

SB

70

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 3, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 3/29/89

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: CSSB 70(FIN)

CS FOR SENATE BILL NO. 70 (Finance)

[GENETIC TESTING IN PATERNITY CASES]

"An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [X] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- [] zero fiscal note(s) _____
- [X] zero fn/analysis 2/28/89 DOR

SIGNING DO PASS:

J. Ellis

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>Max Shuey</u>			<input checked="" type="checkbox"/>
<u>Chris Davis</u>		<input checked="" type="checkbox"/>	
<u>Tom Laake</u>		<input checked="" type="checkbox"/>	
<u>Alvin Boyer</u>		<input checked="" type="checkbox"/>	
<u>Peter Jones</u>		<input checked="" type="checkbox"/>	

J. Ellis
Chairman's signature

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

MEMORANDUM

TO: Representative Johnny Ellis
Chair, House HESS Committee

FROM: Senator Rick Uehling *[Signature]*

DATE: March 3, 1989

RE: CSSB 70: "An Act relating to certain testing in
contested paternity actions; amending Rule 35, Alaska
Rules of Civil Procedure

I have asked staff to provide the following background and analysis to CSSB 70, which has been referred to the Health, Education and Social Services Committee. At this time, I respectfully request that this bill be scheduled for hearing.

CSSB 70 is one of a group of companion bills which address new federal requirements mandated by the federal welfare reform act signed into law in October 1988.

CSSB 70 has the effect of amending a court rule by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

Bill Summary: CS SB 70(FIN)

CS SB 70 has the effect of amending Civil rule 35 by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

CS SB 70 requires the Child Support Enforcement Agency to pay for tests and procedures which it orders. CS SB 70 also describes the process to be used by the Child Support Enforcement Agency to recover the costs for the tests.

The federal Act provides for a 90/10 federal/state match to pay for the test costs which Child Support Enforcement incurs as a result of this legislation which are not recoverable.

Federal regulations prohibit Child Support Enforcement from recovering costs of tests from persons receiving Aid to Families with Dependent Children.

2/8/89

Senator Rick Uehling

Jowntown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

TABLE OF CONTENTS

- I. Bill History
- II. CS SB 70(FIN)
- III. Copy of Previous Versions of SB 70
- IV. Sectional Analysis and Narrative for CS SB 70
- V. Position Paper: Department of Revenue SB 70
- VI. 45 CFR 302.31 "Establishing Paternity..."
45 CFR 232 "Special Provisions..."
- VII. Statute: AS 25.20.050
AS 47.23.040
- VIII. PL 100-485 "Family Support Act of 1988"

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

BILL HISTORY SB 70

- 1/09/89 First Reading, Senate
- 2/08/89 HESS Committee Substitute
*Eliminated billing provision, substituted civil
cost recovery process. Amendments eliminated
fiscal note.
- 2/15/89 Judiciary Committee Substitute
*Restricted mandatory genetic testing to those
contested cases where the state is a party to the
action.
- 2/22/89 Finance Committee Substitute
*Eliminated all references to the Federal Code of
Regulations. Amendments solved technical
problems created by use of federal regulations in
state statute.
- 3/02/89 Senate Floor Vote
*15 Yeas, 0 Nays, 2 Excused, 3 Absent

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: An act relating to certain testing
in contested paternity actions.
Sponsor: Senator Uehling
Requestor: Senate HESS

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Agency
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	63.1	63.1	63.1	63.1	63.1	63.1
TRAVEL						
CONTRACTUAL	5.5	1.0	1.0	1.0	1.0	1.0
SUPPLIES						
EQUIPMENT	23.9	0	0	0	0	0
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	92.5	64.1	64.1	64.1	64.1	64.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
GENERAL FUND	23.4	13.2	13.2	13.2	13.2	13.2
FEDERAL FUNDS	61.0	42.3	42.3	42.3	42.3	42.3
OTHER GF/PGM	8.1	8.6	8.6	8.6	8.6	8.6
TOTAL	92.5	64.1	64.1	64.1	64.1	64.1

POSITIONS:

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached analysis.

Prepared By: Linda Langston
Division: Child Support Enforcement Division

Phone: 276-3441
Date: February 6, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: February 6, 1989

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Bill Version SB 70
Analysis

	FY90	FY91	FY92	FY93	FY94	FY95
<u>Personal Services:</u>						
(2) PFT Clerk V's*	63.1	63.1	63.1	63.1	63.1	63.1
<u>Contractual:</u>						
Telephone installation, local/long distance costs	1.1	1.0	1.0	1.0	1.0	1.0
Space rental (104 sq.ft.)	4.4					
<u>Equipment:</u>						
Modular Furniture	21.0					
Purchase 2 data processing terminals	2.9					
Total	<u>92.5</u>	<u>64.1</u>	<u>64.1</u>	<u>64.1</u>	<u>64.1</u>	<u>64.1</u>

* Clerk V positions will be involved in the case management activities related to fee administration. Duties will include identifying cases, set-up, charging and collection of fees; parent location file maintenance; and the monitoring of parent status.

2 CS FOR SENATE BILL NO. 70 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain testing in contested
7 paternity actions; amending Rule 35, Alaska Rules of
8 Civil Procedure; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 25.20.050 is amended by adding new subsections to read:

12 (e) On request of a party in a contested paternity action, the
13 court shall order the mother, the child, and the putative parent to
14 submit to a blood test, tissue-type test, protein comparison, or other
15 scientifically accepted procedure designed to determine the statisti-
16 cal probability that the putative parent is a legal parent of the
17 child in question except that the order may not apply to a person who
18 has been found under applicable federal regulations to have good cause
19 not to cooperate.

20 (f) If the child support enforcement agency is a party in a
21 contested paternity action, the agency shall request the court to
22 order the tests and procedures described in (e) of this section. The
23 agency may recover the costs of tests as a cost of the action, except
24 that no costs shall be recovered from a person who is a recipient of
25 aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent
26 Children). Costs recovered under this subsection may not conflict
27 with requirements of applicable federal regulations.

* Sec. 2. AS 47.23.040(a) is amended to read:

(a) The agency shall appear on behalf of minor children or their

29
S

1 mother or legal custodian or the state and initiate efforts to have
2 the paternity of children born out of wedlock determined by the court
3 on voluntary application by the mother or other legal custodian. When
4 the agency is a party in a contested paternity action, it shall re-
5 quest and pay for tests and procedures under AS 25.20.050(f). The
6 agency may recover the costs of the tests as a cost of the action,
7 except that no costs shall be recovered from a person who is a recipi-
8 ent of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Depen-
9 dent Children). Cost recoveries authorized under this subsection may
10 not conflict with requirements of applicable federal regulations.

11 * Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the
12 effect of amending Civil Rule 35 by requiring a court in a contested pater-
13 nity action to order certain genetic tests on the request of a party.

14 * Sec. 4. This Act takes effect November 1, 1989.

Submitted This morning to Sec. Sec.

STATE OF ALASKA
LEGISLATIVE SESSION

Bill Version: CS SB 70 (HESS)
Publish Date: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to certain
testing in contested paternity actions.
Sponsor: Senator Uehling
Requestor: Senate HESS

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Division

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: The committee substitute essentially codifies the current procedure under which the State recovers its costs for blood testing to establish paternitys, and imposes no additional administrative costs on the Child Support Enforcement Division.

Prepared By: Linda Langston
Division: Child Support Enforcement Division

Phone: 276-3441
Date: February 7, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 2/8/89

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsors: Uehling, Pearce,
and Sturgulewski

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 70 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain testing in contested
7 paternity actions; amending Rule 35, Alaska Rules of
8 Civil Procedure; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 25.20.050 is amended by adding new subsections to read:

12 (e) On request of a party in a contested paternity action to
13 which the state is a party, the court shall order the mother, the
14 child, and the putative parent to submit to a blood test, tissue-type
15 test, protein comparison, or other scientifically accepted procedure
16 designed to determine the statistical probability that the putative
17 parent is a legal parent of the child in question except that the
18 order may not apply to a person who has been found under applicable
19 federal regulations to have good cause not to cooperate.

20 (f) If the child support enforcement agency is a party in a
21 contested paternity action, the agency shall request the court to
22 order the tests and procedures described in (e) of this section. The
23 agency may recover the costs of tests as a cost of the action, except
24 that no costs shall be recovered from a person who is a recipient of
25 aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent
26 Children). Costs recovered under this subsection may not conflict
27 with requirements of applicable federal regulations.

28 * Sec. 2. AS 47.23.040(a) is amended to read:

29 (a) The agency shall appear on behalf of minor children or their

1 mother or legal custodian or the state and initiate efforts to have
2 the paternity of children born out of wedlock determined by the court
3 on voluntary application by the mother or other legal custodian. When
4 the agency is a party in a contested paternity action, it shall re-
5 quest and pay for tests and procedures under AS 25.20.050(f). The
6 agency may recover the costs of the tests as a cost of the action,
7 except that no costs shall be recovered from a person who is a recipi-
8 ent of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Depen-
9 dent Children). Cost recoveries authorized under this subsection may
10 not conflict with requirements of applicable federal regulations.

11 * Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the
12 effect of amending Civil Rule 35 by requiring a court in a contested pater-
13 nity action to which the state is a party to order certain genetic tests on
14 the request of a party.

15 * Sec. 4. This Act takes effect November 1, 1989.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to certain testing in contested paternity actions.
Sponsor: Senator Uehling
Requestor: Senate Judiciary

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: The committee substitute essentially codifies the current procedure under which the State recovers its costs for blood testing to establish paternitys, and imposes no additional administrative costs on the Child Support Enforcement Division.

Prepared By: Linda Langston
Division: Child Support Enforcement Division

Phone: 276-3441
Date: February 15, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: February 15, 1989

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

SECTIONAL ANALYSIS CS SB 70(FIN)

Following is a sectional analysis of CS SB 70, a bill relating to the genetic testing requirements of the Federal Family Support Act of 1988.

Sec. 1 arises from section 111(b) of the federal Act. That section requires the state "to require the child and all interested parties in a contested paternity case to submit to genetic tests upon request of any such party... (except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate)." AS 25.20.050(e) implements this requirement. AS 25.20.050(f) directs the CSEA to be the requesting party when genetic testing is at issue. This means that CSEA will bear the costs of the tests because court rules place the costs on the requesting party. However, the federal Act allows the state to recover the costs of the test. AS 25.20.050(f) specifies that the agency may recover the costs of the paternity tests through the civil recovery process.

Sec. 2 makes parallel amendments in the CSEA statutes.

Sec. 3 notes that a court rule is affected by this bill. Genetic testing is currently at the discretion of the court on a showing of good cause. This bill would make the testing mandatory on the request of a party.

Sec. 4 gives the bill the effective date required by the federal Act.

DEPARTMENTAL RESPONSE

Department of Revenue

SB 70

"An Act Relating to certain testing
in contested paternity actions;
amending Rule 35."

1-23-89

SECTION 1. We recommend changes in the language of new subsection (e) to read:

"AS 25.20.050 is amended by adding new subsections to read: (e) On request of a party in a contested paternity action, the court shall order the mother, the child, and the putative parent to submit to a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure designed to determine the statistical probability that the putative parent is a legal parent of the child in question." We recommend striking the final clause of proposed subsection (e) ["except that the order may not apply to a person who has been found under applicable Federal regulations to have good cause not to cooperate."] because it is unnecessary. The Good Cause determination is made before a case reaches the stage of paternity establishment.

We strongly recommend revision of the new language in subsection (b) to read as follows: "(b) If the child support enforcement agency is a party in a contested paternity action, the agency shall request the court to order the tests and procedures described in (e) of this section. The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). Cost recoveries authorized under this subsection may not conflict with requirements of applicable Federal regulations.

SECTION 2. We strongly recommend a similar revision, as above, in the proposed language of this section. Our recommended revised language would read: "When the agency is a party in a contested paternity action, it shall request tests and procedures under AS 25.20.050 (f). The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310-47.25.420 (Aid to Families with Dependent Children). Cost recoveries authorized under this subsection may not conflict with requirements of applicable Federal regulations.

SECTION 3. No objection. Recommend approval.

SECTION 4. No objection. Recommend approval.

§ 302.30 Publicizing the availability of support enforcement services.

Effective October 1, 1985, the State plan shall provide that the State will publicize regularly and frequently the availability of support enforcement services under the plan through public service announcements. Publicity must include information on any application fees which may be imposed for such services and a telephone number or postal address where further information may be obtained.

(Approved by the Office of Management and Budget under control number 0960-0385)

(50 FR 19647, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986)

§ 302.31 Establishing paternity and securing support.

The State plan shall provide that:

(a) The IV-D agency will undertake:
(1) In the case of a child born out of wedlock with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, to establish the paternity of such child; and

(2) In the case of any individual with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, to secure support for a child or children from any person who is legally liable for such support, using State laws and reciprocal arrangements adopted with other States when appropriate. Effective October 1, 1985, this includes securing support for a spouse or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under the title IV-D State plan.

(3) When assigned support payments are received and retained by an AFDC recipient, to proceed as follows:

(i) In States that implement the IV-A State plan requirements to count retained support payments as income under 45 CFR 232.20(a)(3)(v), the IV-D agency shall notify the IV-A agency whenever it discovers that directly received payments are being, or have been, retained; or

(ii) In States that do not implement the IV-A State plan requirements to

count retained support payments as income to meet need, the IV-D agency shall recover the retained support payments. This recovery by the IV-D agency shall be carried out in accordance with the standards for program operations provided in § 303.80 of this chapter.

(b) Upon receiving notice from the IV-A or IV-E agency that there has been a claim of good cause under § 232.40 of this title, the IV-D agency will suspend all activities to establish paternity or secure support until notified of a final determination by the IV-A or IV-E agency.

(c) The IV-D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV-A or IV-E agency that there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV-A or IV-E agency that support enforcement may proceed without the participation of the caretaker or other relative. If there has been such a determination, the IV-D agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking.

(Approved by the Office of Management and Budget under control number 0960-0385)

(50 FR 19047, May 9, 1985, as amended at 51 FR 25528, July 15, 1986; 51 FR 37731, Oct. 24, 1986)

§ 302.32 Support payments to the IV-D agency.

The State plan shall provide that:

(a) In any case in which support payments are collected for a recipient of aid under the State's title IV-A plan with respect to whom an assignment under § 232.11 is effective, such payments shall be made to the IV-D agency and shall not be paid directly to the family.

(b) As soon as possible but not later than 30 days after the end of a month, the IV-D agency will inform the agency administering the State's title IV-A plan of the amount of the collection which represents payment on the required support obligation for that

month as determined in § 302.51(a). Upon being informed of this amount, the IV-A agency will determine if such amount is sufficient to make the family ineligible for an assistance payment pursuant to the State's IV-A plan (See § 232.20 of Chapter II of this title). If such amount is sufficient to make the family ineligible for an assistance payment, the IV-A agency will notify the IV-D agency and the IV-D agency will distribute the amount collected pursuant to § 302.51 of this part. The IV-D agency will notify the family that it will continue to provide services pursuant to § 302.51(e)(1) of this part.

(c) If the IV-A agency determines that the amount of the collection which represents payment on the required support obligation for the month does not make the family ineligible for an assistance payment, or if a hearing is requested pursuant to § 205.10 of this title, the IV-A agency will notify the IV-D agency of such fact and the IV-D agency will distribute such amount pursuant to § 302.51 of this part.

(d) To the extent any amount collected in a month includes payment on required support obligations for past months, that portion of such amount will be distributed by the IV-D agency pursuant to § 302.51(b) (4) and (5) of this part.

(e) Support collected in a month after any month in which the support collected makes the family ineligible for an assistance payment (pursuant to § 232.20 of this title) but prior to or in the month in which the family receives its last assistance payment, shall be used to reimburse the State for any assistance paid in such months with any excess being paid to the family. This provision will not apply when a hearing is requested pursuant to § 205.10 of this title. In these cases, when the hearing results in a determination that the family was ineligible for an assistance payment, the IV-D agency will determine the amount by which the entire support collection for a month that the family would have received pursuant to paragraph (b) of this section exceeds the amount the family actually received for a month as an assistance payment and pursu-

ant to § 302.51. Such excess shall be paid to the family. If the family is determined to be eligible, distribution will continue to be made pursuant to § 302.51.

(Approved by the Office of Management and Budget under control number 0960-0385)

(40 FR 27159, June 28, 1975, as amended at 47 FR 57281, Dec. 23, 1982; 49 FR 22289, May 29, 1984; 50 FR 19048, May 9, 1985; 51 FR 37731, Oct. 24, 1986)

§ 302.33 Individuals not otherwise eligible for paternity and support services.

(a) *Availability of services.* The State plan must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving assistance under the Aid to Families with Dependent Children (AFDC) program who files an application for the services with the IV-D agency. In an interstate case, only the initiating State may require an application under this section.

(b) *Definitions.* For purposes of this section:

"Applicant's income" means the disposable income available for the applicant's use under State law.

(c) *Application fee.* (1) Until October 1, 1985, the State plan may provide for an application fee to be charged each individual who applies for services under this section. If the State elects to charge a fee, the State plan shall specify either:

(i) A flat dollar amount not to exceed \$25 to be charged each applicant; or

(ii) A fee schedule to be used to determine the fee to be charged each applicant. Such fee schedule will be based on each applicant's income and will be designed so as not to discourage the application for such services by those most in need of them.

(2) Beginning October 1, 1985, the State plan must provide that an application fee will be charged for each individual who applies for services under this section. Under this paragraph:

(i) The State shall collect the application fee from the individual applying for IV-D services or pay the application fee out of State funds.

fect the value of the services rendered, or the amount of time given to the agency.

[34 FR 1319, Jan. 28, 1969]

§ 225.2 State plan requirements.

The State plan for financial assistance programs under titles I, X, XIV, or XVI (AABD) of the Social Security Act for Guam, Puerto Rico and the Virgin Islands or for child welfare services under title IV-B of the Act must:

(a) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(1) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan for financial assistance under title I, X, XIV, or XVI (AABD), of recipients; And will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives;

(2) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(3) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, pre-service and in-service training and educational leave with pay, progress to positions of increasing responsibility and reward;

(4) An organized training program, supervision, and supportive services for subprofessional staff; and

(5) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional

staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

(b) Provide for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency and for that purpose provide for:

(1) A position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions;

(2) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(3) A program for organized training and supervision of such volunteers;

(4) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(5) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is adequate for the achievement of the agency's service goals.

[34 FR 1320, Jan. 28, 1969, as amended at 41 FR 12015, Mar. 23, 1976; 42 FR 80586, Nov. 28, 1977; 45 FR 56886, Aug. 25, 1980; 51 FR 9204, Mar. 18, 1986]

§ 225.3 Federal financial participation.

Under the State plan for financial assistance programs under titles I, X, XIV, XVI (AABD) or for child welfare services under title IV-B of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

[61 FR 9204, Mar. 18, 1986]

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

(40 FR 27154, June 26, 1975)

Sec.

232.1 Scope.

232.2 Child support program; State plan requirements.

232.11 Assignment of rights to support.

232.12 Cooperation in obtaining support.

232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.

232.21 Computation of a supplemental payment when there is a support payment.

232.30 Cost of staff of special administrative units.

232.40 Claiming good cause for refusing to cooperate.

232.41 Determination of good cause for refusal to cooperate.

232.42 Good cause circumstances.

232.43 Proof of good cause claim.

232.44 Participation by the State IV-D agency.

232.45 Notice to the IV-D agency.

232.46 Granting or continuation of assistance.

232.47 Periodic review of good cause determination.

232.48 Record keeping in good cause.

232.49 Enforcement without the caretaker's cooperation.

APPENDIX A—MODEL TWO-PART GOOD-CAUSE NOTICE

AUTHORITY: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

§ 232.1 Scope.

This part implements provisions of titles IV-A and IV-D of the Social Security Act that are applicable only to the AFDC program and establishes other administrative and fiscal requirements.

(Sec. 1102, Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97-35, 96 Stat. 843)

[47 FR 5674, Feb. 5, 1982]

§ 232.2 Child support program; State plan requirements.

The State plan must specify that the State:

(a) Has in effect a plan approved under Part D of title IV of the Act; and

(b) Operates a child support program in conformity with such plan.

§ 232.11 Assignment of rights to support.

(a) The State plan must provide that:

(1) As a condition of eligibility for assistance, each applicant for or recipient of AFDC shall assign to the State the rights to support from any other person as such applicant or recipient may have:

(i) In his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving assistance; and

(ii) Which have accrued at the time such assignment is executed.

(2) If the relative with whom a child is living fails to comply with the requirements of paragraph (a)(1), (2), or (3) of this section, such relative shall be denied eligibility without regard to other eligibility factors.

(3) If the relative with whom a child is living is found to be ineligible for assistance because of failure to comply with the requirements of paragraph (a)(1), (2), or (3) of this section, any aid for which such child is eligible (determined without regard to the needs of the ineligible relative) will be provided the form of protective payments as described in § 234.66 of this chapter.

(4) For new applicants, the requirements of paragraph (a) of this section shall be effective August 1, 1975; and for current recipients, it shall be effective as determined by the State agency but not later than the time of the next redetermination of eligibility required by § 208.10(a)(9) of this chapter and in any event not later than February 1, 1976.

(b) An assignment by operation of State law which is substantially identical to the requirements of paragraph (a)(1) may be utilized in lieu of the assignment described in that paragraph.

(c) If there is a failure to execute an assignment pursuant to this section, the State may attempt to establish paternity and collect child support pursuant to appropriate State statutes and regulations.

[40 FR 27154, June 26, 1975, as amended at 40 FR 52376, Nov. 10, 1975]

§ 232.12 Cooperation in obtaining support.

The State plan must meet all requirements of this section.

