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THE SUPPORTING AT-RISK KIDS ACT

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Mr. BAUCUS, from the Committee on Finance, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 1870]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, having considered an original bill, S. 1870, to reauthorize and restructure adoption incentive payments, to better enable State child welfare agencies to prevent sex trafficking of children and serve the needs of children who are victims of sex trafficking, to increase the reliability of child support for children, and for other purposes, reports favorably thereon and recommends that the bill do pass.

CONTENTS

39-010

I. BACKGROUND AND NEED FOR LEGISLATIVE ACTION

The Finance Committee has demonstrated a commitment to working in a bipartisan fashion on issues that affect the nation's children and youth. In the 112th and 113th Congresses the Finance Committee continued its commitment to children and young people through a series of roundtables, hearings, and legislative actions initiated by committee members. These activities of the Senate Finance Committee and its members culminated in the "Supporting At-Risk Kids Act of 2013" that seeks to address improved permanency for children in foster care, identify and provide services to youth at risk for domestic sex traffic and to prevent the trafficking of vulnerable children and youth, as well as to encourage parental involvement both fiscally and socially in the lives of children for whom child support is owed.

TITLE I—STRENGTHENING AND FINDING FAMILIES FOR CHILDREN ADOPTION INCENTIVE GRANT PROGRAM

The Adoption Incentive Payment program distributes federal bonuses to states when they increase adoptions of children in foster care. Under current law, states earn $4,000 for each adoption of a foster child that is above the number of foster child adoptions finalized by the state in FY 2007 and $8,000 for each adoption of an

Funding

Present law

Provides certain mandatory funds for the Census Bureau to carry out the Survey of Income and Program Participants (SIPP).

Committee bill

Would transfer $400,000 of unobligated mandatory funds for the SIPP to establish the commission and allow it to carry out its duties. The $400,000 would not be subject to reduction under a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985. Any amounts made available for the commission that are unobligated on the date on which the committee terminates would be returned to the Treasury.

TITLE III—CHILD SUPPORT ENFORCEMENT

Title III of the Committee Bill will be cited as the Child Support Improvement and Work Promotion Act.

SUBTITLE A—INCREASED RELIABILITY OF CHILD SUPPORT

SEC. 311. COMPLIANCE WITH MULTILATERAL CHILD SUPPORT CONVENTIONS

Secretary's authority to ensure compliance with multilateral child support convention

Present law

The United States has generally dealt with international child support enforcement cases by negotiating bilateral agreements with individual countries. The U.S currently has bilateral agreements with 15 countries and 12 Canadian provinces/territories. Unlike multilateral agreements, the procedures and forms of bilateral agreements vary from country to country. Although courts and child support enforcement agencies in the United States already recognize and enforce most foreign child support orders, many foreign countries have not been processing child support requests from the United States.

On November 23, 2007, after four years of deliberation, the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (referred to herein as the Convention) was adopted at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands. The United States delegation was the first country to sign the Convention. Other signatories currently include Albania, Bosnia and Herzegovina, the European Union, Norway, and Ukraine. The Convention offers the United States the opportunity to join a multilateral treaty, saving the time and expense that would otherwise be required to negotiate bilateral agreements with individual countries around the world. The Convention is expected to result in more U.S. children receiving the financial support they need from their noncustodial parents, regardless of where the parents live.

The Convention does not affect intrastate or interstate child support cases in the United States. It only applies to cases where the

custodial parent and child live in one country and the noncustodial parent lives in another country.

On September 29, 2010, the U.S. Senate approved the Resolution of Advice and Consent regarding the Convention. In order for the Convention to enter into force for the United States, Congress must adopt, and there must be enacted, implementing legislation for the Convention.

Committee bill

The Committee Bill would require the Secretary of HHS to use federal and, if necessary, state child support enforcement methods to ensure compliance with any U.S. treaty obligations associated with any multilateral child support convention to which the United States is a party.

