will provide invaluable location and enforcement tools; and continue funding participation which will allow us to go forward in difficult economic times.

On behalf of the New York State Department of Social Services and its Office of Child Support Enforcement, thank you for all your efforts to date, and for providing us the opportunity to share our experiences and opinions. Please feel free to involve us in any way as you continue to consider ways to reform the child support enforcement program.

COMMENTS OF STATE COMMUNITIES AID ASSOCIATION (SCAA) ON THE CHILD SUPPORT ENFORCEMENT AND ASSURANCE PROPOSAL

Submitted by:
Russell Sykes
Deputy Director
June 10, 1993

State Communities Aid Association (SCAA), a 120 year old non-profit, non-sectarian, public policy organization in New York State has a long history of involvement in welfare, low income health, children's services, tax policy and general poverty and economic issues at both the state and federal level.

We commend both former Congressman Downey and Congressman Hyde for their bipartisan proposal to reform the nation's child support enforcement system and their visionary plan to offer an "assured child support benefit" as well. In January of 1991, SCAA was a co-convenor, along with the Center for Law and Social Policy (CLASP), of a day-long roundtable to discuss the concept of child support assurance with former Congressman Downey and numerous New York State and national organizations as well as several academicians.

Subsequent to that meeting, SCAA assisted CLASP in the preparation of several issue papers at former Congressman Downey's request which focused on the details of a child support assurance proposal, as well as necessary reforms to our current enforcement system that could make such a broad new social policy workable. Many of those recommendations have been incorporated already into the Child Support Enforcement & Assurance Proposal, which we fully support in concept.

Below, we address our areas of agreement and disagreement regarding the Child Support Enforcement & Assurance Proposal. We also detail several recommendations for improvement of the proposal, prior to it being introduced as legislation in the next Congress.

Paternity Establishment

We are strongly supportive of the proposed simplification of the paternity process in the plan. Requiring that states have a two tier system of voluntary paternity establishment in hospital-based or similar settings and a simple civil procedure for contested cases removes much of the adversarial nature of the current system.

Where attempts at voluntary acknowledgement are unsuccessful, blood tests should be provided without the necessity of a return to court. In cases that remain contested, even where likely paternity has been established genetically, evidence would have to be presented by the putative father to rebut the presumption. Further, we support the default judgement provision based on a proper process service and failure to appear because it would aid in eliminating a continuing delay in the paternity establishment process.

We are supportive, as well, of the development of performance standards in regard to paternity establishment which states must meet within five years or risk having their paternity process turned over to the Social Security Administration.

We also support enriched funding to states for pursuing paternity, developing educational materials on the importance of paternity establishment and specific efforts to reach fathers with information regarding the importance of paternity. **We would further urge that the full costs of contested paternity cases be federalized.** We also urge that the awarding of temporary child support in cases where the putative father has contested the genetic presumption of paternity be mandatory rather than left to state option.

As to improvements in the parent locate service, we particularly support provisions to federalize the parent locate process and those providing parent locate full access on an intrastate or interstate basis to any State agency and department records which might facilitate location of an absent parent.

Establishment of Child Support Orders and National Guidelines

We support the establishment of child support orders in all instances including orders established with the presumption of income at the equivalent of full-time work at minimum wage for non-custodial parents who have little or no income at the time the order is established. Further, we support a uniform national guideline, particularly for the impact it will have on interstate cases, where differing state guidelines cause confusion under the current system. We also support the additional requirements under the Child Support Enforcement & Assurance Proposal for states to enact and implement rules and procedures aimed at overcoming current barriers to paternity establishment and the securing of child support orders in interstate cases.

We do, however, have reservations regarding the chosen "income shares model" as the basis for a uniform national guideline in the establishment of child support orders. Our primary concern is one of administrative simplicity. The income shares model requires a great deal of information from each parent and thus is quite complex. Our view is that a child support system should utilize guidelines which require a minimum collection of data. This ensures, in our estimation, that orders can be established and modified with relative simplicity.