(a) The plan shall provide that as a condition of eligibility for assistance, each applicant for or recipient of AFDC will be required to cooperate (unless good cause for refusing to do so is determined to exist in accordance with §§ 232.40 through 232.49 of this chapter) with the State in:

(1) Identifying and locating the parent of a child for whom aid is claimed;

(2) Establishing the paternity of a child born out of wedlock for whom aid is claimed;

(3) Obtaining support payments for the applicant or recipient and for a child for whom aid is claimed; and

(4) Obtaining any other payments or property due the applicant or recipient or the child.

(b) The plan shall specify that cooperate includes any of the following actions that are relevant to, or necessary for, the achievement of the objectives specified in paragraph (a) of this section:

(1) Appearing at an office of the State or local agency or the child support agency as necessary to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;

(2) Appearing as a witness at judicial or other hearings or proceedings;

(3) Providing information, or attesting to the lack of information, under penalty of perjury; and

(4) Paying to the child support agency any support payments received from the absent parent after an assignment under § 232.11 has been made. This includes support payments received in the current month and any amounts due to the IV-D agency

under the IV-D State plan provisions for recovery of retained direct support payments at 45 CFR 302.31(a)(3)(ii).

(c) The plan shall provide that, if the child support agency notifies the State or local agency of evidence of failure to cooperate, the State or local agency will act upon that information to enforce the eligibility requirements of this section.

(d) The plan shall provide that, if the caretaker relative fails to cooperate as required by paragraphs (a) and (b) of this section, the State or local agency will:

(1) Deny assistance to the caretaker relative without regard to other eligibility factors; and

(2) Provide assistance to the eligible child in the form of protective payments as described in § 234.60 of this chapter. Such assistance will be determined without regard to the needs of the caretaker relative.

(43 FR 2178, Jan. 18, 1978, as amended at 43 FR 45747, Oct. 3, 1978; 47 FR 43856, Oct. 5, 1982)

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.

(a) *Definition.* For purposes of this section, notwithstanding any other regulations in this chapter, support collections, monthly collections and support amounts for a month mean the assigned amount that the support enforcement agency collects from an absent parent or spouse on a monthly support obligation, less the disregarded sum under § 305.51(b)(1).

(b) The State plan must provide that in any case in which support payments are collected for a recipient of AFDC with respect to whom an assignment under § 232.11 is effective:

(1) Upon notification by the IV-D agency of the amount of a support collection, the IV-A agency will use such amount to review eligibility of the assistance unit under § 206.10(a)(9)(ii). This use of these amounts so collected shall not be later than the second month after the month in which the IV-A agency received a report of the monthly collections from the IV-D agency. In determining whether a support collection made by the State's IV-D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the IV-A agency will notify the family and the IV-D agency of the effective date of the family's ineligibility. The IV-D agency will treat the support collection that caused ineligibility in accordance with § 302.32. If such treatment does not make the family ineligible for an assistance payment, the assistance payment will be calculated without regard to such collection except that, when required under § 232.21 supplemental payments must be calculated and issued.

(2) Any payment received pursuant to § 302.51(b)(3) or (5) shall be treated as income in the month following the month to which the redetermination in paragraph (a)(1) of this section applies.

(c) From any amounts of assistance payments which are reimbursed by support collections made by the IV-D agency, the IV-A agency shall pay the Federal government its share of the collections made, after the incentive payments, if any, have been made pur-

suant to § 302.52 of Chapter III of this title.

(d) The State plan must provide that the IV-A agency, on behalf of the IV-D agency, will promptly pay to the family the sum disregarded under § 305.51(b)(1).

(Sec. 1102, Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97-35, 248, 95 Stat. 843, 96 Stat. 324)

(47 FR 5674, Feb. 5, 1982, as amended at 48 FR 28408, June 21, 1983; 49 FR 35599, Sept. 10, 1984; 61 FR 29229, Aug. 15, 1986)

§ 232.21 Computation of a supplemental payment when there is a support payment.

(a) The purpose of this section is to provide for the computation of a supplemental payment under section 402(a)(28) of the Social Security Act. When used in this section—

"Countable income" means the amount of the recipient's gross income that is used in the computation of the assistance payment after application of all disregards, including work-related expenses.

"Countable support payment" means the support collected on the current month's support obligation less an amount not in excess of the first \$50 collected on that obligation. It also means the excess payments paid to the recipient by the IV-D agency under 45 CFR 302.51(b)(3) and (5).

"Disposable income" means the sum of the assistance payment, and the countable income used in determining the amount of the payment.

"Arrearages" means all collections of past due support exclusive of those made through the Federal and State income tax refund offset.

(b) The State plan must provide that, if the redetermination under

§ 232.20 indicates that the support payment made on the current month's support obligation would not cause ineligibility, and the State permitted recipients during July 1976 to retain countable income without an equal reduction in their assistance payment, and it currently has such a policy in effect, a supplemental payment will be computed for the current month.

(1) The supplemental payment for a month shall equal the maximum portion of the total support collected in that month which would not reduce the assistance payment if paid directly to the family. In determining this amount, the State agency will—

(i) First consider income from sources other than the support collection; and

(ii) Include in the amount of support collected the maximum amount of any arrearages paid which would not cause ineligibility if paid directly to the family.

(2) The supplemental payment will be computed as follows:

(i) The State IV-A agency determines the assistance payment which would result from treating as income to the family the largest amount of the month's child support collection, including arrearages, that will not cause ineligibility. Using that assistance payment, and using that amount of the support collection as countable income, disposable income is computed.

(ii) The State agency then determines the amount of the assistance payment for which the family would be eligible if there were no support collection. Using that assistance payment, disposable income is again computed.

(iii) The supplemental payment is the amount of disposable income as computed in step (i) less the amount of disposable income as computed in step (ii).

(iv) Examples:

Example 1. The State computes the assistance payment by subtracting income from the need standard and pays the deficit or a maximum by family size, whichever is less: (All figures are assumed and do not include income from any other source.)

Step (i): Treating countable support payment as income. Subtract a countable support payment of \$100 from a need standard

of \$300. The deficit is \$200. Assume the State's maximum for this family size is \$150; therefore, the assistance payment would be \$150. The assistance unit would have a \$150 assistance payment and the \$100 countable support payment for a total disposable income of \$250.

Step (ii): Not treating countable support payment as income. There is no income to subtract from the need standard. Thus the assistance payment would be the maximum of \$150 for this family size, which would also be the disposable income.

Step (iii): Taking the difference. The supplemental payment is the difference between the disposable income computed under steps (i) and (ii), \$250 minus \$150, or \$100.

Example 2. The State computes the assistance payment by subtracting income from a reduced need standard and pays the deficit or a maximum by family size, whichever is less. Assume a need standard of \$400, a rateable reduction of 70%, and a maximum assistance payment of \$200. Also assume a \$500 total child support collection for the month, \$200 of which is the current month's support obligation. The State's minimum payment is \$5.

Step (i): Treating countable support payments as income. Determine the largest part of the \$500 child support collection which would not cause ineligibility if counted as income to the assistance unit. This would be \$279 because the State's reduced need standard is \$280 (70% of \$400) and any amount of income over \$279 would make the family ineligible. The deficit would be \$1. The assistance unit would not receive an assistance payment, however, they would have the \$279 support payment as disposable income. No assistance payment is made but the family remains eligible under § 232.20(a)(3)(viii)(C) and (D).

Step (ii): Not treating countable support payment as income. There is no income to subtract from the reduced need standard, thus the assistance payment would be the maximum of \$200 for this family size, which would also be the disposable income.

Step (iii): Taking the difference. The supplemental payment is the difference between the disposal incomes computed under steps (i) and (ii), \$280 minus \$200, or \$80.

(c) A supplemental payment under this section may either be added to the assistance payment for which the unit is otherwise eligible, to make a new total assistance payment for the month or be issued separately. In the examples in paragraph (b)(2)(iv) of this section, the new total assistance payments would be \$250 (\$150 plus

\$100) in Example 1, and \$280 (\$200 plus \$80) in Example 2.

(61 FR 29229, Aug. 16, 1986)

§ 232.30 Cost of staff of special administrative units.

Cost of staff of Special Administrative Units (SAUs) providing social and supportive services under the Work Incentive (WIN) program is subject to FFP under title IV-A in all jurisdictions, pursuant to section 403(d) of the Act and 45 CFR 224.14(d). Cost of staff who solely perform other social service functions is not eligible for FFP under title IV-A, except in Puerto Rico, the Virgin Islands, and Guam.

(41 FR 37781, Sept. 8, 1976, as amended at 47 FR 17508, Apr. 23, 1982)

§ 232.40 Claiming good cause for refusing to cooperate.

(a) *Opportunity to claim good cause.* The plan shall provide that an applicant for, or recipient of, AFDC will have the opportunity to claim good cause for refusing to cooperate as required by § 232.12.

(b) *Notice to applicant or recipient.*

(i) The plan shall provide that: (i) Prior to requiring cooperation under § 232.12, the State or local agency will notify the applicant or recipient of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination;

(ii) The notice will be in writing, with a copy furnished to the applicant or recipient; and

(iii) The applicant or recipient and the caseworker will acknowledge that the applicant or recipient received the notice by signing and dating a copy of the notice, which will be placed in the case record.

(2) The notice may be in two parts. If the State elects a two part notice:

(i) The first notice shall: (A) Advise the applicant or recipient of the potential benefits the child may derive from the establishment of paternity and securing support;

(B) Advise the applicant or recipient that by law, cooperation in establish-

ing paternity and securing support is a condition of eligibility for AFDC;

(C) Advise the applicant or recipient of the sanction provided by § 232.12 for refusal to cooperate without good cause;

(D) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the State or local agency determines, in accordance with this section, that there is good cause, the applicant or recipient will be excused from the cooperation requirement; and

(E) Advise the applicant or recipient that upon request, or following a claim of good cause, the agency will provide further notice with additional details concerning good cause.

(ii) The second notice, which will be provided promptly upon request of the applicant or recipient or following a claim of good cause, shall:

(A) Indicate that the applicant or recipient must provide corroborative evidence of a good cause circumstance (as specified in § 232.43 (b) and (f)) and must, when requested, furnish sufficient information to permit the State or local agency to investigate the circumstances;

(B) Inform the applicant or recipient that upon request, the State or local agency will provide reasonable assistance in obtaining the corroborative evidence;

(C) Inform the applicant or recipient that on the basis of the corroborative evidence supplied and the agency's investigation if necessary, the State or local agency will determine whether cooperation would be against the best interests of the child for whom support would be sought;

(D) List the circumstances (as specified in § 232.42) under which cooperation may be determined to be against the best interests of the child;

(E) Inform the applicant or recipient that the State Child Support Enforcement agency may review the State or local agency's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause; and

(F) As applicable, (see § 232.49) inform the applicant or recipient that

either: The State Child Support Enforcement agency will not attempt to establish paternity and collect support in those cases where the applicant or recipient is determined to have good cause for refusing to cooperate; or the State Child Support Enforcement agency may attempt to establish paternity and collect support in those cases where the State or local agency determines that this can be done without risk to the applicant or recipient if done without their participation.

(3) The State or local agency may, at its option, provide a single combined notice that contains all of the elements in paragraphs (b) (2) (i) and (ii) of this section.

(4) Appendix A to this Part 232 is a suggested two part notice format that meets the requirements of this section.

(c) *Requirements upon applicant or recipient.* (i) The plan shall provide that an applicant for, or recipient of, AFDC who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Such applicant or recipient will be required to:

(i) Specify the circumstances (see § 232.42) that the applicant or recipient believes provide sufficient good cause for not cooperating.

(ii) Corroborate the good cause circumstances in accordance with § 232.43; and

(iii) If requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to § 232.43(g).

(2) The plan shall provide that if the requirements of paragraph (c)(1) of this section are not met, the State or local agency shall on that basis determine that good cause does not exist.

[43 FR 45747, Oct. 3, 1978]

§ 232.41 Determination of good cause for refusal to cooperate.

The plan shall provide that:

(a) For each applicant for or recipient of AFDC who claims to have good cause, the State or local agency will determine, in accordance with §§ 232.40, 232.42 and 232.43, whether good cause exists.

(b) The State or local agency's final determination that good cause does, or does not exist will:

(1) Be in writing;

(2) Contain the agency's findings and basis for determination; and

(3) Be entered into the AFDC case record.

(c) The State or local agency's determination of whether or not good cause exists will be made within a State established time standard that does not exceed 45 days from the day the good cause claim is made. The State or local agency may exceed this time standard only where the case record documents that the agency needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corroborative evidence within the period required by § 232.43(b).

(d) If the State or local agency determines that good cause does not exist:

(1) The applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in imposition of the sanction provided by § 232.12.

[43 FR 45740, Oct. 3, 1978]

§ 232.42 Good cause circumstances.

(a) *Circumstances under which cooperation may be "against the best interests of the child."* The plan shall provide that the State or local agency will determine that cooperation in establishing paternity and securing support is against the best interests of the child only if:

(i) The applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(i) Physical harm to the child for whom support is to be sought;

(ii) Emotional harm to the child for whom support is to be sought;

(iii) Physical harm to the parent or caretaker relative with whom the child is living which reduces such person's capacity to care for the child adequately;

(iv) Emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces such person's capacity to care for the child adequately; or

(2) At least one of the following circumstances exists, and the State or local agency believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(i) The child for whom support is sought was conceived as a result of incest or forcible rape;

(ii) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(iii) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than 3 months.

(b) *Physical harm and emotional harm defined.* Physical harm and emotional harm must be of a serious nature in order to justify a finding of good cause under paragraph (a)(1) of this section. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

(c) *Special considerations related to emotional harm.* The plan shall provide that, for every good cause determination which is based in whole or part upon the anticipation of emotional harm to the child, the parent or the caretaker relative, as provided for in paragraphs (a)(1) (ii) and (iv) of this section, the State or local agency will consider the following:

(1) The present emotional state of the individual subject to emotional harm;

(2) The individual's emotional health history of the individual subject to emotional harm;

(3) Intensity and probable duration of the emotional impairment;

(4) The degree of cooperation to be required; and

(5) The extent of involvement of the child in the paternity establishment or

support enforcement activity to be undertaken.

[43 FR 45740, Oct. 3, 1978]

§ 232.43 Proof of good-cause claim.

The plan shall provide that:

(a) The State or local agency will make a good cause determination based on the corroborative evidence supplied by the applicant or recipient only after it has examined the evidence and found that it actually verifies the good-cause claim.

(b) The applicant or recipient who claims good cause must provide corroborative evidence within 20 days from the date the claim was made. In exceptional cases where the State or local agency determines the applicant or recipient requires additional time because of the difficulty of obtaining the corroborative evidence, the agency shall allow a reasonable additional period of time upon approval by supervisory personnel.

(c) A good-cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought;

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being

assisted by the agency to resolve the issue of whether to keep the child or relinquish him for adoption; and

(8) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good-cause claim.

(d) If after examining the corroborative evidence submitted by the applicant or recipient, the State or local agency wishes to request additional corroborative evidence which is needed to permit a good-cause determination, the agency will:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed; and

(2) Specify the type of document which is needed.

(e) Upon request, the State or local agency will:

(1) Advise the applicant or recipient how to obtain the necessary documents; and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

(f) Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified and defined in § 232.42 (a) and (b), and corroborative evidence is not submitted in support of the claim:

(1) The State or local agency will investigate the good-cause claim when the agency believes that:

(i) The claim is credible without corroborative evidence; and

(ii) Corroborative evidence is not available.

(2) Good cause will be found if the claimant's statement and the investigation which is conducted satisfies the agency that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by supervisory personnel and the agency's findings will be recorded in the case record.

(g) The State or local agency may further verify the good-cause claim if the applicant's or recipient's statement of the claim required by § 232.40(c)(1)(i), together with the cor-

roborative evidence do not provide sufficient basis for making a determination. When the State or local agency determines that it is necessary, the agency may conduct an investigation of good-cause claims to determine that good cause does or does not exist.

(h) If it conducts an investigation of a good-cause claim, the State or local agency will:

(1) Contact the absent parent or putative father from whom support would be sought if such contact is determined to be necessary to establish the good-cause claim; and

(2) Prior to making such necessary contact, notify the applicant or recipient to enable the applicant or recipient to:

(i) Present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;

(ii) Withdraw the application for assistance or have the case closed; or

(iii) have the good-cause claim denied.

[43 FR 45749, Oct. 3, 1978]

§ 232.44 Participation by the State IV-D Agency.

The plan shall provide that:

(a) Prior to making a final determination of good cause for refusing to cooperate, the State or local agency will:

(1) Afford the IV-D agency the opportunity to review and comment on the findings and basis for the proposed determination; and

(2) Consider any recommendation from the IV-D agency.

(b) The State or local agency will give the IV-D agency the opportunity to participate in any hearing (under § 205.10 of this chapter) that results from an applicant's or recipient's appeal of any agency action under §§ 232.40 through 232.49.

[43 FR 45749, Oct. 3, 1978]

§ 232.45 Notice to the IV-D Agency.

The plan shall provide that:

(a) If the notice, required by § 235.70 of this chapter, has previously been provided to the IV-D agency, the State or local agency will promptly

report to the IV-D agency that good cause has been claimed;

(b) The State or local agency will promptly report to the IV-D agency all cases in which it has determined that there is good cause for refusal to cooperate and if applicable, its determination whether or not child support enforcement may proceed without the participation of the caretaker relative; and

(c) The State and local agency will promptly report to the IV-D agency all cases in which it has determined that there is not good cause for refusal to cooperate.

[43 FR 45749, Oct. 3, 1978]

§ 232.46 Granting or continuation of assistance.

The plan shall provide that the State or local agency will not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements of §§ 232.40(c) and 232.43 to furnish corroborative evidence and information.

[43 FR 45750, Oct. 3, 1978]

§ 232.47 Periodic review of good cause determination.

The plan shall provide that the State or local agency will:

(a) Periodically review, not less frequently than at each redetermination of eligibility required by § 206.10(a)(6) of this chapter, those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change; and

(b) If it determines that circumstances have changed such that good cause no longer exists, it will rescind its findings and proceed to enforce the requirements of § 232.12 of this chapter.

[43 FR 45750, Oct. 3, 1978]

§ 232.48 Record keeping in good cause.

The plan shall provide that the State will maintain records of the activities under this section that will make it possible to submit to the Department, upon request, data concerning:

(a) The total number of cases in which the applicant or recipient claimed to have good cause for refusing to cooperate;

(b) The number of cases in which the claim was made without corroborative evidence under the provisions of § 232.43(f);

(c) The total number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate;

(d) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate without corroborative evidence under the provisions of § 232.43(f);

(e) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate based solely on an examination of the corroborative evidence supplied by the applicant or recipient with no investigation;

(f) The number of cases where good cause was claimed by an applicant prior to receiving AFDC and the final determination that good cause did not exist was made after the applicant was determined to be eligible for AFDC;

(g) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate but there was a determination pursuant to § 232.49 that child support enforcement may proceed without the participation of the caretaker relative; and

(h) For those cases in which good cause was found, which of the circumstances specified in § 232.42 was found to exist.

[43 FR 45750, Oct. 3, 1978]

§ 232.49 Enforcement without the caretaker's cooperation.

The State plan may provide that:

(a) If the State or local agency makes a determination that good cause exists it will also make a determination of whether or not child support enforcement could proceed without risk of harm to the child or caretaker relative if the enforcement or collection activities did not involve their participation;

(b) This determination will be in writing, contain the agency's findings

and basis for determination, and be entered into the AFDC case record;

(c) If the IV-A agency excuses cooperation but determines that the IV-D agency may proceed to establish paternity or enforce support, it will notify the applicant or recipient to enable such individual to withdraw their application for assistance or have the case closed; and

(d) Prior to making a determination under this paragraph, the State or local agency will afford the IV-D agency an opportunity to review and comment on the findings and basis for the proposed determination and consider any recommendation from the IV-D agency.

[43 FR 45750, Oct. 3, 1978]

APPENDIX A—MODEL TWO-PART GOOD CAUSE NOTICE

This suggested two-part notice format meets the notice requirements of § 232.40(b)(2). The first notice should be provided prior to requiring the applicant's or recipient's cooperation. The second notice should be promptly provided if the applicant or recipient so requests or following a claim of good cause. Receipt of the notice will be acknowledged by the applicant's or recipient's and the worker's signatures. The signed copy should be placed in the AFDC case record with one copy retained by the applicant or recipient.

Before being used by a State this model should be adapted by substituting the appropriate agencies' names.

NOTICE OF REQUIREMENT TO COOPERATE AND RIGHT TO CLAIM GOOD CAUSE FOR REFUSAL TO COOPERATE IN CHILD SUPPORT ENFORCEMENT

BENEFITS OF CHILD SUPPORT ENFORCEMENT

Your cooperation in the child support enforcement process may be of value to you and your child because it might result in the following benefits:

- Finding the absent parent;
- Legally establishing your child's paternity;
- The possibility that support payments might be higher than your welfare grant, and
- The possibility that you and your children may obtain rights to future social security, veterans, or other government benefits.

WHAT IS MEANT BY COOPERATION?

The law requires you to cooperate with the welfare and child support agencies to get any support owed to you and any of the children for whom you want AFDC, unless you have good cause for not cooperating.

In cooperating with the welfare or child support agency, you may be asked to do one or more of the following things:

- Name the parent of any child applying for or receiving AFDC, and give information you have to help find the parent;
- Help determine legally who the father is if your child was born out of wedlock;
- Give help to obtain money owed to you or the children receiving AFDC; and
- Pay to the State any money which is given directly to you by the absent parent (you will continue to get your full AFDC grant from the State).

You may be required to come to the welfare office, child support office, or court to sign papers or give necessary information.

WHAT IS MEANT BY GOOD CAUSE?