Access to the Federal Parent Locator Service

Present law

Under current federal law, the Federal Parent Locator Service (FPLS) is only allowed to transmit information in its databases to "authorized persons," which include (1) child support enforcement agencies (and their attorneys and agents); (2) courts; (3) the resident parent, legal guardian, attorney, or agent of a child owed child support; and (4) foster care and adoption agencies.

The FPLS is an assembly of computer systems operated by the Office of Child Support Enforcement (OCSE), to assist states in locating noncustodial parents, putative fathers, and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody, and visitation. The FPLS assists federal and state agencies to identify overpayments and fraud, and assists with assessing benefits. Developed in cooperation with the states, employers, federal agencies, and the judiciary, the FPLS was expanded by P.L. 104 193 (the Personal Responsibility Work Opportunity Reconciliation Act of 1996) to include the following:

- The National Directory of New Hires (NDNH): a central repository of employment, unemployment insurance, and wage data from State Directories of New Hires, State Workforce Agencies, and federal agencies.
- The Federal Case Registry (FCR): a national database that contains information on individuals in child support cases and child support orders.
- The Federal Offset Program (FOP): a program that collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support.
- The Federal Administrative Offset Program (FAOP): a program that intercepts certain federal payments in order to collect past-due child support.
- The Passport Denial Program (PDP): a program that works with the Secretary of State in denying passports of any person that has been certified as owing a child support debt greater than $2,500.
- The Multistate Financial Institution Data Match (MSFIDM): a program that allows child support agencies a means of locating financial assets of individuals owing child support.

In addition, the FPLS also has access to external sources for locating information such as the Internal Revenue Service (IRS), the Social Security Administration (SSA), the Department of Veterans Affairs (VA), the Department of Defense (DOD), National Security Agency (NSA), and the Federal Bureau of Investigation (FBI).

Committee bill

The Committee Bill would expand the definition of an "authorized person" to include an entity designated as a Central Authority for child support enforcement in a "foreign reciprocating country" or in a "foreign treaty country" in cases involving international enforcement of child support.

State option to require individuals in foreign countries to apply through their country's appropriate central authority

Present law

A CSE state plan must provide that any request for CSE services by a foreign reciprocating country or a foreign country with which the state has an arrangement must be treated as a request by a state.

Committee bill

The Committee Bill would give states the option to require individuals in foreign countries to apply for CSE services through their country's appropriate central authority for child support enforcement. If the individual resides in a foreign country that is not a "reciprocating" or "treaty" country, the state may choose to accept or reject the application for CSE services.

The Committee Bill would include requests for CSE services by a "foreign treaty country" that has a reciprocal arrangement with a state as though it is a request by a state. It would include a "foreign treaty country" and a "foreign individual" as entities that do not have to provide applications, and against whom no costs will be assessed, for CSE services.

Note

The Committee Report corrects an error in the Chairman's Mark. The Paragraph describing that the Mark "Would give states the option to require individuals in foreign countries to apply for CSE services through their country's appropriate central authority for child support enforcement. If the individual resides in a foreign country that is not a "reciprocating" or "treaty" country, the state may choose to accept or reject the application for CSE services." was omitted from the Chairman's Mark and the paragraph directly following was repeated twice. The corresponding legislative text is correct.

Amendments to international support enforcement provisions

Present law

P.L. 104 193 (the Personal Responsibility Work Opportunity Reconciliation Act of 1996) established procedures for international enforcement of child support. The Secretary of State, with the concurrence of the Secretary of HHS, is authorized to declare reciprocity

with foreign countries having requisite procedures for establishing and enforcing child support orders.

Committee bill

The Committee Bill would establish a definition for three terms: (1) "foreign reciprocating country," (2) "foreign treaty country," and (3) "2007 Family Maintenance Convention."