We believe the income shares model to be too cumbersome in nature and too complex administratively. Instead, we would urge consideration of a uniform guideline based on a percentage of the non-custodial parent's gross income. The percentage of gross income standard is straightforward and simple. Further, if states issued withholding orders in percentage terms the orders would be self adjusting, eliminating the need for periodic modification of awards in many cases. It is also our opinion that the "income shares model" is not necessary because the custodial parent, simply by nature of having custody, will contribute an adequate share to child support without the need of employing a complicated "income shares" test in setting the guideline. Some research also suggests that the "income shares" model may negatively influence work effort by the custodial parent.

We also have problems with a net income standard, that takes into account anything other than federal and state tax obligations. As currently envisioned under the CSEAP, consideration might be given, in certain instances, to issues such as debt load, economic circumstances, and business expenses as being a higher priority than support of a child. The payment of child support, in our opinion, is not a matter of convenience that comes after allowances for other financial obligations, as might be the case under a net income formula.

We agree, as the proposal seems to allow, that additional consideration must be allowed in guidelines for medical support, child care and educational expenses if the custodial parent can adequately demonstrate need. We would also be concerned if a national guideline fell below current guidelines in New York or other states and thus diluted current child support award levels.

Entry into the Child Support Assurance Program

We understand the thinking of some that would only allow a custodial parent access to the assured benefit if she had a valid order for support (the way in which New York's Child Assistance Program operates). Those who feel that way cite the need for a strictly objective test, the existence of a child support order, as the only way to keep the program from becoming something beyond an assured child support program.

However, we are concerned that such a limiting eligibility test makes no allowances for failures by the child support agency to actually establish paternity or secure an order based upon the information provided by the custodial parent. We think a better entry test, if after a suitable period of time an order has not been established, is still whether or not the custodial parent has sought an order by cooperating fully and to the best of their ability in the process of identifying and locating the non-custodial parent and in establishing paternity. To us, full cooperation means:

-- providing all relevant information in her/his possession and/or attesting to lack of information;

-- appearing at any required interview, conference hearing or court appearance as long as adequate notice has been provided and illness or emergency did not preclude attendance; and

-- agreeing to submit self and child to appropriate genetic testing if paternity is an issue.

We are aware that the New York State Department of Social Services has urged you, in their June 30, 1992 testimony on the CSEAP, to employ the same hard test as utilized in New York's Child Assistance Program (CAP) in allowing entry to the assured benefit program. The Department fears that any exception would dilute the concept of assured child support. While we agree on principle, we find that often the establishment of paternity and/or an order does not always follow routinely on the heels of full cooperation by the custodial parent. All too often, under our current child support system, states do not do an effective enough job in establishing paternity or securing an order of support even when the custodial parent has identified a putative father and the father has been located.

Recent sampling from Arizona conducted by Ann Nichols-Casebolt at Arizona State University regarding the establishment of paternity and the securing of orders demonstrates this performance problem. This study looked at 386 cases opened in 1988 and 1989 in Maricopa County, Arizona. In fully 353 of the cases, the custodial parent could name the father; in 159 cases they also provided an address; and in 109 cases they provided a social security number. Yet, the child support unit only attempted to make contact in 18 of the cases and only established 10 adjudicated paternities. Clearly the custodial parent had fully cooperated in seeking an order, yet the child support unit was able to establish paternity and secure an order in only 2.6% of cases.

A very different pattern emerges in a state such as Wisconsin where in 439 full information cases in Dane County, paternity was established in 381 instances or 69%. Our point is simple. The results in states on securing an order even with full cooperation by the custodial parent are very mixed. When a system has this level of dysfunction and variation, it is unfair at the outset to require that potential recipients of the assured benefit must make the system perform in order to participate.

To the degree that the CSEAP attempts to address these broad systemic problems and mixed state results with enforcement under the current system, **the goal over time might be to reach a point where an order of child support was the only valid entry to the assured benefit program.**

Because of the current reality, however, we believe that at the beginning of this program, any child with a live absent parent from whom a support order has been sought or obtained should be eligible for the assured benefit. Such a provision would ensure that the children of custodial parents who have fully cooperated would be covered even if an order cannot be obtained or the child support agency simply fails to obtain an order. Over time, as the enforcement system improves, this issue of entry to the program could be revisited.