You may have good cause not to cooperate in the State's efforts to collect child support. You may be excused from cooperating if you believe that cooperation would not be in the best interest of your child, and if you can provide evidence to support this claim.

IF YOU DO NOT COOPERATE AND YOU DO NOT HAVE GOOD CAUSE

- You will be ineligible for AFDC.
- Your children will still be eligible for AFDC for their own needs. Your children's grant will go to another person, called a "protective payee."

HOW AND WHEN YOU MAY CLAIM GOOD CAUSE

• If you want to claim good cause, you must tell a worker that you think you have good cause. You can do this at any time you believe you have good cause not to cooperate.

• If you claim "good cause" you must be given another notice. This second notice will explain the circumstances under which the Welfare Agency may find good cause, and the type of evidence or other information the Welfare Agency needs to decide your claim. You may also ask for this second notice to help you decide whether or not to claim good cause.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

(Signature of applicant/recipient)

(Date)

I have provided the applicant/recipient with a copy of this notice.

(Signature of worker)

(Date)

SECOND NOTICE OF RIGHT TO CLAIM GOOD CAUSE FOR REFUSAL TO COOPERATE IN CHILD SUPPORT ENFORCEMENT

GOOD CAUSE CIRCUMSTANCES

You may claim to have good cause for refusing to cooperate if you believe that such cooperation would not be in the best interests of your child. The following are circumstances under which the Welfare Agency may determine that you have good cause for refusing to cooperate:

- Cooperation is anticipated to result in serious physical or emotional harm to the child;
- Cooperation is anticipated to result in physical or emotional harm to you which is so serious it reduces your ability to care for the child adequately;
- The child was born after forcible rape or incest;
- Court proceedings are going on for adoption of the child; or
- You are working with an agency helping you to decide whether to place the child for adoption.

PROVING GOOD CAUSE

It is your responsibility to:

- Provide the Welfare Agency with the evidence needed to determine whether you have good cause for refusing to cooperate (if your reason for claiming good cause is your fear of physical harm and it is impossible to obtain evidence, the Welfare Agency may still be able to make a good cause determination after an investigation of your claim.)

• Give the necessary evidence to the agency within 20 days after claiming good cause. The Welfare Agency will give you more time only if it determines that more than 20 days are required because of the difficulty in obtaining the evidence.

The Welfare Agency may:

- Decide your claim based on the evidence which you give to the agency, or
- Decide to conduct an investigation to further verify your claim. If the Welfare Agency decides an investigation is needed, you may be required to give information, such as the absent parent's name and address, to help the investigation. The agency

will not contact the absent parent without first telling you.

NOTE: If you are an applicant for assistance, you will not receive your share of the grant until you have given the agency the evidence needed to support your claim, and, if requested, the information needed to permit an investigation of your claim.

EXAMPLES OF ACCEPTABLE EVIDENCE

The following are examples of acceptable kinds of evidence the Welfare Agency can use in determining if good cause exists.

If you need help in getting a copy of any of the documents, ask the Welfare Agency. The Welfare Agency will give you reasonable assistance which is needed to help you obtain the necessary documents to support your claim.

• Birth certificates, or medical or law enforcement records, which indicate that the child was conceived as the result of incest or forcible rape;

• Court documents or other records which indicate that legal proceedings for adoption are pending in court;

• Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the alleged or absent father might inflict physical or emotional harm on you or the child;

• Medical records which indicate emotional health history and present health status of you or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of you or the child;

• A written statement from a public or private agency confirming that you are being assisted in resolving the issue of whether to keep or give up the child for adoption; and

• Sworn statements from individuals, including friends, neighbors, clergymen, social workers, and medical professionals who might have knowledge of the circumstances providing the basis of your good cause claim.

CHILD SUPPORT AGENCY PARTICIPATION AND ENFORCEMENT

The Child Support Enforcement Agency may review the Welfare Agency's findings and the basis for a good cause determination in your case. If you request a hearing regarding this issue of good cause for refusing to cooperate, the Child Support Enforcement Agency may participate in that hearing.

The Notice must include one of the following statements, as applicable depending on the State plan option chosen. See § 232.49.

Option 1

If you are found to have good cause for not cooperating, the Child Support Enforcement Agency may attempt to establish paternity or collect support only if the Welfare Agency determines that this can be done without risk to you or your child. This will not be done without first telling you.

Option 2

If you are found to have good cause for not cooperating, the Child Support Enforcement Agency will not attempt to establish paternity or collect support.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

(Signature of applicant/recipient)

(Date)

I have provided the applicant/recipient with a copy of this notice.

(Signature of worker)

(Date)

[43 FR 45750, Oct. 3, 1978]

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

- Sec.
- 233.10 General provisions regarding coverage and eligibility.
 - 233.20 Need and amount of assistance.
 - 233.21 Budgeting methods for OA, AB, APTD, and AABD.
 - 233.22 Determining eligibility under prospective budgeting.
 - 233.23 When assistance shall be paid under retrospective budgeting.
 - 233.24 Retrospective budgeting; determining eligibility and computing the assistance payment in the initial one or two months.
 - 233.27 Retrospective budgeting; computing assistance payment after the initial two months.
 - 233.28 Retrospective budgeting; determining eligibility after the initial one or two months.

- Sec.
- 233.27 Supplemental payments under retrospective budgeting.
 - 233.28 Monthly reporting.
 - 233.29 How monthly reports are treated and what notices are required.
 - 233.32 Payment and budget months (AFDC).
 - 233.33 Determining eligibility prospectively for all payment months (AFDC).
 - 233.34 Computing the assistance payment in the initial one or two months (AFDC).
 - 233.35 Computing the assistance payment under retrospective budgeting after the initial one or two months (AFDC).
 - 233.38 Monthly reporting (AFDC).
 - 233.38 Valves of monthly reporting and retrospective budgeting requirements; AFDC.
 - 233.37 How monthly reports are treated and what notices are required (AFDC).
 - 233.39 Age.
 - 233.40 Residence.
 - 233.50 Citizenship and allegiance.
 - 233.51 Eligibility of sponsored aliens.
 - 233.52 Overpayment to aliens.
 - 233.53 Support and maintenance assistance (including home energy assistance) in AFDC.
 - 233.60 Institutional status.
 - 233.70 Blindness.
 - 233.80 Disability.
 - 233.90 Factors specific to AFDC.
 - 233.100 Dependent children of unemployed parents.
 - 233.108 Denial of AFDC benefits to strikers.
 - 233.110 Foster care maintenance and adoption assistance.
 - 233.120 Emergency assistance to needy families with children.
 - 233.145 Expiration of medical assistance programs under titles I, IV-A, X, XIV and XVI of the Social Security Act.
- Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.
- § 233.10 General provisions regarding coverage and eligibility.
- (a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, or XVI, of the Social Security Act must:
- (1) Specify the groups of individuals, based on reasonable classifications, that will be included in the program, and all the conditions of eligibility that must be met by the individuals in the groups. The groups selected for inclusion in the plan and the eligibility conditions imposed must not exclude individuals or groups on an arbitrary or unreasonable basis, and must not

result in inequitable treatment of individuals or groups in the light of the provisions and purposes of the public assistance titles of the Social Security Act. Under this requirement:

- (i) A State shall impose each condition of eligibility required by the Social Security Act; and
- (ii) A State may:
 - (A) Provide more limited public assistance coverage than that provided by the Act only where the Social Security Act or its legislative history authorizes more limited coverage;
 - (B) Impose conditions upon applicants for and recipients of public assistance which, if not satisfied, result in the denial or termination of public assistance, if such conditions assist the State in the efficient administration of its public assistance programs, or further an independent State welfare policy, and are not inconsistent with the provisions and purposes of the Social Security Act.

(iii) There must be clarity as to what groups are included in the plan, and which are within, and which are outside, the scope of Federal financial participation.

(iv) Eligibility conditions must be applied on a consistent and equitable basis throughout the State.

(v) A plan under title XVI must have the same eligibility conditions and other requirements for the aged, blind, and disabled, except as otherwise specifically required or permitted by the Act.

(vi) Eligibility conditions or agency procedures or methods must not preclude the opportunity for an individual to apply and obtain a determination of eligibility or ineligibility.

(vii) Methods of determining eligibility must be consistent with the objective of assisting all eligible persons to qualify.

(2) Provide that the State agency will establish methods for identifying the expenditures for assistance for any groups included in the plan for whom Federal financial participation in assistance may not be claimed.

(3) In addition, a State plan under title IV-A, X, XIV, or XVI of the Act, must: Provided that no aid or assistance will be provided under the plan to an individual with respect to a

period for which he is receiving aid or assistance under a State plan approved under any other of such titles or under title I of the Act.

(b) *Federal financial participation*

(1) The provisions which govern Federal financial participation in assistance payments are set forth in the Social Security Act, throughout this chapter, and in other policy issuances of the Secretary. Where indicated, State plan provisions are prerequisite to Federal financial participation with respect to the applicable group and payments. State plan provisions on need, the amount of assistance, and eligibility determine the limits of Federal financial participation. Federal financial participation is excluded from assistance payments in which the State refuses to participate because of the failure of a local authority to apply such State plan provisions.

(2) The following is a summary statement regarding the groups for whom Federal financial participation is available. (More detailed information is given elsewhere.)

(i) OAA—for needy individuals under the plan who are 65 years of age or older.

(ii) AFDC—for:

- (a) Needy children under the plan who are:

- (1) Under the age of 18, or age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19;

- (2) Deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or unemployment of a principal earner, and

- (3) Living in the home of a parent or of certain relatives specified in the Act.

- (b) The parent or other caretaker relative of a dependent child and, in certain situations, the parent's spouse.

(iii) AB—for needy individuals under the plan who are blind.

(iv) APTD—for needy individuals under the plan who are 18 years of age or older and permanently and totally disabled.

(v) AABD—for needy individuals under the plan who are aged, blind, or

Chapter 20. Parent and Child.

Section 50. Legitimation by subsequent marriage, acknowledgment in writing or adjudication

Sec. 25.20.010. Age of majority.

NOTES TO DECISIONS

Quoted in *Dowling v. Dowling*, Sup. Ct. Op. No. 2809 (File No. 6454), 679 P.2d 480 (1984).

Stated in *Lawrence v. Lawrence*, Sup. Ct. Op. No. 3044 (File No. S-652), 718 P.2d 142 (1986).

Sec. 25.20.030. Duty of parent and child to maintain each other.

NOTES TO DECISIONS

A parent is obligated both by statute and at common law to support his or her children, even in the absence of a court order of support. *Matthews v. Matthews*, Sup. Ct. Op. No. 3206 (File No. S-1693), 739 P.2d 1298 (1987).

A parent's duty of support encompasses a duty to reimburse other persons who provide the support the parent owes, belongs to whomever supported the children, and is simply an action on a debt. However, when a custodial parent seeks a modification of a divorce decree which neglected to address either child custody or child support and also seeks reimbursement for past child support expenditures, he or she may join the claims,

and bring both by motion in the original divorce action. *Matthews v. Matthews*, Sup. Ct. Op. No. 3206 (File No. S-1693), 739 P.2d 1298 (1987).

Applicability of criminal nonsupport statute. — The criminal nonsupport statute, AS 11.51.120, does not extend beyond those individuals expressly made legally responsible for the support of a child by this section and AS 47.25.230; it does not apply to stepparents regardless of their actual relationship to the stepchildren. *Olp v. State*, Ct. App. Op. No. 719 (File No. A-1812), 738 P.2d 1117 (1987).

Quoted in *Dowling v. Dowling*, Sup. Ct. Op. No. 2809 (File No. 6454), 679 P.2d 480 (1984).

Sec. 25.20.050. Legitimation by subsequent marriage, acknowledgment in writing or adjudication. (a) A child born out of wedlock is legitimated and considered the heir of the putative parent when (1) the putative parent subsequently marries the undisputed parent of the child; (2) the putative parent acknowledges, in writing, being a parent of the child; or (3) the putative parent is judged by a superior court, upon sufficient evidence, to be a parent of the child. Acceptable evidence includes, but is not limited to, evidence that the putative parent's conduct and bearing toward the child, either by word or act, indicates that the child is the child of the putative parent. That conduct may be construed by the court to constitute evidence of parentage. When indefinite, ambiguous or uncertain terms are used, the court may use extrinsic evidence to show the putative parent's intent.

(b) The Bureau of Vital Statistics, as custodian of the original certificates of birth of all persons born in the state, is designated as the

depository for such acknowledgment and adjudication. The acknowledgment or adjudication shall be forwarded to the bureau in accordance with appropriate regulations of the bureau, and shall be noted on and filed with the corresponding original certificate of birth.

(c) In case of the Alaska birth of any child out of wedlock and the legitimation of the child in accordance with this section, at the written request of the parents, or either of them or of the legal guardian, or of the person when of legal age, the Bureau of Vital Statistics shall prepare and place on file a substitute birth certificate, in accordance with the laws and regulations of the bureau pertaining to new certificates of this type.

(d) The results of a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure shall be admitted and weighed in conjunction with other evidence in determining the statistical probability that the putative parent is a legal parent of the child in question. However, a scientifically accepted procedure that establishes a probability of parentage at 95 percent or higher creates a presumption of parentage that may be rebutted only by clear and convincing evidence. (§ 21-3-3 ACLA 1949; am § 1 ch 57 SLA 1951; am § 1 ch 115 SLA 1957; am § 1 ch 19 SLA 1960; am §§ 3, 4 ch 144 SLA 1984)

Effect of amendments. — The 1984 amendment in subsection (a), reworded subsection (a) to provide sex-neutral terminology and added subsection (d).

Opinions of attorney general. — On p. 23 of the main pamphlet, the cite for the note beginning "Necessarily involved" should be 1962 Op. Att'y Gen. No. 13.

NOTES TO DECISIONS

Establishment-preclusion order on question of paternity. — The superior court had discretion to enter an establishment-preclusion order on the question of paternity, where the alleged father will

fully violated the court's order by providing false evidence. *Dade v. State, Child Support Enforcement Div. ex rel. Lovett*, Sup. Ct. Op. No. J126 (File No. S-1194), P.2d (1986).

Sec. 25.20.060. Custody of the child.

NOTES TO DECISIONS

Joint custody. — The mere existence of a custody agreement is not sufficient evidence of a couple's ability to cooperate to warrant joint custody. *Wolf v. Wolf*, Sup. Ct. Op. No. 3219 (File No. S-1707), P.2d (1987).

There was ample evidence in the record to support a trial court's finding that the parties could not cooperate to the extent necessary to make a joint custody arrangement work, despite the father's argument, that both his and his wife's joint concern for their son's developmental

problems, a court-ordered pretrial custody arrangement, and an earlier custody agreement evinced their ability to cooperate for the benefit of the children. *Wolf v. Wolf*, Sup. Ct. Op. No. 3219 (File No. S-1707), P.2d (1987).

Quoted in *S.N.E. v. R.L.B.*, Sup. Ct. Op. No. 2940 (File No. S-426), 699 P.2d 875 (1985); *McClain v. McClain*, Sup. Ct. Op. No. 3031 (File No. S-900), 716 P.2d 381 (1986); *McDanold v. McDanold*, Sup. Ct. Op. No. 3058 (File No. S-915), 718 P.2d 467 (1986).

Collateral references. — Responsibility of noncustodial divorced parent to pay for, or contribute to, costs of child's college education. 99 ALR3d 322.

Sec. 25.20.045. Legitimacy of children conceived by artificial insemination. A child, born to a married woman by means of artificial insemination performed by a licensed physician and consented to in writing by both spouses, is considered for all purposes the natural and legitimate child of both spouses. (§ 1 ch 122 SLA 1975)

Revisor's notes. — Formerly AS 20.20.010. Renumbered in 1982. **Collateral references.** — 10 Am.Jur.2d. Bastards, § 1; 59 Am.Jur.2d. Parent and Child, § 2. 2 C.J.S. Adoption of Persons, § 2. Legal consequences of human artificial insemination. 25 ALR3d 1103.

Sec. 25.20.050. Legitimation by subsequent marriage, acknowledgment in writing or adjudication. (a) A child born out of wedlock is legitimated and considered the heir of the father who (1) subsequently marries the mother of the child; (2) acknowledges in writing paternity of the child; or (3) is judged to be the father by a superior court, upon sufficient evidence. Acceptable evidence includes, but is not limited to, evidence that the alleged father's conduct and bearing toward the child, either by word or act, indicates that the child is the child of the alleged father. That conduct may be construed by the court to constitute evidence of paternity. Extrinsic evidence may be used by the court to show intent when indefinite, ambiguous, or uncertain terms are used.

(b) The Bureau of Vital Statistics, as custodian of the original certificates of birth of all persons born in the state, is designated as the depository for such acknowledgment and adjudication. The acknowledgment or adjudication shall be forwarded to the bureau in accordance with appropriate regulations of the bureau, and shall be noted on and filed with the corresponding original certificate of birth.

(c) In case of the Alaska birth of any child out of wedlock and the legitimation of the child in accordance with this section, at the written request of the parents, or either of them or of the legal guardian, or of the person when of legal age, the Bureau of Vital Statistics shall prepare and place on file a substitute birth certificate, in accordance with the laws and regulations of the bureau pertaining to new certificates of this type. (§ 21-3-3 ACLA 1949; am § 1 ch 57 SLA 1951; am § 1 ch 115 SLA 1957; am § 1 ch 19 SLA 1960)

Opinions of attorney general. — This section allows a substitute birth certificate when there is legitimization of the child by intermarriage (providing proof is offered that the marriage was between the parents of the child), as well as by court adjudication alone. 1959 Op. Att'y Gen., No. 29. Only the third method of legitimation is specifically vested in the court. 1962 Op. Att'y Gen., No. 13. By implication, the Bureau of Vital Sta-

tistics has the power and duty to make its own determination of the fulfillment of the first two conditions of legitimation. 1962 Op. Att'y Gen., No. 13.

Necessarily involved in legitimation is the administrative determination of illegitimacy at the time an original birth certificate is filed. 1962 Op. Att'y Gen., No. 3.

For application of presumption of legitimacy to validity of original birth certificate, see 1962 Op. Att'y Gen., No. 13.

For right of child to legitimation procedures, see 1962 Op. Att'y Gen., No. 13.

An admission under oath or in writing of paternity, in a foreign action, could be recognized as satisfying the requirement of subdivision (a)(2) of this section that a father acknowledge his paternity of the child as a method of legitimation. 1962 Op. Att'y Gen., No. 13.

The bureau should recognize foreign marriages as sufficient under subdivision (a)(1) of this section to establish a subsequent intermarriage as a basis for legitimation. 1962 Op. Att'y Gen., No. 13.

For suggested standards of proof to

establish that the man subsequently marrying a mother is the father of her child, for purposes of issuing a substitute birth certificate legitimating the child under subdivision (a)(1), see 1962 Op. Att'y Gen., No. 13.

For discussion of what constitutes a sufficient written acknowledgment of paternity under subdivision (a)(2), see 1962 Op. Att'y Gen., No. 13.

Erroneous entries in the original birth certificates of children born to unwed mothers naming the father are significant to show a mother's acknowledgment of paternity corroborating the effect of subsequent intermarriage or written acknowledgment of paternity by the father, if it can be established that the entry was made by the mother or at her request, but such entries have no other evidentiary value. 1962 Op. Att'y Gen., No. 13.

Legitimation may be effected by the bureau even though the acknowledged father is married to another woman, under the general policy of the statute. 1962 Op. Att'y Gen., No. 13.

NOTES TO DECISIONS

When acknowledgment of paternity can be filed. — Under the existing provisions of subsection (a) of this section and AS 20.15.040(a) (now AS 25.23.040(a)), an acknowledgment of paternity can be filed at any time before the entry of a decree of adoption. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

The filing of an adoption petition does not preclude the biological father from thereafter filing a written acknowledgment of his paternity of the subject child, thereby legitimizing him. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Interpretation of the relevant statutes precludes additional consideration of the best interests of the child in determining whether a father may legitimize the adoptee during the pendency of an adoption proceeding and so foreclose adoption absent his consent. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Applied in *S.L.W. v. Alaska Workmen's Comp. Bd.*, Sup. Ct. Op. No. 736 (File No. 1333), 490 P.2d 42 (1971).

Collateral references. — 10 Am. Jur. Trials, pp. 653-757.

10 Am. Jur. 2d, Bastards, §§ 45-59, 74-132.

Trois, generally, 2 Am. Jur. POF, pp. 445-453, 607-624; 14 Am. Jur. POF2d pp. 727-733; 19 Am. Jur. POF2d, pp. 1-44.

Legitimation by subsequent marriage, 27 ALR 1121.

Paternity legitimacy, or legitimation as determined in action for divorce, separa-

tion, or annulment upon vacating or opening decree, 65 ALR2d 1390.

Race or color of child as admissible in evidence on issue of legitimacy or paternity, or as basis of rebuttal or exception to presumption of legitimacy, 32 ALR2d 1303.

Presumption of legitimacy of child born after annulment, divorce, or separation, 46 ALR2d 158.

§ 47.23.025 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.23.050

Effect of amendments. — The 1982 amendment added subsection (b). The amendment also, in present subsection (a), substituted the language beginning "subject to AS 47.23.025 and to federal law" and ending "arrearages of support that shall" for "a uniform schedule of fees which may" and "upon notice of child support payments" for "if the child support payments" in subparagraph (2)(C), and added paragraphs (6) and (7).

Sec. 47.23.025. Rates of penalty and interest. A penalty imposed under AS 47.23.020(a)(2)(C) may not be at a rate that exceeds the rate of interest imposed on delinquent taxes under AS 43.05.225. The rate of interest imposed under AS 47.23.020(a)(2)(C) shall equal the rate imposed under AS 43.05.225 or a lesser rate that is the maximum rate of interest permitted to be imposed under federal law. (§ 6 ch 118 SLA 1982)

Sec. 47.23.030. Establishment of fund. There is established in the state general fund a continuing, revolving, reserve account to receive collections and make the authorized disbursements of the agency. (§ 1 ch 251 SLA 1976)

Sec. 47.23.040. Determination of paternity. (a) The agency shall appear on behalf of minor children or their mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian.