- It would define a "foreign reciprocating country" as a foreign country (or political subdivision thereof) with respect to which the HHS Secretary has declared as having or implementing procedures to establish and enforce duties of support for residents of the United States at no cost or at low cost.
- It would define a "foreign treaty country" as a foreign country for which the 2007 Family Maintenance Convention is in force.
- It would define the term "2007 Family Maintenance Convention" to mean the Hague Convention of November 23, 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

The Committee Bill would make it the responsibility of the HHS Secretary to facilitate support enforcement in cases involving residents of the United States and residents of "foreign reciprocating countries" or "foreign treaty countries."

The Committee Bill would include "foreign treaty countries" as entities which can receive notification as to the state of residence of the person being sought for child support enforcement purposes. It would include "foreign reciprocating countries" and "foreign treaty countries" as entities that states may enter into reciprocal arrangements with for the establishment and enforcement of child support obligations.

Collection of past-due support from federal tax refunds

Present law

The Federal Income Tax Refund Offset program collects past-due child support payments from the income tax refunds of noncustodial parents who have been ordered to pay child support. The program is a cooperative effort between the federal Office of Child Support Enforcement (OCSE), the Internal Revenue Service (IRS), and state CSE agencies. Under the Federal Income Tax Refund Offset program, the IRS, operating on request from a state filed through the Secretary of HHS, intercepts tax returns and deducts the amount of certified child support arrearages. The money is then sent to the state CSE agency for distribution.

Committee bill

The Committee Bill would amend federal law so that the federal income tax refund offset program is available for use by a state to handle CSE requests from foreign reciprocating countries and foreign treaty countries.

State law requirement concerning the Uniform Interstate Family Support Act (UIFSA)

Present law

In the past, collecting child support across state lines was difficult. Laws varied from state to state, often causing complications

that delayed the establishment and/or enforcement of child support orders. Congress recognized this problem and mandated (pursuant to P.L. 104–193) that all states adopt UIFSA to facilitate collecting child support across state lines. (Section 466(f)) P.L. 104–193 required that the 1996 version of UIFSA be adopted. It has been adopted in every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) approved additional amendments to UIFSA in August 2001. However, there is no federal mandate for states to enact the 2001 amendments. To date, only 21 states and the District of Columbia have adopted the 2001 amendments to UIFSA. In July 2008, the NCCUSL approved amendments to the 2001 UIFSA (referred to as UIFSA 2008), to integrate the appropriate provisions of the Convention. Similarly, there is no federal mandate for states to enact UIFSA 2008. To date, only 11 states have adopted the 2008 amendments to UIFSA. States that have adopted UIFSA 2008 now stand ready to immediately implement the Convention if it is ratified.

Committee bill

The Committee Bill would require that for a state to receive federal CSE funding, each state's UIFSA must include verbatim any amendments officially adopted as of September 30, 2008, by the National Conference of Commissioners on Uniform State Laws (NCCUSL). States would be required to adopt the 2008 amendments verbatim to ensure uniformity of procedures, requirements, and reporting forms.

Full faith and credit for child support orders

Present Law

Federal law requires states to treat past-due child support obligations as final judgments that are entitled to full faith and credit in every state. This means that a person who has a child support order in one state does not have to obtain a second order in another state to obtain child support due should the noncustodial parent move from the issuing court's jurisdiction. Congress passed P.L. 103–383, the Full Faith and Credit for Child Support Orders Act (FFCCSOA), in 1994 because of concerns about the growing number of child support cases involving disputes between parents who lived in different states and the ease with which noncustodial parents could reduce the amount of the obligation or evade enforcement by moving across state lines. P.L. 103–383 required courts of all United States territories, states, and tribes to accord full faith and credit to a child support order issued by another state or tribe that properly exercised jurisdiction over the parties and the subject matter. P.L. 103-383 addressed the need to determine, in cases with more than one child support order issued for the same obligor and child, which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement. P.L. 103-383 restricted a state court's ability to modify a child support order issued by another state unless the child and the custodial parent have moved to the state where the modification is sought or have agreed to the modification. The 1996 welfare reform law (P.L. 104-193) clarified