We also believe that this creates two clear incentives. First, it creates an obvious incentive for the custodial parent to seek to establish paternity and/or obtain an order. Second, since the assured benefit would be payable once support had been sought, government would have a strong incentive to facilitate the enforcement process of seeking out the absent parent and obtaining the necessary order for reimbursement.

We could perhaps also subscribe to further "good cause" criteria such as the threat of domestic violence or sexual abuse as sufficient reason to allow children for whom there is no order in place and none being sought into the assured benefit program.

Payment Levels for the Assured Benefit

We disagree with the CSEAP with respect to the payment level offered under the assured benefit. It is our contention that the initial starting point of $2,000 is too low and that the subsequent upward adjustments for additional children are also too low.

We would instead urge that the payment levels be changed to the levels associated with New York's Child Assistance Program (CAP) in accordance with the following table.

Number of Children	Benefit
1	$3,000
2	$4,000
3	$4,500
4+	$5,000

While we recognize that care must be taken to not set the assured benefit too high as to frustrate incentive, we do not feel that the change we suggest tilts that balance in a negative fashion. Currently, the average size of an annual support award for one child is approximately $3,000 and thus there is reason to believe that the amount of the assured benefit could be recovered through the improved enforcement procedures.

We do, however, support CSEAP provisions for how the assured benefit would interact with other federal programs including the potential for linking EITC advance payments with the assured benefit. We particularly commend the plan for its waiver of the AFDC-UP employment test, the increased match rate for JOBS in a recessionary economy and the utilization of some state savings to at least maintain current levels of AFDC benefits.

Federalizing Enforcement of Child Support

We recognize the clear intention of this proposal is to put teeth into the enforcement process by turning over such a function to the Internal Revenue Service (IRS). We subscribe to the intent of making child support enforcement a matter of high national priority and vigorously pursuing the payment of support through all available channels.

However, we have two concerns. First, states are currently upgrading their support enforcement systems and their automation capacity as required by the Family Support Act, although their levels of progress on this front are quite mixed. It may be just as efficient to require the W-4 disclosure of child support obligations and the automatic wage withholding, as you propose, but to leave the actual enforcement to states while mandating full sharing of tax information and data from the IRS as an on-line function. This hybrid system would still rely greatly on IRS information and data tools but would build upon existing state experience in the child support enforcement arena. We recognize that such a system would require changes in current federal law as to the ability of IRS to share data and tax information with other state agencies.

Second, recent news articles regarding the efficiency of the IRS, in spite of the spectre posed by the agency as a vigorous enforcer of tax compliance, demonstrate that the IRS is perhaps not as effective as believed. Adding the new arena of child support enforcement to their tax compliance activities may further dilute their effectiveness.

We agree with the NYS Department of Social Services that extensive customer service is necessary in the areas of child support collection and distribution. The recipients of child support are not a stable population; they move frequently; they are accustomed to receiving weekly or bi-weekly payment; the amounts of orders change frequently and the money to support the disbursement, in spite of wage withholding, will often simply not be

there. The payers in the system can be characterized as often in default. The IRS may indeed be the best avenue for collection from those who are salaried through wage withholding, but consideration must also be given as to how best to collect from those who are not. If IRS is to be the auspice for enforcement, can a system be designed to address these realities?

One obvious rationale for federalizing the enforcement function under IRS, which we clearly understand, is that the assured benefit payment would be federal in nature. A fair question would be to ask what motivation states would have to vigorously enforce child support if the money which they are reimbursing by doing so is federal money and not state funding. Even under the current system where states are paying for a portion of AFDC, the enforcement records are remarkably mixed -- so federalization of enforcement has merit on those grounds alone.

Suffice it to say, we are ambivalent on this issue. It may be ultimately that the federalization of collections under IRS is the right choice, but we at least urge your careful consideration of our concerns and of potential alternative avenues for cooperative arrangements between the IRS and current state enforcement systems. Perhaps an alternative approach might be to treat the enforcement issue as you do paternity establishment. Establish performance standards for states and provide them with the necessary IRS data and cooperation. If, after five years, they don't meet the performance standards, then federalize the enforcement under IRS.