(b) The agency may not attempt to establish paternity in any case involving incest or forcible rape, when legal proceedings for adoption are pending, or when it would not be in the best interests of the children or the state. (§ 1 ch 251 SLA 1976; am § 18 ch 126 SLA 1977)

NOTES TO DECISIONS

Appointment of counsel for indigent defendant. — In light of the fact that paternity suits, in effect, are brought by the state, the significance of the parent-child relationship involved and the peculiar problems presented in such a proceeding, due process requires the appointment of counsel for an indigent defendant. *Reynolds v Kimmons*, Sup. Ct. Op. No. 1505 (File No. 3305), 569 P 2d 799 (1977).

Sec. 47.23.045. Determination of support obligation. The agency may appear in an action seeking an award of support in behalf of a child owed a duty of support, and may also appear in an action seeking modification of a support order, decree or judgment already entered. Action under this section may be undertaken upon application of an obligee, or at the agency's own discretion if the obligor is liable to the state under AS 47.23.120(a) or (b). (§ 19 ch 126 SLA 1977)

Sec. 47.23.050. Legal assistance. The agency shall contract with the Department of Law to provide needed legal services. (§ 1 ch 251 SLA 1976; am § 20 ch 126 SLA 1977)

H.R. 1720

THE FAMILY SUPPORT ACT OF 1988

SENATOR RICK UEHLING
Capitol Room 516
465-4821

Report for H.R.1720
As finally approved by the House and Senate (Enrolled)
Complete Text of this version

KEY: << ... >> indicates struck-through text in printed version
{ { ... } } indicates bold parenthesis (usually numbered Senate amendments)
[[...]] indicates bold brackets in printed version

H.R.1720
One Hundredth Congress of the United States of America
AT THE SECOND SESSION
Begun and held at the City of Washington on Monday,
the twenty-fifth day of January, one thousand nine hundred and eighty-eight

An Act

To revise the AFDC program to emphasize work, child support, and family benefits, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives.

=====

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) Short Title.--This Act may be cited as the "Family Support Act of 1988".
(b) Table of Contents.--The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Subtitle A--Child Support

- Sec. 101. Immediate income withholding.
Sec. 102. Disregard applicable to timely child support payments.
Sec. 103. State guidelines for child support award amounts.
Sec. 104. Timing of notice of support payment collections.

Subtitle B--Establishment of Paternity

- Sec. 111. Performance standards for State paternity establishment programs.
Sec. 112. Increased Federal assistance for paternity establishment.

Subtitle C--Improved Procedures for Child Support Enforcement and

Establishment of Paternity

- Sec. 121. Requirement of prompt State response to requests for child support assistance.
- Sec. 122. Requirement of prompt State distribution of amounts collected as child support.
- Sec. 123. Automated tracking and monitoring systems made mandatory.
- Sec. 124. Additional information source for parent locator service.
- Sec. 125. Use of social security number to establish identity of parents.
- Sec. 126. Commission on Interstate Child Support.
- Sec. 127. Costs of interstate enforcement demonstrations excluded in computing incentive payments.
- Sec. 128. Study of child-rearing costs.
- Sec. 129. Collection and reporting of child support enforcement data.

TITLE II--JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

- Sec. 201. Establishment and operation of program.
- Sec. 202. Technical and conforming amendments.
- Sec. 203. Regulations; performance standards; studies.
- Sec. 204. Effective date.

TITLE III--SUPPORTIVE SERVICES FOR FAMILIES

- Sec. 301. Child care during participation in education, employment, and training.
- Sec. 302. Extended eligibility for child care.
- Sec. 303. Extended eligibility for medical assistance.
- Sec. 304. Effective dates.

TITLE IV--RELATED AFDC AMENDMENTS

- Sec. 401. Benefits for two-parent families.
- Sec. 402. Changes in earned income disregards.
- Sec. 403. Households headed by minor parents.
- Sec. 404. Periodic reevaluation of need and payment standards.
- Sec. 405. CBO study on implementation of national minimum payment standard.
- Sec. 406. Study of new national approaches to welfare benefits for low-income families with children.

TITLE V--DEMONSTRATION PROJECTS

- Sec. 501. Family support demonstration projects.
- Sec. 502. Demonstration projects to test the effect of early childhood development programs.
- Sec. 503. Demonstration projects to test alternative definitions of unemployment.
- Sec. 504. Demonstration projects to address child access problems.
- Sec. 505. Demonstration projects to expand the number of job opportunities available to certain low-income individuals.
- Sec. 506. Demonstration projects to provide counseling and services to high-risk teenagers.
- Sec. 507. Eighteen-month extension of Minnesota prepaid medicaid demonstration project.

TITLE VI--MISCELLANEOUS PROVISIONS

- Sec. 601. Inclusion of American Samoa as a State under title IV.
- Sec. 602. Increase in amount available for payment to Puerto Rico, the Virgin Islands, and Guam.
- Sec. 603. Assistant Secretary for Family Support.
- Sec. 604. Responsibilities of the State.

- Sec. 605. Establishment of preeligibility fraud detection measures.
- Sec. 606. Uniform reporting requirements.
- Sec. 607. State reports on expenditure and use of social services funds.
- Sec. 608. Miscellaneous technical corrections to Medicare Catastrophic Coverage Act of 1988.
- Sec. 609. Extension of quality control penalty moratorium.

TITLE VII--FUNDING PROVISIONS

- Sec. 701. Temporary extension of provisions relating to collection of nontax debts owed to Federal agencies.
- Sec. 702. Limitation on use of reimbursement arrangements to avoid 2-percent floor.
- Sec. 703. Modifications to dependent care credit and exclusion for dependent care assistance.
- Sec. 704. Taxpayer identification number required for dependents who have attained age 2.

TITLE I--CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Subtitle A--Child Support

SEC. 101. IMMEDIATE INCOME WITHHOLDING.

(a) In General.--Section 466(b)(3) of the Social Security Act is amended to read as follows:

"(3)(A) The wages of an absent parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order being enforced under this part that is issued or modified on or after the first day of the 25th month beginning after the date of the enactment of this paragraph, on the effective date of the order; except that such wages shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement.

"(B) The wages of an absent parent shall become subject to such withholding, in the case of wages not subject to withholding under subparagraph (A), on the date on which the payments which the absent parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of--

"(i) the date as of which the absent parent requests that such withholding begin,

"(ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or

"(iii) such earlier date as the State may select."

(b) Application to All Child Support Orders.--Section 466(a)(3) of such Act is amended--

(1) by inserting "(A)" before "Procedures";

(2) by striking "which are issued or modified in the State" and inserting in lieu thereof "not described in subparagraph (B)"; and

(3) by adding at the end the following new subparagraph:

"(B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being

enforced under this part will include the following requirements:

"(i) The wages of an absent parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such wages shall not be subject to withholding under this clause in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.

"(ii) The requirements of subsection (b)(1) (which shall apply in the case of each absent parent against whom a support order is or has been issued or modified in the State, without regard to whether the order is being enforced under the State plan).

"(iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b), where applicable.

"(iv) Withholding from income of amounts payable as support must be carried out in full compliance with all procedural due process requirements of the State."

(c) Study on Making Immediate Income Withholding Mandatory in All Cases.--The Secretary of Health and Human Services shall conduct a study of the administrative feasibility, cost implications, and other effects of requiring immediate income withholding with respect to all child support awards in a State and shall report on the results of such study not later than 3 years after the date of the enactment of this Act.

(d) Effective Date.--(1) The amendment made by subsection (a) shall become effective on the first day of the 25th month beginning after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on January 1, 1994.

(3) Subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 102. DISREGARD APPLICABLE TO TIMELY CHILD SUPPORT PAYMENTS.

(a) In General.--Section 402(a)(8)(A)(vi) of the Social Security Act is amended by striking "of any child support payments received in such month" and inserting in lieu thereof "of any child support payments for such month received in that month, and the first \$50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due,".

(b) Conforming Amendment.--Section 457(b)(1) of such Act is amended by striking "the first \$50 of such amounts as are collected periodically which represent monthly support payments" and inserting in lieu thereof "of such amounts as are collected periodically which represent monthly support payments, the first \$50 of any payments for a month received in that month, and the first \$50 of payments for each prior month received in that month which were made by the absent parent in the month when due,".

(c) Effective Date.--The amendments made by this section shall become effective on the first day of the first calendar quarter which begins after the date of the enactment of this Act.

SEC. 103. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

(a) Guidelines To Create Rebuttable Presumption.--Section 467(b) of the Social Security Act is amended--

(1) by inserting "(1)" after "(b)";

(2) by striking ", but need not be binding upon such judges or other officials"; and

(3) by adding at the end the following new paragraph:

"(2) There shall be a rebuttable presumption, in any judicial or

administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case."

(b) Guidelines To Be Reviewed Every 4 Years.--Section 467(a) of such Act is amended by inserting ", and shall be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts" after "action".

(c) State Law Requirements for Review of Individual Awards.--Section 466(a) of such Act is amended by inserting after paragraph (9) the following new paragraph:

"(10)(A) Procedures to ensure that, beginning 2 years after the date of the enactment of this paragraph, if the State determines (pursuant to a plan indicating how and when child support orders in effect in the State are to be periodically reviewed and adjusted) that a child support order being enforced under this part should be reviewed, the State must, at the request of either parent subject to the order, or of a State child support enforcement agency, initiate a review of such order, and adjust such order, as appropriate, in accordance with the guidelines established pursuant to section 467(a).

"(B) Procedures to ensure that, beginning 5 years after the date of the enactment of this paragraph or such earlier date as the State may select, the State must implement a process for the periodic review and adjustment of child support orders being enforced under this part under which the order is to be reviewed not later than 36 months after the establishment of the order or the most recent review, and adjusted, as appropriate, in accordance with the guidelines established pursuant to section 467(a), unless--

"(i) in the case of an order with respect to an individual with respect to whom an assignment under section 402(a)(26) is in effect, the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child and neither parent has requested review; and

"(ii) in the case of any other order being enforced under this part, neither parent has requested review.

"(C) Procedures to ensure that the State notifies each parent subject to a child support order in effect in the State that is being enforced under this part--

"(i) of any review of such order, at least 30 days before the commencement of such review; and

"(ii) of the right of such parent under subparagraph (B) to request the State to review such order; and

"(iii) of a proposed adjustment (or determination that there should be no change) in the child support award amount, and such parent is afforded not less than 30 days after such notification to initiate proceedings to challenge such adjustment (or determination)."

(d) Study of Impact of Extending Periodic Review Requirement to All Other Cases.--Within 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct and complete a study to determine the impact on child support awards and the courts of requiring each State to periodically review all child support orders in effect in the State.

(e) Demonstration Projects for Evaluating Model Procedures for Reviewing Child Support Awards.--(1) Not later than April 1, 1989, the Secretary of

Health and Human Services (in this subsection referred to as the "Secretary") shall enter into an agreement with each of 4 States submitting applications under this subsection for the purpose of conducting a demonstration project under part D of title IV of the Social Security Act in the State to test and evaluate model procedures for reviewing child support award amounts.

(2) Notwithstanding section 454(1) of the Social Security Act, a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated by the Governor of the State involved. Under such agreement, the Secretary shall pay to the State, as an additional payment under part D of title IV of the Social Security Act, an amount equal to 90 percent of the reasonable costs incurred by the State in conducting a demonstration project under this subsection. Such costs shall not be taken into account for purposes of computing the incentive payment under section 458 of such Act.

(4) A demonstration project under this subsection shall be commenced not later than September 30, 1989, and shall be conducted for a 2-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under paragraph (1).

(5)(A) Any State with an agreement under this subsection shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

(B) The Secretary shall report the results of the demonstration projects conducted under this subsection to Congress not later than 6 months after all such projects are completed.

(f) Effective Date.--The amendments made by subsections (a), (b), and (c) shall become effective one year after the date of the enactment of this Act.

SEC. 104. TIMING OF NOTICE OF SUPPORT PAYMENT COLLECTIONS.

(a) In General.--Section 454(5)(A) of the Social Security Act is amended by striking "at least annually" and inserting in lieu thereof "on a monthly basis (or on a quarterly basis for so long as the Secretary determines with respect to a State that requiring such notice on a monthly basis would impose an unreasonable administrative burden)".

(b) Effective Date.--The amendment made by subsection (a) shall become effective on the first day of the first calendar quarter which begins 4 or more years after the date of the enactment of this Act.

Subtitle B--Establishment of Paternity

SEC. 111. PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) Standards for State Programs.--Section 452 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1) A State's program under this part shall be found, for purposes of section 403(h), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1991, its paternity establishment percentage for such fiscal year equals or exceeds--

"(A) 50 percent;

"(B) the paternity establishment percentage of the State for the fiscal year 1988, increased by the applicable number of percentage points; or

"(C) the paternity establishment percentage determined with respect to all States for such fiscal year.

"(2) For purposes of this section--

"(A) the term 'paternity establishment percentage' means, with respect to a State (or all States, as the case may be) for a fiscal year, the ratio (expressed as a percentage) that the total number of children--

"(i) who have been born out of wedlock,

"(ii)(I) except as provided in the last sentence of this paragraph, with respect to whom aid is being paid under the State's plan approved under part A (or under all such plans) for such fiscal year, or (II) with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6), and

"(iii) the paternity of whom has been established,

bears to the total number of children who have been born out of wedlock and (except as provided in such last sentence) with respect to whom aid is being paid under the State's plan approved under part A (or under all such plans) for such fiscal year or with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6); and

"(B) the applicable number of percentage points means, with respect to a fiscal year (beginning with the fiscal year 1991), 3 percentage points multiplied by the number of fiscal years after the fiscal year 1989 and before the beginning of such fiscal year.

For purposes of subparagraph (A), the total number of children shall not include any child who is a dependent child by reason of the death of a parent or any child with respect to whom an applicant or recipient is found to have good cause for refusing to cooperate under section 402(a)(26).

"(3)(A) The requirements of this subsection are in addition to and shall not supplant any other requirement (that is not inconsistent with such requirements) established in regulations by the Secretary for the purpose of determining (for purposes of section 403(h)) whether the program of a State operated under this part shall be treated as complying substantially with the requirements of this part.

"(B) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children born out-of-wedlock in a State) that affect the ability of a State to meet the requirements of this subsection.

"(C) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity."

(b) Genetic Tests May Be Required By Contesting Party.--Section 466(a)(5) of such Act is amended--

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end the following new subparagraph:

"(B) Procedures under which the State is required (except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate) to require the child and all other parties, in a contested paternity case, to submit to genetic tests upon the request of any such party."

(c) States May Charge Individuals Not Receiving AFDC For Costs of Genetic Tests To Establish Paternity.--Section 454(6) of such Act is amended--

(1) by redesignating clause (D) as clause (E); and

(2) by inserting "(D) a fee (in accordance with regulations of the Secretary) for performing genetic tests may be imposed on any individual who is not a recipient of aid under a State plan approved under part A." after "section 464(a)(2)."

(d) Encouragement of Civil Processes.--Part D of title IV of such Act is amended by adding at the end the following new section:

"Encouragement of States to Adopt Simple Civil Process
for Voluntarily Acknowledging Paternity and a Civil
Procedure for Establishing Paternity in Contested Cases

"Sec. 468. In the administration of the child support enforcement program under this part, each State is encouraged to establish and implement a simple civil process for voluntarily acknowledging paternity and a civil procedure for establishing paternity in contested cases."

(e) Requirement To Permit Paternity Establishment for Child Under 18.--Section 466(a)(5)(A) of such Act (as so designated by subsection (b) of this section) is amended--

(1) by inserting "(i)" before "(A)"; and

(2) by inserting at the end the following new clause:

"(ii) As of August 16, 1984, the requirement of clause (i) shall also apply to any child for whom paternity has not yet been established and any child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State."

(f) Effective Date; Implementation.--(1) The amendments made by subsections (a), (d), and (e) shall become effective on the date of the enactment of this Act.

(2) The amendments made by subsections (b) and (c) shall become effective on the first day of the first month beginning one year or more after the date of the enactment of this Act.

(3) The Secretary of Health and Human Services shall collect the data necessary to implement the requirements of section 452(g) of the Social Security Act (as added by subsection (a) of this section) and may, in carrying out the requirement of determining a State's paternity establishment percentage for the fiscal year 1988, compute such percentage on the basis of data collected with respect to the last quarter of such fiscal year (or, if such data are not available, the first quarter of the fiscal year 1989) if the Secretary determines that data for the full year are not available.

SEC. 112. INCREASED FEDERAL ASSISTANCE FOR PATERNITY ESTABLISHMENT.

(a) Increased Payments to States.--Section 455(a)(1) of the Social Security Act is amended--

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity;"

(b) Effective Date.--The amendments made by subsection (a) shall apply with respect to laboratory costs incurred on or after October 1, 1988.

Subtitle C--Improved Procedures for Child Support
Enforcement and Establishment of Paternity

SEC. 121. REQUIREMENT OF PROMPT STATE RESPONSE TO REQUESTS FOR CHILD
SUPPORT ASSISTANCE.

(a) In General.--Section 452 of the Social Security Act (as amended by section 111(a) of this Act) is further amended by adding at the end the following new subsection:

"(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment under section 402(a)(26) is in

effect) for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity, and initiate proceedings to establish and collect child support awards."

(b) Advisory Committee; Regulations.--(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee. The committee shall include representatives of organizations representing State governors, State welfare administrators, and State directors of programs under part D of title IV of the Social Security Act. The Secretary shall consult with the advisory committee before issuing any regulations with respect to the standards required by the amendment made by subsection (a) (including regulations regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction).

(2) Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and, after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the 10th month beginning after such date of enactment.

SEC. 122. REQUIREMENT OF PROMPT STATE DISTRIBUTION OF AMOUNTS COLLECTED AS CHILD SUPPORT.

(a) In General.--Section 452 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new subsection:

"(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part."

(b) Regulations.--Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and, after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the 10th month to begin after such date of enactment.

SEC. 123. AUTOMATED TRACKING AND MONITORING SYSTEMS MADE MANDATORY.

(a) Plan Requirement.--(1) Section 454 of the Social Security Act is amended--

(A) by striking "and" after the semicolon at the end of paragraph (22);

(B) by striking the period at the end of paragraph (23) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (23) the following new paragraph:

"(24) provide that if the State, as of the date of the enactment of this paragraph, does not have in effect an automated data processing and information retrieval system meeting all of the requirements of paragraph (16), the State--

"(A) will submit to the Secretary by October 1, 1991, for review and approval by the Secretary within 9 months after submittal an advance automated data processing planning document of the type referred to in such paragraph; and

"(B) will have in effect by October 1, 1995, an operational automated data processing and information retrieval system, meeting all the requirements of that paragraph, which has been approved by the Secretary."

(2) Section 454(16) of such Act is amended by striking "an automatic" and inserting in lieu thereof "a statewide automated".

(b) Waiver Authority.--Section 452(d) of such Act is amended--

(1) by striking "The" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) with respect to a State if--

"(A) the State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 403(h), to be in substantial compliance with other requirements of this part; and

"(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c), or

"(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program."

(c) Repeal of 90-Percent Federal Reimbursement Rate for Automated Data Systems.--Effective September 30, 1995, section 455(a)(1) of such Act (as amended by section 112(a) of this Act) is amended--

(1) by striking subparagraphs (A) and (B);

(2) by redesignating subparagraph (C) as subparagraph (A);

(3) in subparagraph (A) (as so redesignated)--

(A) by striking "(rather than the percentage specified in subparagraph (A))"; and

(B) by inserting "and" after the semicolon; and

(4) by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454;"

(d) Conforming Amendments.--Sections 402(e), 452(d)(1), and 454(16) of such Act are each amended by striking "automatic" each place it appears and inserting in lieu thereof "automated".

SEC. 124. ADDITIONAL INFORMATION SOURCE FOR PARENT LOCATOR SERVICE.

(a) In General.--Section 453(e) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies."

(b) State Requirement To Assist Secretary in Obtaining Information.--(1) Section 303 of such Act is amended by adding at the end the following new subsection:

"(h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the

Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State."

(2) Section 304(a)(2) of such Act is amended by striking "or (e)" and inserting in lieu thereof "(e), or (h)".

(c) Effective Date; Implementation.--(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall become effective on the first day of the first calendar quarter which begins one year or more after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services and the Secretary of Labor shall enter into the agreement required by the amendment made by subsection (a) not later than 90 days after the date of the enactment of this Act.

SEC. 125. USE OF SOCIAL SECURITY NUMBER TO ESTABLISH IDENTITY OF PARENTS.

(a) Disclosure of Social Security Number at Time of Child's Birth.--Section 205(c)(2)(C) of the Social Security Act is amended--

(1) in clause (i)--

(A) by inserting "(I)" after "(i)"; and

(B) by adding at the end the following new subclause:

"(II) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the agency administering the State's plan under part D of title IV in accordance with Federal or State law and regulation. Such numbers shall not be recorded on the birth certificate. A State shall not use any social security account number, obtained with respect to the issuance by the State of a birth certificate, for any purpose other than for the enforcement of child support orders in effect in the State, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure."; and

(2) in clause (ii)--

(A) by striking "clause (i) of this subparagraph" and inserting in lieu thereof "subclause (I) of clause (i)", and

(B) by adding at the end the following new sentence: "If and to the extent that any such provision is inconsistent with the requirement set forth in subclause (II) of clause (i), such provision shall, on and after the date of the enactment of such subclause, be null, void, and of no effect.".

(b) Effective Date.--The amendments made by subsection (a) shall become effective on the first day of the 25th month which begins on or after the date of the enactment of this Act.

SEC. 126. COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) Establishment of Commission.--There is hereby established a Commission to be known as the Commission on Interstate Child Support (in this section referred to as the "Commission") to be composed of 15 members appointed in accordance with subsection (b)(1).

(b) Appointment and Term of Members; Vacancies; Transaction of Business.--(1) Members of the Commission shall be appointed as follows from among individuals knowledgeable in matters involving interstate child support:

(A) Four members shall be appointed jointly by the Majority and Minority Leaders of the Senate, in consultation with the chairman and ranking minority member of the Committee on Finance of the Senate.

(B) Four members shall be appointed jointly by the Speaker of the House and the Minority Leader of the House, in consultation with the chairman and ranking minority member of the Committee on Ways and Means of the House of Representatives.

(C) Seven members shall be appointed by the Secretary of Health and Human Services (in this section referred to as the "Secretary").

(2) Members of the Commission shall serve for the life of the Commission. A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall not affect the powers or duties of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business. Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(4) The members of the Commission shall be appointed by July 1, 1989. The first meeting of the Commission shall be called by the Secretary as promptly as possible after all such members are appointed. At such meeting, the members of the Commission shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members.

(c) Basic Pay.--(1) Members of the Commission shall serve as such without pay.

(2) Members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) Duties of the Commission.--(1) During the fiscal year 1990, the Commission shall hold one or more national conferences on interstate child support reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than May 1, 1991, the Commission shall submit a report to the Congress that contains recommendations for--

(A) improving the interstate establishment and enforcement of child support awards, and

(B) revising the Uniform Reciprocal Enforcement of Support Act.

(e) Powers of the Commission.--(1) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(2) The Commission may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(3) The Commission may procure supplies, services, and property, and make contracts (but only to the extent or in such amounts as are provided in appropriation Acts).

(4) For purposes of carrying out its duties under subsection (d), the Commission may adopt such rules for its organization and procedures as it deems appropriate.

(f) Termination of the Commission.--(1) The Commission shall terminate on July 1, 1991.

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on such date shall be disposed of as excess or surplus property.

(g) Authorization of Appropriations.--For the purpose of carrying out this section, there is authorized to be appropriated \$2,000,000.

SEC. 127. COSTS OF INTERSTATE ENFORCEMENT DEMONSTRATIONS EXCLUDED IN

COMPUTING INCENTIVE PAYMENTS.

Section 458(d) of the Social Security Act is amended by inserting immediately before the period at the end the following: ", and any amounts expended by the State in carrying out a special project assisted under section 455(e) shall be excluded".

SEC. 128. STUDY OF CHILD-REARING COSTS.

The Secretary of Health and Human Services shall, by grant or contract, conduct a study of the patterns of expenditures on children in 2-parent families, in single-parent families following divorce or separation, and in single-parent families in which the parents were never married, giving particular attention to the relative standards of living in households in which both parents and all of the children do not live together. The Secretary shall submit to the Congress no later than 2 years after the date of the enactment of this Act a full and complete report of the results of such study, including such recommendations as the Secretary may have for legislative, administrative, and other actions. There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 129. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

Part D of title IV of the Social Security Act is amended by adding at the end the following new section:

"Collection and Reporting of Child Support Enforcement Data

"Sec. 469. (a) The Secretary of Health and Human Services shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to each of the services specified in subsection (b) (separately stated in the case of each such service for families receiving aid under plans approved under part A of title IV of the Social Security Act and for families not receiving such aid), on--

"(1) the number of cases in the child support enforcement agency caseload under part D of title IV of such Act which need the service involved; and

"(2) the number of such cases in which the service has actually been provided.

"(b) The services referred to in subsection (a) are--

"(1) paternity determination;

"(2) location of an absent parent for the purpose of establishing a child support obligation;

"(3) establishment of a child support obligation; and

"(4) location of an absent parent for the purpose of enforcing or modifying an established child support obligation.

"(c) For purposes of subsection (a)(2), a service has actually been provided when the task described by the service has been accomplished."

TITLE II--JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

SEC. 201. ESTABLISHMENT AND OPERATION OF PROGRAM.

(a) State Plan Requirement.--Section 402(a)(19) of the Social Security Act is amended to read as follows:

"(19) provide--

"(A) that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F;

"(B) that--

"(i) the State will (except as otherwise provided in this paragraph or part F), to the extent that the program is available in the political subdivision involved and State resources

otherwise permit--

"(I) require all recipients of aid to families with dependent children in such subdivision with respect to whom the State guarantees child care in accordance with section 402(g) to participate in the program; and

"(II) allow applicants for and recipients of aid to families with dependent children who are not required under subclause (I) to participate in the program to do so on a voluntary basis;

"(ii) in determining the priority of participation by individuals from among those groups described in clauses (i), (ii), (iii), and (iv) of section 403(1)(2)(B), the State will give first consideration to applicants for or recipients of aid to families with dependent children within any such group who volunteer to participate in the program;

"(iii) if an exempt participant drops out of the program without good cause after having commenced participation in the program, he or she shall thereafter not be given priority so long as other individuals are actively seeking to participate; and

"(iv) the State need not require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(1)(2);

"(C) that an individual may not be required to participate in the program if such individual--

"(i) is ill, incapacitated, or of advanced age;

"(ii) is needed in the home because of the illness or incapacity of another member of the household;

"(iii) subject to subparagraph (D)--

"(I) is the parent or other relative of a child under 3 years of age (or, if so provided in the State plan, under any age that is less than 3 years but not less than one year) who is personally providing care for the child, or

"(II) is the parent or other relative personally providing care for a child under 6 years of age, unless the State assures that child care in accordance with section 402(g) will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours a week;

"(iv) works 30 or more hours a week;

"(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

"(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the 6-month period immediately following such month; or

"(vii) resides in an area of the State where the program is not available;

"(D) that, in the case of a family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, subparagraph (C)(iii) shall apply only to one parent, except that, in the case of such a family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care in accordance with section 402(g) is guaranteed with respect to the

family;

"(E) that--

"(i) to the extent that the program is available in the political subdivision involved and State resources otherwise permit; in the case of a custodial parent who has not attained 20 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to clause (ii)) will require such parent to participate in an educational activity; and

"(ii) the State agency may--

"(I) require a parent described in clause (i) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis,

"(II) establish criteria in accordance with regulations of the Secretary under which custodial parents described in clause (i) who have not attained 18 years of age may be exempted from the school attendance requirement under such clause, or

"(III) require a parent described in clause (i) who is age 18 or 19 to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;

"(F) that--

"(i) if the parent or other caretaker relative or any dependent child in the family is attending (in good standing) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocational or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course, at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the program (by that caretaker or child) so long as it continues and is consistent with such goals;

"(ii) any other activities in which an individual described in clause (i) participates may not be permitted to interfere with the school or training described in that clause;

"(iii) the costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403; and

"(iv) the costs of day care, transportation, and other services which are necessary (as determined by the State agency) for such attendance in accordance with section 402(g) are eligible for Federal reimbursement;

"(G) that--

"(i) if an individual is required by the provisions of this paragraph to participate in the program or who is so required by

reason of the State's having exercised the option under subparagraph (D) fails without good cause to participate in the program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment--

"(I) the needs of such individual (whether or not section 407 applies) shall not be taken into account in making the determination with respect to his or her family under paragraph (7) of this subsection, and if such individual is a parent or other caretaker relative, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; and

"(II) if such individual is a member of a family which is eligible for aid to families with dependent children by reason of section 407, and his or her spouse is not participating in the program, the needs of such spouse shall also not be taken into account in making such determination;

"(ii) any sanction described in clause (i) shall continue--

"(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

"(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

"(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer);

"(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure; and

"(iv) no sanction shall be imposed under this subparagraph--

"(I) on the basis of the refusal of an individual described in subparagraph (C)(iii)(II) to accept employment, if the employment would require such individual to work more than 20 hours a week, or

"(II) on the basis of the refusal of an individual to participate in the program or accept employment, if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate in the program or accept employment, such care is not available, and the State agency fails to provide such care; and

"(H) the State agency may require a participant in the program to accept a job only if such agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of the job; and any costs incurred by the State agency as a result of this subparagraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies;"

(b) Establishment and Operation of Program.--Title IV of such Act is further amended by adding at the end the following new part:

"Part F--Job Opportunities and Basic Skills Training Program

"Purpose and Definitions

"Sec. 481. (a) Purpose.--It is the purpose of this part to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence.

"(b) Meaning of Terms.--Except to the extent otherwise specifically indicated, terms used in this part shall have the meanings given them in or under part A.

"Establishment and Operation of State Programs

"Sec. 482. (a) State Plans for Job Opportunities and Basic Skills Training Programs.--(1)(A) As a condition of its participation in the program of aid to families with dependent children under part A, each State shall establish and operate a job opportunities and basic skills training program (in this part referred to as the 'program') under a plan approved by the Secretary as meeting all of the requirements of this part and section 402(a)(19), and shall, in accordance with regulations prescribed by the Secretary, periodically (but not less frequently than every 2 years) review and update its plan and submit the updated plan for approval by the Secretary.

"(B) A State plan for establishing and operating the program must describe how the State intends to implement the program during the period covered by the plan, and must indicate, through cross-references to the appropriate provisions of this part and part A, that the program will be operated in accordance with such provisions of law. In addition, such plan must contain (i) an estimate of the number of persons to be served by the program, (ii) a description of the services to be provided within the State and the political subdivisions thereof, the needs to be addressed through the provision of such services, the extent to which such services are expected to be made available by other agencies on a nonreimbursable basis, and the extent to which such services are to be provided or funded by the program, and (iii) such additional information as the Secretary may require by regulation to enable the Secretary to determine that the State program will meet all of the requirements of this part and part A.

"(C) The Secretary shall consult with the Secretary of Labor on general plan requirements and on criteria to be used in approving State plans under this section.

"(D)(i) Not later than October 1, 1992, each State shall make the program available in each political subdivision of such State where it is feasible to do so, after taking into account the number of prospective participants, the local economy, and other relevant factors.

"(ii) If a State determines that it is not feasible to make the program available in each such subdivision, the State plan must provide appropriate justification to the Secretary.

"(2) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration or supervision of the administration of the State's program.

"(3) Federal funds made available to a State for purposes of the program shall not be used to supplant non-Federal funds for existing services and activities which promote the purpose of this part. State or local funds expended for such purpose shall be maintained at least at the level of such expenditures for the fiscal year 1986.

"(b) Assessment and Review of Needs and Skills of Participants: Employability Plan.--(1)(A) The State agency must make an initial assessment of the educational, child care, and other supportive services needs as well as the skills, prior work experience, and employability of each participant in

he program under this part, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

"(B) On the basis of such assessment, the State agency, in consultation with the participant, shall develop an employability plan for the participant. The employability plan shall explain the services that will be provided by the State agency and the activities in which the participant will take part under the program, including child care and other supportive services, shall set forth an employment goal for the participant, and shall, to the maximum extent possible and consistent with this section, reflect the respective preferences of such participant. The plan must take into account the participant's supportive services needs, available program resources, and local employment opportunities. The employability plan shall not be considered a contract.

"(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program, the State agency may require the participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State agency that specifies such matters as the participant's obligations under the program, the duration of participation in the program, and the activities to be conducted and the services to be provided in the course of such participation. If the State agency exercises the option under the preceding sentence, the State agency must give the participant such assistance as he or she may require in reviewing and understanding the agreement.

"(3) The State agency may assign a case manager to each participant and the participant's family. The case manager so assigned must be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

"(c) Provision of Program and Employment Information.--(1) The State agency must ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to fulfill their responsibilities to support their children by preparing for, accepting, and retaining such employment as they are capable of performing.

"(2) The State agency must inform all applicants for and recipients of aid to families with dependent children of the education, employment, and training opportunities, and the support services (including child care and health coverage transition options), for which they are eligible, the obligations of the State agency, and the rights, responsibilities, and obligations of participants in the program.

"(3) The State agency must--

"(A) provide (directly or through arrangements with others) information on the types and locations of child care services reasonably accessible to participants in the program,

"(B) inform participants that assistance is available to help them select appropriate child care services, and

"(C) on request, provide assistance to participants in obtaining child care services.

"(4) The State agency must inform applicants for and recipients of aid to families with dependent children of the grounds for exemption from participation in the program and the consequences of refusal to participate if not exempt, and provide other appropriate information with respect to such participation.

"(5) Within one month after the State agency gives a recipient of aid to families with dependent children the information described in the preceding provisions of this paragraph, the State agency must notify such recipient of the opportunity to indicate his or her desire to participate in the program, including a clear description of how to enter the program.

"(d) Services and Activities Under the Program.--(1)(A) In carrying out the program, each State shall make available a broad range of services and activities to aid in carrying out the purpose of this part. Such services and activities--

"(i) shall include--

"(I) educational activities (as appropriate), including high school or equivalent education (combined with training as needed), basic and remedial education to achieve a basic literacy level, and education for individuals with limited English proficiency;

"(II) job skills training;

"(III) job readiness activities to help prepare participants for work; and

"(IV) job development and job placement; and

"(ii) must also include at least 2 of the following:

"(I) group and individual job search as described in subsection (g);

"(II) on-the-job training;

"(III) work supplementation programs as described in subsection (e);

and

"(IV) community work experience programs as described in subsection (f) or any other work experience program approved by the Secretary.

"(B) The State may also offer to participants under the program (i) postsecondary education in appropriate cases, and (ii) such other education, training, and employment activities as may be determined by the State and allowed by regulations of the Secretary.

"(2) If the State requires an individual who has attained the age of 20 years and has not earned a high school diploma (or equivalent) to participate in the program, the State agency shall include educational activities consistent with his or her employment goals as a component of the individual's participation in the program, unless the individual demonstrates a basic literacy level, or the employability plan for the individual identifies a long-term employment goal that does not require a high school diploma (or equivalent). Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in an appropriate educational activity under this subparagraph.

"(3) Notwithstanding any other provision of this section, the Secretary shall permit up to 5 States to provide services under the program, on a voluntary or mandatory basis, to non-custodial parents who are unemployed and unable to meet their child support obligations. Any State providing services to non-custodial parents pursuant to this paragraph shall evaluate the provision of such services, giving particular attention to the extent to which the provision of such services to those parents is contributing to the achievement of the purpose of this part, and shall report the results of such evaluation to the Secretary.

"(e) Work Supplementation Program.--(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as aid to families with dependent children and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C) (i) and (ii)), as an alternative to the aid to families with dependent children that would otherwise be so payable to them.

"(2)(A) Notwithstanding section 406 or any other provision of law, Federal funds may be paid to a State under part A, subject to this subsection, with respect to expenditures incurred in operating a work supplementation program under this subsection.

"(B) Nothing in this part, or in any State plan approved under part A, shall

be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and section 484.

"(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

"(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the aid to families with dependent children paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

"(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection (i) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (ii) during one or more of the first 9 months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of subparagraph (A)(iv) of section 402(a)(8) without regard to the provisions of subparagraph (B)(ii)(II) of such section.

"(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for aid to families with dependent children except as limited by paragraph (4).

"(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for aid to families with dependent children under an approved State plan if such State did not have a work supplementation program in effect.

"(C) For purposes of this section, a supplemented job is--

"(i) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize under the program any job which such State determines to be appropriate.

"(D) At the option of the State, individuals who hold supplemented jobs

under a State's work supplementation program shall be exempt from the retrospective budgeting requirements imposed pursuant to section 402(a)(13)(A)(ii) (and the amount of the aid which is payable to the family of any such individual for any month, or which would be so payable but for the individual's participation in the work supplementation program, shall be determined on the basis of the income and other relevant circumstances in that month).

"(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of aid to families with dependent children payable under the State plan to such a family with income (without regard to adjustments under paragraph (2)) for the lesser of (A) 9 months, or (B) the number of months in which such individual was employed in such program.

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

"(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid to families with dependent children under the State plan approved under part A if such State did not have a work supplementation program, shall be considered individuals receiving aid to families with dependent children under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(7) No individual receiving aid to families with dependent children under a State plan shall be excused by reason of the fact that such State has a work supplementation program from any requirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

"(f) Community Work Experience Program.--(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day

care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

"(B)(i) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's aid for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(ii) After an individual has been assigned to a position in a community work experience program under this subsection for 9 months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than (I) the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part (excluding any portion of such aid for which the State is reimbursed by a child support payment), divided by (II) the higher of (a) the Federal minimum wage or the applicable State minimum wage, whichever is greater, or (b) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

"(C) Nothing contained in this subsection shall be construed as authorizing the payment of aid to families with dependent children as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

"(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (d).

"(E) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this subsection) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(2) After each 6 months of an individual's participation in a community work experience program under this subsection, and at the conclusion of each assignment of the individual under such program, the State agency must provide a reassessment and revision, as appropriate, of the individual's employability plan.

"(3) The State agency shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (g), and the other employment-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied aid to families with dependent children on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State agency may provide that part-time participation in more than one such program may be required where appropriate.

"(4) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 482(a)(1), expenditures for the operation and administration of the program under this section may not include, for purposes of section 403, the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

"(g) Job Search Program.--(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this part.

"(2) Notwithstanding section 402(a)(19)(B)(i), the State agency may require job search by an individual applying for or receiving aid to families with dependent children (other than an individual described in section 402(a)(19)(C) who is not an individual with respect to whom section 402(a)(19)(D) applies)--

"(A) subject to the next to last sentence of this paragraph, beginning at the time such individual applies for aid to families with dependent children and continuing for a period (prescribed by the State) of not more than 8 weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for such aid or in issuing a payment to or on behalf of any individual who is otherwise eligible for such aid); and

"(B) at such time or times after the close of the period prescribed under subparagraph (A) as the State agency may determine but not to exceed a total of 8 weeks in any period of 12 consecutive months.

In no event may an individual be required to participate in job search for more than 3 weeks before the State agency conducts the assessment and review with respect to such individual under subsection (b)(1)(A). Job search activities in addition to those required under the preceding provisions of this paragraph may be required only in combination with some other education, training, or employment activity which is designed to improve the individual's prospects for employment.

"(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for 4 months out of the preceding 12 months.

"(h) Dispute Resolution Procedures.--Each State shall establish a conciliation procedure for the resolution of disputes involving an individual's participation in the program and (if the dispute involved is not resolved through conciliation) shall provide an opportunity for a hearing with respect to the dispute, which hearing may be provided through a hearing process established for purposes of resolving disputes with respect to the program or through the provision of a hearing pursuant to section 402(a)(4); but in no event shall aid to families with dependent children be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in the program until such individual has an opportunity for a hearing that meets the standards set forth by the United States Supreme Court in *Goldberg v. Kelly*, 397 U.S. 254 (1970).

"(i) Special Provisions Relating to Indian Tribes.--(1) Within 6 months after the date of the enactment of the Family Support Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a job opportunities and basic skills training program to carry out the purpose of this subsection. If the Secretary approves such tribe's or organization's application, the maximum amount that may be paid to the State under section 403(1) in which such tribe or organization is located shall be reduced by the

Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such tribe or organization (without the requirement of any nonfederal share) for the operation of such program. In determining whether to approve an application from an Alaska Native organization; the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of job opportunities and basic skills training programs in the State.

"(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(1) to the State as--

"(A) the number of adult members of such Indian tribe receiving aid to families with dependent children bears to the number of all such adult recipients in the State, or

"(B) the number of adult Alaska Natives receiving aid to families with dependent children who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

"(3) The job opportunities and basic skills training program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement of the program under this part or under section 402(a)(19) that the Secretary determines is inappropriate with respect to such job opportunities and basic skills training program.

"(4) The job opportunities and basic skills training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(1) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

"(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that--

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) for which a reservation (as defined in paragraph (6)) exists.

"(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma.

"(7) For purposes of this subsection--

"(A) an Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under Public Law 93-638 or such group's designee;

"(B) the boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

"(C) the Secretary may approve only one application from an Alaska

Native organization for each of the 12 geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act; and

"(D) any Alaska Native, otherwise eligible or required to participate in a job opportunities and basic skills training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the job opportunities and basic skills training program administered by such Alaska Native organization.

"(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

"Coordination Requirements

"Sec. 483. (a)(1) The Governor of each State shall assure that program activities under this part are coordinated in that State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 482(a)(1) which relate to job training and work preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act.

"(2) The State plan so developed shall be submitted to the State job training coordinating council not less than 60 days before its submission to the Secretary, for the purpose of review and comment by the council. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public through local news facilities and public announcements, in order to provide the opportunity for review and comment.

"(3) The comments and recommendations of the State job training coordinating council under paragraph (2) shall be transmitted to the Governor of the State.

"(b) The Secretary of Health and Human Services shall consult with the Secretaries of Education and Labor on a continuing basis for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this part.

"(c) The State agency responsible for administering or supervising the administration of the State plan approved under part A shall consult with the State education agency and the agency responsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act or Carl D. Perkins Vocational Education Act).

"Provisions Generally Applicable to Provision of Services

"Sec. 484. (a) In assigning participants in the program under this part to any program activity, the State agency shall assure that--

"(1) each assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;

"(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

"(3) individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable

Federal, State, or local law prohibiting discrimination;

"(4) the conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive services needs of the participant; and

"(5) each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

"(b) Appropriate workers' compensation and tort claims protection must be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).

"(c) No work assignment under the program shall result in--

"(1) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

"(2) the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or

"(3) any infringement of the promotional opportunities of any currently employed individual.

Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing. No participant may be assigned under section 482 (e) or (f) to fill any established unfilled position vacancy.

"(d)(1) The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (c). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

"(2) The State shall hear complaints with respect to working conditions and workers' compensation, and wage rates in the case of individuals participating in community work experience programs described in section 482(f), under the State's fair hearing process. A decision of the State under such process may be appealed to the Secretary of Labor under such conditions as the joint regulations issued under subsection (f) may provide.