Employment and Training Provisions

We fully share the CSEAP concerns that avenues must be found to provide non-paying, non-custodial parents with necessary employment and training assistance. The proposal demonstrates a sensible desire to assist non-custodial parents in meeting their support obligations. State Communities Aid Association particularly commends the CSEAP for recognizing the need to create public sector employment (PSE) jobs in order to reach this goal.

We do have several problems with the approach outlined in the CSEAP which calls for utilizing the JOBS Program as the primary vehicle for providing services to non-paying, non-custodial parents, who are in most cases fathers. Our concerns include:

-- The capacity in states, including New York, for fully utilizing existing JOBS funds and meeting participation requirements under JOBS is constrained. We are concerned that the addition of large numbers of participants, many of whom are not fathers of AFDC children, will further tax the system and dilute the ability to provide effective, individualized services. In addition, the current match rates of 50% and 60% under the JOBS Program would not be adequate to meet the demands of an expanding participant base.

-- The JOBS Program, in our estimation, is perhaps not the proper vehicle for providing employment and training opportunities for non-custodial fathers. We are fearful that the influx of these participants into JOBS will dilute the focus of the JOBS Program on providing education and training to custodial mothers. Assisting custodial mothers to become economically self sufficient will ultimately have far more impact on a child's standard of living and chances for their future. Past history in programs such as AFDC-UP and WIN, where services are offered to both sexes, show that the emphasis has been placed more on the need of men than women. That direction would not be the proper course for the JOBS Program.

We particularly oppose the concept that a non-custodial parent's voluntary JOBS participation would exempt the custodial parent from JOBS. This kind of reform will shift the focus of JOBS in the wrong direction and de-emphasize the importance of services to custodial mothers. We urge that you consider the JTPA Program instead

as the avenue to provide employment and training services to non-custodial fathers and that you target the infusion of new money earmarked for the JOBS Program under the proposal to Title II under JTPA.

-- Provisions under certain circumstances in the CSEAP to waive either current child support obligations or arrearages for low income non-custodial parents are unacceptable. We agree with the June 30, 1992 testimony of the NYS Department of Social Services that honoring child support cannot become an afterthought for anyone. For this reason, New York's current guidelines demand at least a $25 minimum payment. The wrong message is sent to non-custodial parents as to their irrevocable obligation of child support at least at a minimal level, if that obligation is waived. For instance, the CSEAP contemplates such a waiver when a non-custodial parent volunteers for employment or training or at times when sufficient funding might not exist for them to be enrolled in employment and training activities. We disagree. Certainly, the economic circumstances of non-custodial parents can change and their obligation then is to notify the court of that change before any modification of the award level can be considered. An outright waiver of obligations or arrearages violates the spirit of the 1986 Bradley Amendment and we oppose the provisions of CSEAP which envision such waivers. We also oppose provisions which would allow the amount of child support to be reduced by the cost of medical support in the case where the non-custodial parent's income is less than $20,000. This is a step backward from current law.

Medical Support Enforcement and Medicaid Eligibility Under CSEAP

We support the CSEAP provision to require Medicaid coverage for those potentially eligible for the child support assurance benefit. Further, we support efforts to increase the use of medical support enforcement as a matter of routine except for the previously mentioned provision to lower the amount of child support owed by certain non-custodial parents by the cost of medical support provided. We particularly urge that you diligently pursue employer cooperation in the enrollment of non-custodial parents in the full scope of available family health care coverage and that employers be further required to provide claim forms to custodial parents so that reimbursement can be facilitated.

We feel compelled, however, to take this opportunity to again stress the need for a universal health care plan in this country. Continuing to utilize the Medicaid Program as the primary means of offering coverage is contributing to increased costs in states at the same time that state revenues are eroding and ironically that primary care capacity under Medicaid is becoming more limited. Our health system is in crisis and a broader reform proposal at the national level that both extends coverage and care while controlling costs is essential.

We thank you for the opportunity to comment on the Child Support Enforcement & Assurance Proposal and look forward to working with you as you shape this plan into specific legislation. It is clear to us, as well, that the Clinton Administration is likely to take a favorable stance on some form of a Child Support Enforcement & Assurance Proposal which would guarantee a certain level of benefits for children while at the same time expanding on our current child support enforcement efforts enter through federalization or strengthened enforcement in states. We urge you to move forward in putting a child support enforcement and assurance system in place.

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