"(e) The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.

"(f) The Secretary of Health and Human Services and the Secretary of Labor shall jointly prescribe and issue regulations for the purpose of implementing and carrying out the provisions of this section, in accordance with the timetable established in section 203(a) of the Family Support Act of 1982.

"Contract Authority

"Sec. 485. (a) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall carry out the programs under this part directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act, with State and local educational agencies, and with other public agencies or private organizations (including community-based

organizations as defined in section 4(5) of such Act).

"(b) Arrangements and contracts entered into under subsection (a) may cover any service or activity (including outreach) to be made available under the program to the extent that the service or activity is not otherwise available on a nonreimbursable basis.

"(c) The State agency and private industry councils (as established under section 102 of the Job Training Partnership Act) shall consult on the development of arrangements and contracts under the program established under a plan approved under section 482(a)(1), and under programs established under such Act.

"(d) In selecting service providers, the State agency shall take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, ability to meet performance standards, and such other factors as the State may determine to be appropriate.

"(e) The State agency shall use the services of each private industry council to identify and provide advice on the types of jobs available or likely to become available in the service delivery area (as defined in the Job Training Partnership Act) of the council, and shall ensure that the State program provides training in any area for jobs of a type which are, or are likely to become, available in the area.

"Initial State Evaluations

"Sec. 486. (a) With the objective of--

"(1) providing an in-depth assessment of potential participants in the program under this part in each State, so as to furnish an accurate picture on which to base estimates of future demands for services in conducting such program and to improve the efficiency of targeting under such program.

"(2) assuring that training for recipients of aid under such program will be realistically geared to labor market demands and that the program will produce individuals with marketable skills, while avoiding duplication and redundancy in the delivery of services, and

"(3) otherwise assuring that States will have the information needed to carry out the purposes of the program,

each State may undertake and carry out an evaluation of demographic characteristics of potential participants in the program under this part within the 12-month period beginning on the date of the enactment of the Family Support Act of 1988. Such evaluation shall be carried out in each State by the agency which administers the State's program approved under section 402.

"(b) In carrying out the evaluation under subsection (a) the State shall give particular attention to the current and anticipated demands of the labor market or markets within the State, the types of training which are needed to meet those demands, and any changes in the current service delivery systems which may be needed to satisfy the requirements of the program under this part.

"(c) The evaluation shall be structured so as to produce accurate and usable information on the age, family status, educational and literacy levels, duration of eligibility for aid to families with dependent children, and work experience of the individuals and families who are potential participants in the program under this part, including the actual numbers of such individuals and families in each such category.

"(d) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide each State with such technical assistance and data as it may need in order to carry out its evaluation under subsection (a); and each State shall transmit its evaluation to the Secretary by the close of the 12-month period specified in such subsection. The Secretary of

Health and Human Services shall take such evaluations into account in developing performance standards.

"(e) As used in this section, the term 'potential participants' with respect to any State's program under this part means collectively all individuals in such State who are recipients of aid to families with dependent children under part A and who are members of the target populations identified in section 403(1)(2)."

(c) Separate Funding for JOBS Program; Federal Financial Participation.--(1) Section 403 of such Act is amended by adding at the end the following new subsection:

"(k)(1) Each State with a plan approved under part F shall be entitled to payments under subsection (1) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such subsection) of its expenditures to carry out the program under part F (subject to limitations prescribed by or pursuant to such part or this section on expenditures that may be included for purposes of determining payment under subsection (1)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under paragraph (2) with respect to the State.

"(2) The limitation determined under this paragraph with respect to a State for any fiscal year is--

"(A) the amount allotted to the State for fiscal year 1987 under part C of this title as then in effect, plus

"(B) the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(3) The amount specified in this paragraph is--

"(A) \$600,000,000 in the case of the fiscal year 1989,

"(B) \$800,000,000 in the case of the fiscal year 1990,

"(C) \$1,000,000,000 in the case of each of the fiscal years 1991, 1992, and 1993,

"(D) \$1,100,000,000 in the case of the fiscal year 1994,

"(E) \$1,300,000,000 in the case of the fiscal year 1995, and

"(F) \$1,000,000,000 in the case of the fiscal year 1996 and each succeeding fiscal year,

reduced by the aggregate amount allotted to all the States for fiscal year 1987 pursuant to part C of this title as then in effect.

"(4) For purposes of this subsection, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with payments of aid to families with dependent children.

"(5) None of the funds available to a State for purposes of the programs or activities conducted under part F shall be used for construction."

(2) Section 403 of such Act (as amended by paragraph (1) of this subsection) is further amended by adding at the end the following new subsection:

"(1)(1)(A) In lieu of any payment under subsection (a), the Secretary shall pay to each State with a plan approved under section 482(a) (subject to the limitation determined under section 482(i)(2)) with respect to expenditures by the State to carry out a program under part F (including expenditures for child care under section 402(g)(1)(A), but only in the case of a State with respect to which section 1108 applies), an amount equal to--

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90

percent; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)--

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such a program for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services under section 402(g)(2), and

"(II) the greater of 60 percent or the Federal medical assistance percentage (as defined in section 1118 in the case of any State to which section 1108 applies, or as defined in section 1905(b) in the case of any other State), in the case of expenditures made by a State in operating such a program for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.

"(2)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if less than 55 percent of such expenditures are made with respect to individuals who are described in subparagraph (B).

"(B) An individual is described in this paragraph if the individual--

"(i)(I) is receiving aid to families with dependent children, and

"(II) has received such aid for any 36 of the preceding 60 months;

"(ii)(I) makes application for aid to families with dependent children, and

"(II) has received such aid for any 36 of the 60 months immediately preceding the most recent month for which application has been made;

"(iii) is a custodial parent under the age of 24 who (I) has not completed a high school education and, at the time of application for aid to families with dependent children, is not enrolled in high school (or a high school equivalency course of instruction), or (II) had little or no work experience in the preceding year; or

"(iv) is a member of a family in which the youngest child is within 2 years of being ineligible for aid to families with dependent children because of age.

"(C) This paragraph may be waived by the Secretary with respect to any State which demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of this paragraph, and that the State is targeting other long-term or potential long-term recipients.

"(D) The Secretary shall biennially submit to the Congress any recommendations for modifications or additions to the groups of individuals described in subparagraph (B) that the Secretary determines would further the goal of assisting long-term or potential long-term recipients of aid to families with dependent children to achieve self-sufficiency, which recommendations shall take into account the particular characteristics of the populations of individual States.

"(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal--

"(i) 7 percent if the preceding fiscal year is 1990;

- "(ii) 7 percent if such year is 1991;
- "(iii) 11 percent if such year is 1992;
- "(iv) 11 percent if such year is 1993;
- "(v) 15 percent if such year is 1994; and
- "(vi) 20 percent if such year is 1995.

"(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

"(ii) The computation periods shall be--

"(I) the fiscal year, in the case of fiscal year 1990,

"(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,

"(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and

"(IV) each month, in the case of fiscal years 1994 and 1995.

"(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to--

"(I) the average monthly number of individuals required or allowed by the State to participate in the program under part F who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by

"(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (C)(iii)(I) or (D) of section 402(a)(19) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under part F solely by reason of such individual being registered to participate in such program.

"(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

"(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under part F, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

"(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that--

"(i) the State is in conformity with section 402(a)(19) and part F;

"(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

"(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

"(4)(A)(i) Subject to subparagraph (B), in the case of any family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate, for a total of at least 16 hours a week during any period in which either parent is required to participate in the program, in a work supplementation program, a community work experience or other work experience program, on-the-job training, or a

State designed work program approved by the Secretary, as such programs are described in section 482(d)(1). In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State may require such parent to participate in educational activities directed at the attainment of a high school diploma (or equivalent) or another basic education program in lieu of one or more of the programs specified in the preceding sentence.

"(ii) For purposes of clause (i), an individual participating in a community work experience program under section 482 shall be considered to have met the requirement of such clause if he participates for the number of hours in any month equal to the monthly payment of aid to families with dependent children to the family of which he is a member, divided by the greater of the Federal or the applicable State minimum wage (and the portion of such monthly payment for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(B) The requirement under subparagraph (A) shall not be considered to have been met by any State if the requirement is not met with respect to the following percentages of all families in the State eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner:

"(i) 40 percent, in the case of the average of each month in fiscal year 1994,

"(ii) 50 percent, in the case of the average of each month in fiscal year 1995,

"(iii) 60 percent, in the case of the average of each month in fiscal year 1996, and

"(iv) 75 percent in the case of the average of each month in each of the fiscal years 1997 and 1998.

"(C) The percentage of participants for any month in a fiscal year for purposes of the preceding sentence shall equal the average of--

"(i) the number of individuals described in subparagraph (A)(i) who have met the requirement prescribed therein, divided by

"(ii) the total number of principal earners described in such subparagraph (but excluding those in families who have been recipients of aid for 2 months or less if, during the period that the family received aid, at least one parent engaged in intensive job search).

"(D) If the Secretary determines that the State has failed to meet the requirement under subparagraph (A) (determined with respect to the percentages prescribed in subparagraph (B)), he may waive, in whole or in part, any penalty if he finds that--

"(i) the State is operating a program in conformity with section 402(a)(19) and part F,

"(ii) the State has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to do so because of economic conditions in the State (including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited), or because of rapid and substantial increases in the caseload that cannot reasonably be planned for, and

"(iii) the State has submitted a proposal which is likely to achieve the required percentage of participants for the subsequent fiscal years."

(d) State Expenditures to Carry Out Initial Evaluations.--Section 403(a)(3)(D) of such Act (as amended by section 202(b)(4) of this Act) is further amended by inserting "(including any amounts expended by the State to carry out initial evaluations under section 486(a))" after "such expenditures".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Repeal of Part C of Title IV.--Part C of title IV of the Social Security Act is repealed.

(b) Changes In Part A of Title IV.--(1) Section 402(a)(8)(A)(iv) of such Act is amended by striking "(but excluding" and all that follows and inserting in lieu thereof a semicolon.

(2) Section 402(a)(9)(A) of such Act is amended--

(A) by inserting "(including activities under part F)" after "this part"; and

(B) by striking "B, C, or D" and inserting in lieu thereof "B or D".

(3) Section 402(a)(35) of such Act is repealed.

(4) Section 403(a)(3) of such Act is amended--

(A) by striking all of subparagraph (D) that follows "such expenditures" and inserting in lieu thereof "; and"; and

(B) in the matter immediately following subparagraph (D), by striking "services furnished" and all that follows through the semicolon and inserting in lieu thereof "services furnished pursuant to section 402(g):".

(5) Section 403(c) of such Act is repealed.

(6) Section 403(d) of such Act is repealed.

(7) Section 407(b)(2)(A) of such Act is amended by striking "will be certified" and all that follows through "within 30 days" and inserting in lieu thereof "will participate or apply for participation in a program under part F (unless the program is not available in the area where the parent is living) within 30 days".

(8) Section 407(b)(2)(C)(i) of such Act is amended--

(A) by striking "section 402(a)(19)(A)" and all that follows through "part C of this title," and inserting in lieu thereof "section 409(a)(19)(C), is not currently participating (or available for participation) in a program under part F.";

(B) by striking "clause (iii)" and inserting in lieu thereof "clause (vii)"; and

(C) by striking "section 432(a)" and inserting in lieu thereof "part F".

(9) Section 407(c) of such Act is amended by striking "to certify such parent" and all that follows and inserting in lieu thereof "to undertake appropriate steps directed toward the participation of such parent in a program under part F.".

(10) Section 407(d)(1) of such Act is amended by striking "participated" and all that follows and inserting in lieu thereof "participated in a program under part F".

(11) Section 407(e) of such Act is amended--

(A) by striking "registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title" in clause (1) and inserting in lieu thereof "participating in a program under part F";

(B) by inserting "participate in or" before "register for"; and

(C) by striking "the work incentive program" in clause (2) and inserting in lieu thereof "part F".

(12) Section 409 of such Act is repealed.

(13) Section 414 of such Act is repealed.

(c) In Other Provisions.--(1) Section 471(a)(8)(A) of such Act is amended by striking "part A, B, C, or D of this title" and inserting in lieu thereof "part A, B, or D of this title (including activities under part F)".

(2) Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting "or, in the case of part A of title IV, section 403(k)" before "applies" in the matter preceding paragraph (1).

(3) Section 1108(b) of such Act (42 U.S.C. 1308(b)) is amended by striking "and services provided under section 402(a)(19)".

(4) Section 1902(a)(10)(A)(i)(I) of such Act (42 U.S.C.

1396a(a)(10)(A)(i)(I)) is amended by striking "414(g)" and inserting in lieu thereof "482(e)(6)".

(5) Section 1926(a)(1)(D) of such Act, as redesignated by section 303(a) of this Act, is amended by striking "414(g)" and inserting in lieu thereof "482(e)(6)".

(6) Section 51(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "section 414" and inserting "section 482(e)".

SEC. 203. REGULATIONS; PERFORMANCE STANDARDS; STUDIES.

(a) Regulations.--Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue proposed regulations for the purpose of implementing the amendments made by this title, including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of the enactment of this Act. Regulations issued under this subsection shall be developed by the Secretary in consultation with the Secretary of Labor and with the responsible State agencies described in section 482(a)(2) of the Social Security Act.

(b) Performance Standards.--Part F of title IV of the Social Security Act (as added by section 201(b) of this Act) is amended by adding at the end the following new section:

"Performance Standards

"Sec. 487. (a) Not later than 3 years after the effective date specified in section 204(a) of the Family Support Act of 1988, the Secretary shall--

"(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

"(2) submit his recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of the Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may reasonably be expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation.

Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

"(b) The Secretary may collect information from the States to assist in the development of performance standards under subsection (a), and shall include in his regulations (issued pursuant to section 203(a) of the Family Support Act of 1988 with respect to the program under this part) provisions establishing uniform reporting requirements under which States must furnish periodically information and data, including information and data (for each program activity) on the average monthly number of families assisted, the types of such families, the amounts spent per family, the length of their participation and such other matters as the Secretary may determine.

"(c) The Secretary shall develop and transmit to the Congress, for appropriate legislative action, a proposal for measuring State progress, providing technical assistance to enable States to meet performance standards, and modifying the Federal matching rate to reflect the relative effectiveness of the various States in carrying out the program."

(c) Implementation and Effectiveness Studies.--(1)(A) The Secretary shall conduct an implementation study in accordance with subparagraph (B).

(3) The implementation study conducted under subparagraph (A) shall be based on a representative sample of States and localities and shall document with respect to the programs established pursuant to part F of title IV the Social Security Act--

- (i) the types, mix, and costs of services offered,
- (ii) participation rates or activity levels,
- (iii) the characteristics of the individuals in the different type of activities,
- (iv) the provisions made for child and day care and the extent to which limitations exist with respect to the availability of such care,
- (v) the institutional arrangements and operating procedures under which activities are offered in the different locations, and
- (vi) such other factors as the Secretary deems appropriate.

(C) There is authorized to be appropriated \$500,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of conducting the implementation study under this paragraph.

(2)(A) The Secretary shall conduct a study in accordance with this paragraph to determine the relative effectiveness of the different approaches for assisting long-term and potentially long-term recipients developed by States pursuant to the programs established under part F of title IV of the Social Security Act.

(B)(i) The study required under subparagraph (A) shall be based on data gathered from demonstration projects conducted in 5 States chosen by the Secretary from among applications submitted by interested States. Such projects shall be conducted for a period of not less than 3 years upon such terms and conditions (including those involving payments to the participating States) as the Secretary may provide.

(ii) A demonstration project conducted under this subparagraph shall use specific outcome measures to test the effectiveness of particular programs. Such measures shall include educational status, employment status, earnings, receipt of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, receipt of other transfer payments, and, to the extent possible, the poverty status of participating families.

(iii) A demonstration project conducted under this subparagraph shall use experimental and control groups that are composed of a random sample of participants in the program established under part F of title IV of the Social Security Act. The Secretary shall assure that the experimental design is comparable among localities.

(C) Participating States shall provide to the Secretary in such form and with such frequency as he requires interim data from the demonstration projects conducted under this paragraph. The Secretary shall report to the Congress annually on the progress of such projects and shall, not later than one year after the date of final data collection, submit to the Congress the study required under subparagraph (A).

(D) There is authorized to be appropriated \$5,000,000 for each of the fiscal years 1990 and 1991 for the purpose of making payments to States conducting demonstration projects under this section.

(3) The Secretary shall establish such uniform reporting requirements as the Secretary determines are appropriate for the purpose of conducting the demonstration projects required under this section.

(4) Within 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall convene an advisory panel which may include representatives from the Office of Management and Budget, the

Congressional Budget Office, the Congressional Research Service, and the General Accounting Office, and such other individuals and organizations as the Secretary may determine. The panel shall meet periodically to design, implement, and monitor a series of implementation and evaluation studies to assess the methods and effects of the programs initiated under this Act. Insofar as possible, the panel shall work in a collegial fashion; but if consensus cannot be reached among panel members on particular decisions the Secretary of Health and Human Services is authorized to make all final decisions about program design, use of contractors, conduct of particular studies, and any other matters which may come before the panel.

(d) Study on Application of Jobs Programs to Indians.--The Secretary of Health and Human Services, in cooperation with the Secretary of the Interior, shall conduct a study of--

- (1) the effectiveness of such employment, training, and education programs for low-income individuals as are specifically directed toward Indians in responding to the needs of Indians on reservations;
- (2) the effectiveness of such programs as are not specifically directed toward Indians in responding to such needs;
- (3) the extent to which such needs are not met by such programs;
- (4) how such programs could be better coordinated in responding to such needs;
- (5) how such programs could be improved or restructured to more effectively meet such needs;
- (6) what sustainable job markets exist in Indian communities (assessed by tribe and region); and
- (7) the availability of such support services (as transportation and child care) as are necessary to assist Indians on reservations in participating in such programs and obtaining permanent employment.

The Secretary of Health and Human Services and the Secretary of the Interior shall report to the Congress on the results of the study under this subsection not later than October 1, 1989 (or, if later, one year after the date of the enactment of this Act).

SEC. 204. EFFECTIVE DATE.

(a) In General.--Except as provided in subsection (b), the amendments made by this title shall become effective on October 1, 1990.

(b) Special Rules.--(1)(A) If any State makes the changes in its State plan approved under section 402 of the Social Security Act that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 203(a) (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1990, such amendments shall become effective with respect to that State as of such first day.

(B) In the case of any State in which the amendments made by this title become effective (in accordance with subparagraph (A)) with respect to any quarter of a fiscal year beginning before October 1, 1990, the limitation applicable to the State for the fiscal year under section 403(k)(2) of the Social Security Act (as added by section 201(c)(1) of this Act) shall be an amount that bears the same ratio to such limitation (as otherwise determined with respect to the State for the fiscal year) as the number of quarters in the fiscal year throughout which such amendments apply to the State bears to 4.

(2) Section 403(l)(3) of the Social Security Act (as added by section 201(c)(2) of this Act) is repealed effective October 1, 1995 (except that

subparagraph (A) of such section 403(1)(3) shall remain in effect for purposes of applying any reduction in payment rates required by such subparagraph for any of the fiscal years specified therein); and section 403(1)(4) of such Act (as so added) is repealed effective October 1, 1998.

(3) Subsections (a), (c), and (d) of section 203 of this Act, and section 486 of the Social Security Act (as added by section 201(b) of this Act), shall become effective on the date of the enactment of this Act.

TITLE III--SUPPORTIVE SERVICES FOR FAMILIES

SEC. 301. CHILD CARE DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING.

Section 402 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1)(A) Each State agency must guarantee child care in accordance with subparagraph (B)--

"(i) for each family with a dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed; and

"(ii) for each individual participating in an education and training activity (including participation in a program that meets the requirements of subsection (a)(19) and part F) if the State agency approves the activity and determines that the individual is satisfactorily participating in the activity.

"(B) The State agency may guarantee child care by--

"(i) providing such care directly;

"(ii) arranging the care through providers by use of purchase of service contracts, or vouchers;

"(iii) providing cash or vouchers in advance to the caretaker relative in the family;

"(iv) reimbursing the caretaker relative in the family; or

"(v) adopting such other arrangements as the agency deems appropriate.

When the State agency arranges for child care, the agency shall take into account the individual needs of the child.

"(C)(i) Subject to clause (ii), the State agency shall make payment for the cost of child care provided with respect to a family in an amount that is the lesser of--

"(I) the actual cost of such care; and

"(II) the dollar amount of the child care disregarded for which the family is otherwise eligible under subsection (a)(8)(A)(iii), or (if higher) an amount established by the State.

"(ii) The State agency may not reimburse the cost of child care provided with respect to a family in an amount that is greater than the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

"(D) The State may not make any change in its method of reimbursing child care costs which has the effect of disadvantaging families receiving aid under the State plan on the date of the enactment of this section, by reducing their income or otherwise.

"(E) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph--

"(i) shall not be treated as income for purposes of any other Federal or federally-assisted program that bases eligibility for or the amount of benefits upon need, and

"(ii) may not be claimed as an employment-related expense for purposes

of the credit under section 21 of the Internal Revenue Code of 1986.

"(2) In the case of any individual participating in the program under part F, each State agency (in addition to guaranteeing child care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related expenses (including other work-related supportive services), as the State determines are necessary to enable such individual to participate in such program.

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1905(b)).

"(B) In the case of any amounts expended by the State agency for child care under this subsection, only such amounts as are within such limits as the State may prescribe (subject to the limitations of paragraph (1)(C)) shall be treated as amounts for which payment may be made to a State under this part and they may be so treated only to the extent that--

"(i) such amounts do not exceed the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary);

"(ii) the child care involved meets applicable standards of State and local law; and

"(iii) in the case of child care, the entity providing such care allows parental access.

"(4) The State must establish procedures to ensure that center-based child care will be subject to State and local requirements designed to ensure basic health and safety, including fire safety, protections. The State must also endeavor to develop guidelines for family day care. The State must provide the Secretary with a description of such State and local requirements and guidelines.

"(5) By October 1, 1992, the Secretary shall report to the Congress on the nature and content of State and local standards for health and safety.

"(6)(A) The Secretary shall make grants to States to improve their child care licensing and registration requirements and procedures, and to monitor child care provided to children receiving aid under the State plan approved under subsection (a).

"(B) Subject to subparagraph (C), the Secretary shall make grants to each State under subparagraph (A) in proportion to the number of children in the State receiving aid under the State plan approved under subsection (a).

"(C) The Secretary may not make grants to a State under subparagraph (A) unless the State provides matching funds in an amount that is not less than 10 percent of the amount of the grant.

"(D) For grants under this paragraph, there is authorized to be appropriated to the Secretary \$13,000,000 for each of the fiscal years 1990 and 1991.

"(7) Activities under this subsection shall be coordinated in each State with existing early childhood education programs in that State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children)."

SEC. 302. EXTENDED ELIGIBILITY FOR CHILD CARE.

(a) In General.--Section 402(g)(1)(A) of the Social Security Act (as added by section 301 of this Act) is amended--

(1) by inserting "(i)" after "(A)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(3) by adding at the end the following new clause:

"(ii) Each State agency must guarantee child care, subject to the limitations described in this section, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive aid to families with dependent children as a result of increased hours of, or increased income from, such employment or by reason of subsection (a)(8)(B)(ii)(II)."

(b) Payment.--(1) Section 402(g)(3)(A) of such Act (as added by section 301 of this Act) is amended--

(A) by inserting "(i)" after "(A)"; and

(B) by adding at the end the following new clause:

"(ii) In the case of amounts expended for child care pursuant to paragraph (1)(A)(ii) (relating to the provision of child care for certain families which cease to receive aid under this part) by any State to which section 1108 applies, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1118)."

(2) Section 403(1)(1)(A) of such Act (as added by section 201(c)(2) of this Act) is amended by striking "402(g)(1)(A)" in the matter preceding clause (i) and inserting in lieu thereof "402(g)(1)(A)(i)".

(c) Limitations on Eligibility.--Section 402(g)(1)(A) of the Social Security Act (as added by section 301 of this Act and as amended by subsection (a)(3) of this section) is amended by adding after clause (ii) the following new clauses:

"(iii) A family shall only be eligible for child care provided under clause (ii) for a period of 12 months after the last month for which the family received aid to families with dependent children under this part.

"(iv) A family shall not be eligible for child care provided under clause (ii) unless the family received aid to families with dependent children in at least 3 of the 6 months immediately preceding the month in which the family became ineligible for such aid.

"(v) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is (or, if needy, would be) a dependent child.

"(vi) A family shall not be eligible for child care provided under clause (ii) for any month beginning after the caretaker relative who is a member of the family has--

"(I) without good cause, terminated his or her employment; or

"(II) failed to cooperate with the State in establishing and enforcing his or her child support obligations.

"(vii) A family shall contribute to child care provided under clause (ii) in accordance with a sliding scale formula which shall be established by the State agency based on the family's ability to pay."

(d) Study of Welfare Requalification; Regulations Based on Results of Study.--The Secretary of Health and Human Services shall conduct a study to determine whether individuals who ceased receiving aid under the State program of aid to families with dependent children approved under this part have begun again to receive such aid in order to requalify for additional months of transition benefits, and if the study reveals that such is the case, the Secretary shall, not earlier than October 1, 1991, issue regulations which restrict such requalification.

(e) Study on Effects of Extending Eligibility for Child Care.--The Secretary of Health and Human Services shall conduct a study on the effectiveness of the amendments made by this section in reducing welfare dependence and assisting families in making the transition from welfare to employment, and such other effects of such amendments as the Secretary may find appropriate, and shall report the results of such study not later than September 30, 1997.

SEC. 303. EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE.

(a) In General.--(1) Title XIX of the Social Security Act, as amended by section 303(a)(1) of the Medicare Catastrophic Coverage Act of 1988, is amended by redesignating section 1925 as section 1926 and by inserting after section 1924 the following new section:

"Extension of Eligibility for Medical Assistance

"Sec. 1925. (a) Initial 6-Month Extension.--

"(1) Requirement.--Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of, or income from, employment of the caretaker relative (as defined in subsection (e)) or because of section 402(a)(8)(B)(ii)(II) (providing for a time-limited earned income disregard), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 6-month period in accordance with this subsection.

"(2) Notice of benefits.--Each State, in the notice of termination of aid under part A of title IV sent to a family meeting the requirements of paragraph (1)--

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the reporting requirement of subsection (b)(2)(B)(i) and of the circumstances (described in paragraph (3)) under which such extension may be terminated; and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3) Termination of extension.--

"(A) No dependent child.--Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child who is (or would if needy be) a dependent child under part A of title IV.

"(B) Notice before termination.--No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination.

"(C) Continuation in certain cases until redetermination.--With respect to a child who would cease to receive medical assistance because of subparagraph (A) but who may be eligible for assistance under the State plan because the child is described in clause (i) or (v) of section 1905(a), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

"(4) Scope of coverage.--

"(A) In general.--Subject to subparagraph (B), during the 6-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving aid under the plan approved under part A of title IV.

"(B) State medicaid 'wrap-around' option.--A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage

offered by an employer of the caretaker relative or by an employer of the absent parent of a dependent child. In the case of such coverage offered by an employer of the caretaker relative--

"(i) the State may require the caretaker relative, as a condition of extension of coverage under this subsection for the caretaker and the caretaker's family, to make application for such employer coverage, but only if--

"(I) the caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

"(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 1902(a)(25)).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(b) Additional 6-Month Extension.--

"(1) Requirement.--Notwithstanding any other provision of this title, each State plan approved under this title shall provide that the State shall offer to each family, which has received assistance during the entire 6-month period under subsection (a) and which meets the requirement of paragraph (2)(B)(i), in the last month of the period the option of extending coverage under this subsection for the succeeding 6-month period, subject to paragraph (3).

"(2) Notice and reporting requirements.--

"(A) Notices.--

"(i) Notice during initial extension period of option and requirements.--Each State, during the 3rd and 6th month of any extended assistance furnished to a family under subsection (a), shall notify the family of the family's option for additional extended assistance under this subsection. Each such notice shall include (I) in the 3rd month notice, a statement of the reporting requirement under subparagraph (B)(i), and, in the 6th month notice, a statement of the reporting requirement under subparagraph (B)(ii), (II) a statement as to whether any premiums are required for such additional extended assistance, and (III) a description of other out-of-pocket expenses, benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered under paragraph (4)(D). The 6th month notice under this subparagraph shall describe the amount of any premium required of a particular family for each of the first 3 months of additional extended assistance under this subsection.

"(ii) Notice during additional extension period of reporting requirements and premiums.--Each State, during the 3rd month of any additional extended assistance furnished to a family under this subsection, shall notify the family of the reporting requirement under subparagraph (B)(ii) and a statement of the amount of any premium required for such extended assistance for the succeeding 3 months.

"(B) Reporting requirements.--

"(i) During initial extension period.--Each State shall require (as a condition for additional extended assistance under this subsection) that a family receiving extended assistance under subsection (a) report to the State, not later than the 21st day of the 4th month in the period of extended assistance under subsection (a), on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the first 3 months of that period.

"(ii) During additional extension period.--Each State shall require that a family receiving extended assistance under this subsection report to the State, not later than the 21st day of the 1st month and of the 4th month in the period of additional extended assistance under this subsection, on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the 3 preceding months.

"(3) Termination of extension.--

"(A) In general.--Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during the period) as follows:

"(i) No dependent child.--The extension shall terminate at the close of the first month in which the family ceases to include a child who is (or would if needy be) a dependent child under part A of title IV.

"(ii) Failure to pay any premium.--If the family fails to pay any premium for a month under paragraph (5) by the 21st day of the following month, the extension shall terminate at the close of that following month, unless the family has established, to the satisfaction of the State, good cause for the failure to pay such premium on a timely basis.

"(iii) Quarterly income reporting and test.--The extension under this subsection shall terminate at the close of the 1st or 4th month of the 6-month period if--

"(I) the family fails to report to the State, by the 21st day of such month, the information required under paragraph (2)(B)(ii), unless the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis;

"(II) the caretaker relative had no earnings in one or more of the previous 3 months, unless such lack of any earnings was due to an involuntary loss of employment, illness, or other good cause, established to the satisfaction of the State; or

"(III) the State determines that the family's average gross monthly earnings (less such costs for such child care as is necessary for the employment of the caretaker relative) during the immediately preceding 3-month period exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Information described in clause (iii)(I) shall be subject to the restrictions on use and disclosure of information provided under section 402(a)(9). Instead of terminating a family's extension under clause (iii)(I), a State, at its option, may provide for suspension of the extension until the month after the month in which the family

reports information required under paragraph (2)(B)(ii), but only if the family's extension has not otherwise been terminated under subclause (II) or (III) of clause (iii). The State shall make determinations under clause (iii)(III) for a family each time a report under paragraph (2)(B)(ii) for the family is received.

"(B) Notice before termination.--No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination, which notice shall include (in the case of termination under subparagraph (A)(iii)(II), relating to no continued earnings) a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(C) Continuation in certain cases until redetermination.--

"(i) Dependent children.--With respect to a child who would cease to receive medical assistance because of subparagraph (A)(i) but who may be eligible for assistance under the State plan because the child is described in clause (i) or (v) of section 1905(a), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

"(ii) Medically needy.--With respect to an individual who would cease to receive medical assistance because of clause (ii) or (iii) of subparagraph (A) but who may be eligible for assistance under the State plan because the individual is within a category of person for which medical assistance under the State plan is available under section 1902(a)(10)(C) (relating to medically needy individuals), the State may not discontinue such assistance under such subparagraph until the State has determined that the individual is not eligible for assistance under the plan.

"(4) Coverage.--

"(A) In general.--During the extension period under this subsection--

"(i) the State plan shall offer to each family medical assistance which (subject to subparagraphs (B) and (C)) is the same amount, duration, and scope as would be made available to the family if it were still receiving aid under the plan approved under part A of title IV; and

"(ii) the State plan may offer alternative coverage described in subparagraph (D).

"(B) Elimination of most non-acute care benefits.--At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) of the items and services described in paragraphs (4)(A), (6), (7), (8), (11), (13), (14), (15), (16), (18), (20), and (21) of section 1905(a).

"(C) State medicaid 'wrap-around' option.--At a State's option, the State may elect to apply the option described in subsection (a)(4)(B) (relating to 'wrap-around' coverage) for families electing medical assistance under this subsection in the same manner as such option applies to families provided extended eligibility for medical assistance under subsection (a).

"(D) Alternative assistance.--At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

"(i) Enrollment in family option of employer plan.--Enrollment of the caretaker relative and dependent children in a family

option of the group health plan offered to the caretaker relative.

"(ii) Enrollment in family option of state employee plan.--Enrollment of the caretaker relative and dependent children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) Enrollment in state uninsured plan.--Enrollment of the caretaker relative and dependent children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) Enrollment in hmo.--Enrollment of the caretaker relative and dependent children in a health maintenance organization (as defined in section 1903(m)(1)(A)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a health maintenance organization in accordance with section 1903(m).

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 1903(a)(1), to be payments for medical assistance.

"(E) Prohibition on cost-sharing for maternity and preventive pediatric care.--

"(i) In general.--If a State offers any alternative option under subparagraph (D) for families, under each such option the State must assure that care described in clause (ii) is available without charge to the families through--

"(I) payment of any deductibles, coinsurance, and other cost-sharing respecting such care, or

"(II) providing coverage under the State plan for such care without any cost-sharing,

or any combination of such mechanisms.

"(ii) Care described.--The care described in this clause consists of--

"(I) services related to pregnancy (including prenatal, delivery, and post partum services), and

"(II) ambulatory preventive pediatric care (including ambulatory early and periodic screening, diagnosis, and treatment services under section 1905(a)(4)(B)) for each child who meets the age and date of birth requirements to be a qualified child under section 1905(n)(2).

"(5) Premium.--

"(A) Permitted.--Notwithstanding any other provision of this title (including section 1916), a State may impose a premium for a family for additional extended coverage under this subsection for a premium payment period (as defined in subparagraph (D)(i)), but only if the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) for the premium base period exceed 100 percent of

the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(B) Level may vary by option offered.--The level of such premium may vary, for the same family, for each option offered by a State under paragraph (4)(D).

"(C) Limit on premium.--In no case may the amount of any premium under this paragraph for a family for a month in either of the premium payment periods described in subparagraph (D)(i) exceed 3 percent of the family's average gross monthly earnings during the premium base period (as defined in subparagraph (D)(ii)).

"(D) Definitions.--In this paragraph:

"(i) A 'premium payment period' described in this clause is a 3-month period beginning with the 1st or 4th month of the 6-month additional extension period provided under this subsection.

"(ii) The term 'premium base period' means, with respect to a particular premium payment period, the period of 3 consecutive months the last of which is 4 months before the beginning of that premium payment period.

"(c) Applicability in States and Territories.--

"(1) States operating under demonstration projects.--In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) Inapplicability in commonwealths and territories.--The provisions of this section shall only apply to the 50 States and the District of Columbia.

"(d) General Disqualification for Fraud.--

"(1) Ineligibility for aid.--This section shall not apply to an individual who is a member of a family which has received aid under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such aid before otherwise being provided extended eligibility under this section, the individual was ineligible for such aid because of fraud.

"(2) General disqualifications.--For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B.

"(e) Caretaker Relative Defined.--In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

"(f) Sunset.--This section shall not apply with respect to families that cease to be eligible for aid under part A of title IV after September 30, 1998."

(2) Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 303(e) of the Medicare Catastrophic Coverage Act of 1988, is amended--

(A) by striking "and" at the end of paragraph (50),

(B) by striking the period at the end of paragraph (51) and inserting "; and", and

(C) by inserting after paragraph (51) the following new paragraph:

"(52) meet the requirements of section 1925 (relating to extension of eligibility for medical assistance)."

(b) Conforming Amendments.--(1) Section 1902(e)(1) of such Act (42 U.S.C. 1396a(e)(1)) is amended--

(A) by inserting "subject to subparagraph (B)" after "January 1, 1974.",

(B) by inserting "(A)" after "(e)(1)", and

(C) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply with respect to families that cease to be eligible for aid under part A of title IV during the period beginning on April 1, 1990, and ending on September 30, 1998. During such period, for provisions relating to extension of eligibility for medical assistance for certain families who have received aid pursuant to a State plan approved under part A of title IV and have earned income, see section 1925."

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) individuals provided extended benefits under section 1925."

(3) Paragraph (37) of section 402(a) of such Act is amended to read as follows:

"(37) provide that if any family becomes ineligible to receive aid to families with dependent children because of hours of or income from employment of the caretaker relative or because of paragraph (8)(B)(ii)(II), having received such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925, and that the family will be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such aid) as required by section 1925(a)(2);".

(c) Study and Report.--(1) The Secretary of Health and Human Services shall conduct a study of the impact of the medicaid extension provisions under section 1925 of the Social Security Act, with particular focus on the costs of such provisions and the impact on welfare dependency, and shall report to Congress on the results of such study not later than April 1, 1993.

(2) The study under paragraph (1) shall include an examination of--

(A) the extent to which the availability of extended medicaid benefits affects access to and use of medical services,

(B) the relative effectiveness of different types of coverage provided by States,

(C) the effect of requiring families to pay premiums or incur any other expenses with respect to such extended benefits, and

(D) whether individuals who have exhausted such benefits recycle onto welfare for short periods of time in order to requalify for such extended benefits.

(d) Conforming Amendment to Section 403 Amendments.--Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(10)(A) The fact that an individual, child, or pregnant woman may be denied aid under part A of title IV pursuant to section 402(a)(43) shall not be construed as denying (or permitting a State to deny) medical assistance under this title to such individual, child, or woman who is eligible for assistance under this title on a basis other than the receipt of aid under such part.

"(B) If an individual, child, or pregnant woman is receiving aid under part A of title IV and such aid is terminated pursuant to section 402(a)(43), the State may not discontinue medical assistance under this title for the individual, child, or woman until the State has determined that the individual, child, or woman is not eligible for assistance under this title on a basis other than the receipt of aid under such part."

(e) 1-Year Extension of Medicaid Eligibility Extension Due to Collection of Child or Spousal Support.--Section 20(b) of the Child Support Amendments of 1984 (Public Law 98-378) is amended by striking "October 1, 1988" and inserting "October 1, 1989".

(f) Effective Date.--(1) The amendments made by this section (other than subsections (b)(3), (d), and (e)) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990 (or, in the case of the Commonwealth of Kentucky, October 1, 1990) (without regard to whether regulations to implement such amendments are promulgated by such date), with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act on or after such date.

(2)(A) The amendment made by subsection (b)(3) shall become effective on April 1, 1990.

(B) Effective September 30, 1998, the amendment made by subsection (b)(3) is repealed.

(C) Section 402(a)(37) of the Social Security Act, as in effect immediately before April 1, 1990, shall become effective on September 30, 1998.

(3) The amendment made by subsection (d) shall become effective on the effective date of section 402(a)(43) of the Social Security Act, as inserted by section 403(a) of this Act.

(4) The amendment made by subsection (e) shall take effect on October 1, 1988.

SEC. 304. EFFECTIVE DATES.

(a) Child Care for Participants in Employment, Education, and Training.--The amendment made by section 301 shall become effective with respect to a State on the date the amendments made by title II become effective with respect to the State.

(b) Transitional Child Care.--(1) The amendments made by section 302 shall become effective on April 1, 1990.

(2) Effective September 30, 1998, the amendments made by section 302 are repealed.

TITLE IV--RELATED AFDC AMENDMENTS

SEC. 401. BENEFITS FOR TWO-PARENT FAMILIES.

(a) Mandatory Expansion of Coverage.--(1) Section 402(a) of the Social Security Act (as amended by section 201(a) of this Act) is amended--

(A) by striking "and" after the semicolon at the end of paragraph (39);

(B) by striking the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(C) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that aid to families with dependent children will be provided under the plan with respect to dependent children of unemployed parents in accordance with section 407."

(2)(A) Section 402(a)(38)(B) of such Act is amended by striking "(if such section is applicable to the State)".

(B) Section 407(b) of such Act is amended by striking "(b) The provisions" and all that follows through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the provision of aid to families with dependent children under the State's plan approved under section 402, in the case of families that include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan--

"(1) shall require".

(C) Section 407(b)(2) of such Act is amended by striking "provides--" and inserting in lieu thereof "shall provide--".

(b) State Flexibility in Structuring Two-Parent Family Program.--(1) Section

407(b) of such Act (as amended by subsection (a) of this section) is amended--

(A)(i) by inserting "(1)" after "(b)";

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(iii) by redesignating subparagraphs (A), (B), and (C) of such paragraph (1) as clauses (i), (ii), and (iii), respectively;

(iv) by redesignating subparagraphs (A), (B), (C), and (D) of such paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively; and

(v) by redesignating clauses (i) and (ii) of subparagraph (C) of both such paragraphs (1) and (2) as subclauses (I) and (II), respectively;

(B) in paragraph (1)(A) (as so redesignated by subparagraph (A) of this paragraph, and as amended by subsection (a)(2)(A) of this section before such redesignation), by inserting "subject to paragraph (2)," before "shall require"; and

(C) by adding at the end the following new paragraph:

"(2)(A) In carrying out the program under this section, a State may design its program to reflect the individual needs of the State and to emphasize education, training, and employment services for unemployed parents and their spouses who are eligible for aid to families with dependent children by reason of this section, to the extent provided under this paragraph.

"(B)(i) Subject to clauses (ii) and (iii), with respect to the requirement under section 402(a)(41), a State may, at its option, limit the number of months with respect to which a family receives aid to families with dependent children to the extent determined appropriate by the State for the operation of its program under this section.

"(ii)(I) A State may not limit the number of months under clause (i) for which a family may receive aid to families with dependent children unless it provides in its plan assurances to the Secretary that it has a program (that meets such requirements as the Secretary may in regulation prescribe) for providing education, training, and employment services (including any activity authorized under section 402(a)(19) or under part F) in order to assist parents of children described in subsection (a) in preparing for and obtaining employment.

"(II) In exercising the option under clause (i), a State plan may not provide for the denial of aid to families with dependent children to a family otherwise eligible for such aid for any month unless the family has received such aid (on the basis of the unemployment of the parent who is the principal earner) in at least 6 of the preceding 12 months.

"(iii) Each State which, on September 26, 1988, has a program in effect under this section shall continue to operate such program without a time limitation.

"(C) With respect to the participation in the program under section 402(a)(19) and part F of a family eligible for aid to families with dependent children by reason of this section, a State may, at its option--

"(i) except as otherwise provided in such section and such part, require that any parent participating in such program engage in program activities for up to 40 hours per week; and

"(ii) provide for the payment of aid to families with dependent children at regular intervals of no greater than one month but after the performance of assigned program activities."

(2) Section 402(a)(19)(B)(i)(II) of such Act (as added by the amendment made by section 201(a) of this Act) is amended by inserting "(and individuals who would be recipients of such aid if the State had not exercised the option under section 407(b)(2)(B)(i))" after "children".

(3)(A) Section 407(b)(1)(B) of such Act (as so redesignated by paragraph (1)(A) of this subsection) is amended by striking "paragraph (1)(A)" each

place it appears and inserting in lieu thereof "subparagraph (A)(i)".

(B) Section 407(c) of such Act is amended--

(i) by striking "subparagraph (A) of subsection (b)(1)" and inserting in lieu thereof "subsection (b)(1)(A)(i)";

(ii) by striking "subparagraph (B) of such subsection" and inserting in lieu thereof "subsection (b)(1)(A)(ii)"; and

(iii) by striking "subparagraph (A) of subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)(i)".

(C) Section 407(d)(3) of such Act is amended by striking "section 407(b)(1)(C)" and inserting in lieu thereof "subsection (b)(1)(A)(iii)".

(c) Participation in Training and Education Programs as a Quarter of Work.--(1) Section 407(d)(1) of such Act is amended--

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end the following: ", or

(B) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is amended by adding at the end the following new sentence:

"Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under paragraph (1)(B) may provide that the definition of calendar quarter under such option apply in one or more political subdivisions of the State."

(3) Section 407(b)(1)(A)(iii)(I) of such Act (as so redesignated by subsection (b)(1)(A) of this section) is amended by inserting ", no more than 4 of which may be quarters of work defined in subsection (d)(1)(B)." after "(d)(1)".

(4)(A) Section 407(b)(2)(B)(ii) of such Act (as added by the amendment made by subsection (b)(1)(C) of this section) is amended by adding at the end the following new subclause:

"(III) Any family that is otherwise eligible for aid to families with dependent children that does not receive such aid in any month solely by reason of the State exercising the option under clause (i) shall be deemed, for purposes of determining the period under paragraph (1)(A)(iii)(I), to be receiving such aid in such month."

(B) Section 407(d)(1) of such Act (as amended by paragraph (1) of this subsection) is amended by striking "a community work experience" and all that follows through the semicolon and inserting in lieu thereof "the program under section 402(a)(19) and part F;".

(d) Expansion of Medicaid Coverage for Two-Parent Families.--(1) Section 1902(a)(10)(A)(i) of such Act is amended--

(A) by striking "or" at the end of subclause (III),

(B) by adding "or" at the end of subclause (IV), and

(C) by adding at the end the following new subclause:

"(V) who are qualified family members as defined in section 1905(m)(1);".

(2) Section 1905 of such Act is amended by inserting after subsection (l) the following new subsection:

"(m)(1) Subject to paragraph (2), the term 'qualified family member' means an individual (other than a qualified pregnant woman or child, as defined in subsection (n)) who is a member of a family that would be receiving aid under the State plan under part A of title IV pursuant to section 407 if the State had not exercised the option under section 407(b)(2)(B)(i).

"(2) No individual shall be a qualified family member for any period after September 30, 1998."

(e) Evaluation and Report.--(1) The Secretary of Health and Human Services shall evaluate the time-limited and conventional State programs conducted under section 407 of the Social Security Act (as amended by this section), including the effects of the work requirement applicable to families receiving benefits under such section.

(2) The Secretary shall, not later than July 1, 1996, submit to the Congress an interim report containing the findings of such evaluation together with recommendations for any changes in such program, and shall, not later than July 1, 1998, submit to the Congress a final report containing such findings and recommendations.

(f) Section 402(a) of such Act (as amended by sections 201(a) and 401(a) of this Act) is amended--

(1) by striking "and" at the end of paragraph (40);

(2) by striking the period at the end of paragraph (41) and inserting "and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) provide that if, under section 407(b)(2)(B)(i), the State limits the number of months for which a family may receive aid to families with dependent children, the State shall provide medical assistance to all members of the family under the State's plan approved under title XIX, without time limitation.

(g) Effective Date.--(1) Except as provided in paragraph (2), and in section 1905(m)(2) of the Social Security Act (as added by subsection (d)(2) of this section), the amendments made by this section shall become effective on October 1, 1990.

(2) The amendments made by this section shall not become effective with respect to Puerto Rico, American Samoa, Guam, or the Virgin Islands, until October 1, 1992.

(h) Termination.--Effective September 30, 1998, the amendments made by this section (other than by subsection (d)) are repealed, and the provisions of law so amended (as in effect immediately before the effective date of such amendments) shall apply as if such amendments had never been made.

SEC. 402. CHANGES IN EARNED INCOME DISREGARDS.

(a) Limit on Disregard of Child Care Costs Increased; Child Care Disregard To Be Applied Last.--Section 402(a)(3)(A)(iii) of the Social Security Act is amended--

(1) by inserting "after applying the other clauses of this subparagraph," before "shall disregard";

(2) by striking "\$160" and inserting in lieu thereof "\$175"; and

(3) by inserting before the semicolon ", or, in the case such child is under age 2, \$200".

(b) Standard Disregard Increased.--Section 402(a)(8)(A)(ii) of such Act is amended by striking "\$75" and inserting in lieu thereof "\$90".

(c) Disregard of Advance Payments or Refund of Earned Income Tax Credit.--(1) Section 402(a)(3)(A) of such Act is amended--

(A) by striking "and" at the end of clause (vi); and

(B) by adding at the end the following new clause:

"(viii) shall disregard any refund of Federal income taxes made to a family receiving aid to families with dependent children by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and".

(2)(A) Section 402(d) of such Act is repealed.

(B) Section 402(a)(30) of such Act is amended by striking "subsection (d)" and inserting in lieu thereof "subsection (e)".

(d) Effective Date.--The amendments made by this section shall become effective on October 1, 1989.

SEC. 403. HOUSEHOLDS HEADED BY MINOR PARENTS.

(a) In General.--Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), and 401(f) of this Act) is amended--

(1) by striking "and" at the end of paragraph (41);

(2) by striking the period at the end of paragraph (42) and inserting "; and"; and

(3) by inserting immediately after paragraph (42) the following new paragraph:

"(43) at the option of the State, provide that--

"(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for aid to families with dependent children under the State plan)--

"(i) such individual may receive aid to families with dependent children under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement; and

"(ii) such aid (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

"(B) subparagraph (A) does not apply in the case where--

"(i) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(iii) the State agency determines that the physical or emotional health or safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

"(iv) such individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any such dependent child or the individual having made application for aid to families with dependent children under the plan; or

"(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving such subparagraph."

(b) Effective Date.--The amendments made by this section shall become effective on the first day of the first calendar quarter to begin one year or more after the date of the enactment of this Act.

SEC. 404. PERIODIC REEVALUATION OF NEED AND PAYMENT STANDARDS.

(a) In General.--Section 402 of the Social Security Act (as amended by section 301 of this Act) is amended by adding at the end the following new subsection:

"(h)(1) Each State shall reevaluate the need standard and payment standard

under its plan at least once every 3 years, in accordance with a schedule established by the Secretary, and report the results of the reevaluation to the Secretary and the public at such time and in such form and manner as the Secretary may require.

"(2) The report required by paragraph (1) shall include a statement of--

"(A) the manner in which the need standard of the State is determined.

"(B) the relationship between the need standard and the payment standard (expressed as a percentage or in any other manner determined by the Secretary to be appropriate), and

"(C) any changes in the need standard or the payment standard in the preceding 3-year period.

"(3) The Secretary shall report promptly to the Congress the results of the reevaluations required by paragraph (1)."

(b) Effective Date.--The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 405. CBO STUDY ON IMPLEMENTATION OF NATIONAL MINIMUM PAYMENT STANDARD.

(a) In General.--The Congressional Budget Office shall conduct a study on the implementation of the amendments proposed by section 101 of the bill introduced in the Senate of the United States during the 100th Congress and designated S. 862 (relating to the requirement of a minimum payment standard under part A of title IV of the Social Security Act with a Federal matching rate of 90 percent).

(b) Description of Study.--The study conducted under subsection (a) shall assess the extent to which--

(1) the goal of budget neutrality may be preserved by repealing the programs included in, but not limited to, the programs described in the amendments proposed by section 301 of the bill described in subsection (a) over a more gradual period of time in conjunction with corresponding increases (up to 90 percent) in the Federal matching rates under part A of title IV, and title XIX, of the Social Security Act; and

(2) the effects on local governments of repealing Federal programs could be mitigated by providing, over a period of time that corresponds with more gradual increases in the Federal matching rates under such part A and title XIX, general revenue supplements to those localities with the lowest levels of fiscal capacity and pass-throughs to units of local government.

(c) Report to Congress.--The Congressional Budget Office shall report on the results of the study conducted under this section not later than 12 months after the date of the enactment of this Act.

(d) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 406. STUDY OF NEW NATIONAL APPROACHES TO WELFARE BENEFITS FOR LOW-INCOME FAMILIES WITH CHILDREN.

(a) In General.--The Secretary of Health and Human Services shall enter into a contract or arrangement with the National Academy of Sciences for the study of a new national system of welfare benefits for low-income families with children, giving particular attention to what an appropriate national minimum benefit might be and how it should be calculated. The study shall give consideration to alternative minimum benefit proposals including proposals for benefits based on a family living standard, on weighted national median income, on State median income, and on the poverty level, and shall take into account the probable impact of a national minimum benefit on individuals and on State and local governments.

(b) Methodology.--(1) The study under this section shall include the development of a uniform national methodology which could be used to calculate State-specific family living standards and benefits based on other minimum benefit proposals.

(2) The methodology so developed shall be designed to identify a single uniform measure suitable for application in each State, and shall--

(A) take into account actual living costs in each State while permitting variances in such costs as between the different geographic areas of the State;

(B) take into account variations in actual living costs in each State for families of different sizes and composition; and

(C) specify an effective process for reassessing and updating both the methodology and the resulting family living standards and benefits based on other minimum benefit policies at least once every 4 years.

(3) The methodology so developed shall reflect the costs of basic necessities including housing, furnishings, food, clothing, transportation, utilities, and other maintenance items; and the study shall take into account variations in costs for different geographic areas of the State where such costs may be substantially different, and variations in costs for families of different sizes and composition.

(c) Other Considerations; Progression to Proposed Minimum Benefit Levels.--In order to assess the implications of States moving to a new system of welfare benefits, the study shall include an analysis of the relationship between a State's fiscal capacity and other circumstances and constraints and the application of a full family living standard or other minimum benefit policy. The study shall propose a formula designed to achieve a uniform progression from the level of assistance currently being provided for low-income families with children under the AFDC program, the food stamp program, and the low-income energy assistance program, by each State, to a level based on the full family living standard or other minimum benefit policy for that State. For this purpose the Secretary shall define the term "low-income families with children" in a manner which reflects all families that include dependent children as defined for purposes of the AFDC program.

(d) Report and Recommendations.--The Academy shall report its recommendations resulting from the study under this section to the Secretary no later than 24 months after the date of the enactment of this Act; and the Secretary shall promptly transmit such recommendations to the Congress.

(e) Authorization of Funds.--There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE V--DEMONSTRATION PROJECTS

SEC. 501. FAMILY SUPPORT DEMONSTRATION PROJECTS.

(a) Demonstration Projects To Test the Effect of Early Childhood Development Programs.--(1) In order to test the effect of in-home early childhood development programs and pre-school center-based development programs (emphasizing the use of volunteers and including academic credit for student volunteers) on families receiving aid under State plans approved under section 402 of the Social Security Act and participating in the job opportunities and basic skills training program under part F of title IV of such Act, up to 10 States may undertake and carry out demonstration projects utilizing such development programs to enhance the cognitive skills and linguistic ability of children under the age of 5, to improve the communications skills of such children, and to develop their ability to read, write, and speak the English language effectively. Such projects may include parents along with their eligible children in family-centered education programs that assist children directly in achieving the goals stated in the preceding sentence and also help parents contribute to the proper development and education of their young children. Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary of Health and Human Services in

This section referred to as the "Secretary") shall prescribe, and no such project shall be conducted for a period of more than 3 years.

(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this subsection, shall approve up to 10 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this subsection, and shall make grants to the States whose applications are approved to assist them in carrying out such projects.

(3) The Secretary shall submit to the Congress with respect to each project undertaken by a State under this subsection, after such project has been carried out for one year and again when such project is completed, a detailed evaluation of the project and of its contribution to the achievement of the purpose of this subsection.

(b) State Demonstration Projects To Encourage Innovative Education and Training Programs for Children.--In order to encourage States to develop innovative education and training programs for children receiving aid under State plans approved under section 402 of the Social Security Act, any State may establish and conduct one or more demonstration projects, targeted to such children, designed to test financial incentives and interdisciplinary approaches to reducing school dropouts, encouraging skill development, and avoiding welfare dependence; and the Secretary may make grants to States to assist in financing such projects. Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe, and no such project shall be conducted for a period of less than one year or more than 5 years.

(c) Demonstrations To Ensure Long Term Family Self-Sufficiency Through Community-Based Services.--Any State, using funds made available to it from appropriations made pursuant to subsection (d) in conjunction with its other resources, may conduct demonstrations to test more effective methods of providing coordination and services to ensure long term family self-sufficiency through community-based comprehensive family support services involving a partnership between the State agency administering or supervising the administering of the State's plan under section 402 of the Social Security Act and community-based organizations having experience and demonstrated effectiveness in providing services.

(d) Authorization of Appropriations.--For the purpose of making grants to States to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed \$6,000,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 502. DEMONSTRATION PROJECTS TO ENCOURAGE STATES TO EMPLOY PARENTS RECEIVING AFDC AS PAID CHILD CARE PROVIDERS.

(a) In General.--In order to encourage States to employ or arrange for the employment of parents of dependent children receiving aid under State plans approved under section 402(a) of the Social Security Act as providers of child care for other children receiving such aid, up to 5 States may undertake and carry out demonstration projects designed to test whether such employment will effectively facilitate the conduct of the job opportunities and basic skills training program under part F of title IV of such Act by making additional child care services available to meet the requirements of section 402(g)(1)(A) of such Act while affording significant numbers of families receiving such aid a realistic opportunity to avoid welfare dependence through employment as a child care provider.

(b) Consideration of Applications.--The Secretary of Health and Human Services shall consider all applications received from States desiring to conduct demonstration projects under this section, shall approve up to 5 applications involving projects which appear likely to contribute

significantly to the achievement of the purpose of this section, and shall make grants to those States the applications of which are approved to assist them in carrying out such projects. Each project conducted under this section shall meet such conditions and requirements as the Secretary shall prescribe.

(c) Limitation on Authorization of Appropriations.--For the purpose of making grants to States to carry out demonstration projects under this section, there is authorized to be appropriated not to exceed \$1,000,000 for each of the fiscal years 1990, 1991, and 1992.

(d) Effective Date.--This section shall become effective on October 1, 1989.

SEC. 503. DEMONSTRATION PROJECTS TO TEST ALTERNATIVE DEFINITIONS OF UNEMPLOYMENT.

Section 1115 of the Social Security Act is amended by adding at the end the following new subsection:

"(d)(1)(A) The Secretary shall enter into agreements with up to 8 States submitting applications under this subsection for the purpose of conducting demonstration projects in such States to test and evaluate the use, with respect to individuals who received aid under part A of title IV in the preceding month (on the basis of the unemployment of the parent who is the principal earner), of a number greater than 100 for the number of hours per month that such individuals may work and still be considered to be unemployed for purposes of section 407. If any State submits an application under this subsection for the purpose of conducting a demonstration project to test and evaluate the total elimination of the 100-hour rule, the Secretary shall approve at least one such application.

"(B) If any State with an agreement under this subsection so requests, the demonstration project conducted pursuant to such agreement may test and evaluate the complete elimination of the 100-hour rule and of any other durational standard that might be applied in defining unemployment for purposes of determining eligibility under section 407.

"(2) Notwithstanding section 402(a)(1), a demonstratic project conducted under this subsection may be conducted in one or more political subdivisions of the State.

"(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated under section 402(a)(3). Such agreement shall provide for the payment of aid under the applicable State plan under part A of title IV as though section 407 had been modified to reflect the definition of unemployment used in the demonstration project but shall also provide that such project shall otherwise be carried out in accordance with all of the requirements and conditions of section 407 (and, except as provided in paragraph (2), any related requirements and conditions under part A of title IV).

"(4) A demonstration project under this subsection may be commenced any time after September 30, 1990, and shall be conducted for such period of time as the agreement with the Secretary may provide; except that, in no event may a demonstration project under this section be conducted after September 30, 1995.

"(5)(A) Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

"(B) The Secretary shall report the results of the demonstration projects conducted under this subsection to the Congress not later than 6 months after all such projects are completed."

SEC. 504. DEMONSTRATION PROJECTS TO ADDRESS CHILD ACCESS PROBLEMS.

(a) In General.--Any State may establish and conduct one or more demonstration projects (in accordance with such terms, conditions, and requirements as the Secretary of Health and Human Services shall prescribe, except that no such project may include the withholding of aid to families with dependent children pending visitation) to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

(b) Activities Under Project.--Activities that may be funded by a grant under this section include (whether conducted through the executive, legislative, or judicial branches of the State) the development of systematic procedures for enforcing access provisions of court orders, the establishment of special staffs to deal with and mediate disputes involving access (both before and after a court order has been issued), and the dissemination of information to parents.

(c) Other Requirements.--In the case of any experimental, pilot, or demonstration project undertaken under this section, the project--

(1) must be designed to improve the financial well-being of families with children or otherwise improve the operation of the program or programs involved; and

(2) may not permit modifications in any program which would have the effect of disadvantaging children in need.

(d) Authorization of Appropriations.--For the purpose of making grants to States to assist in financing the projects established under this section, there is authorized to be appropriated not to exceed \$4,000,000 for each of the fiscal years 1990 and 1991.

(e) Report.--Not later than July 1, 1992, the Secretary of Health and Human Services shall submit to the Congress a report on the effectiveness of the demonstration projects established under this section in--

(1) decreasing the time required for the resolution of disputes related to child access,

(2) reducing litigation relating to access disputes, and

(3) improving compliance with court-ordered child support payments.

SEC. 505. DEMONSTRATION PROJECTS TO EXPAND THE NUMBER OF JOB OPPORTUNITIES AVAILABLE TO CERTAIN LOW-INCOME INDIVIDUALS.

(a) In General.--The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with not less than 5 nor more than 10 nonprofit organizations (including community development corporations) submitting applications under this section for the purpose of conducting demonstration projects in accordance with subsection (b) to create employment opportunities for certain low-income individuals.

(b) Nature of Project.--(1) Each nonprofit organization conducting a demonstration project under this section shall provide technical and financial assistance to private employers in the community to assist them in creating employment and business opportunities for those individuals eligible to participate in the projects as described in this subsection.

(2) For purposes of this section, a nonprofit organization is any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code.

(3) A low-income individual eligible to participate in a project conducted under this section is any individual eligible to receive aid to families with dependent children under part A of title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line as defined by the Office of Management and Budget and revised in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(c) Content of Applications: Selection Priority.--(1) Each nonprofit organization submitting an application under this section shall, as part of such application, describe--

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area to be served by the project;

(C) the percentage of low-income individuals (as described in subsection (b)) and individuals receiving aid to families with dependent children under title IV of the Social Security Act in the area to be served by the project; and

(D) unemployment rates in the geographic areas to be served and (to the extent practicable) the jobs available and skills necessary to fill those vacancies in such areas.

(2) In approving applications under this section, the Secretary shall give priority to applications proposing to serve those areas containing the highest percentage of individuals receiving aid to families with dependent children under title IV of such Act.

(d) Administration.--Each nonprofit organization participating in a demonstration project conducted under this section shall provide assurances in its agreement with the Secretary that it has or will have a cooperative relationship with the agency responsible for administering the job opportunities and basic skills training program (as provided for under title IV of the Social Security Act) in the area served by the project.

(e) Duration.--Each demonstration project conducted under this section shall be commenced not later than September 30, 1989, and shall be conducted for a 3-year period; except that the Secretary may terminate a project before the end of such period if he determines that the nonprofit organization conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

(f) Evaluation and Report.--(1) The Secretary shall conduct an evaluation of the success of each demonstration project conducted under this section in creating job opportunities and may require each nonprofit organization conducting such a project to provide the Secretary with such information as the Secretary determines is necessary to prepare the report described in paragraph (2).

(2) Not later than January 1, 1993, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted under paragraph (1), together with such recommendations as the Secretary determines are appropriate.

(g) Authorization of Appropriations.--For the purpose of making grants to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed \$6,500,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 506. DEMONSTRATION PROJECTS TO PROVIDE COUNSELING AND SERVICES TO HIGH-RISK TEENAGERS.

(a) Findings and Purpose.--(1) The Congress finds that--

(A) the incidences of teenage pregnancy, suicide, substance abuse, and school dropout are increasing;

(B) research to date has established a link between low self-esteem, perceived limited life options and the risk of teenage pregnancy, suicide, substance abuse, and school dropout;

(C) little data currently exists on how to improve the self-image of and expand the life options available to high-risk teenagers; and

(D) there currently is no Federal program in place to address the unique and significant problems faced by today's teenagers.

(2) It is the purpose of the demonstration projects conducted under this

section to provide programs in which a range of non-academic services (sports, recreation, the arts) and self-image counseling are provided to high-risk teenagers in order to reduce the rates of pregnancy, suicide, substance abuse, and school dropout among such teenagers.

(b) In General.--The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with each of 4 States submitting applications under this section for the purpose of conducting demonstration projects in accordance with this section to provide counseling and services to certain high-risk teenagers.

(c) Nature of Project.--Under each demonstration project conducted under this section--

(1) The State shall establish a "Teen Care Plan" that shall consist of the following:

(A) A clearing house where high-risk teenagers will be referred to and encouraged to participate in non-academic activities (arts, recreation, sports) which are already in place in the community.

(B) A survey of the area to be targeted by the project to determine the need to fund and create new non-academic activities in the area.

(C) Counseling services utilizing qualified, locally licensed psychologists, social psychologists, or other mental health professionals or related experts to provide individual and group counseling to participating high-risk teenagers.

(D) A program to provide participants in the project (to the extent practicable) with such transportation, child care, and equipment as is necessary to carry out the purposes of the project.

(2) The State shall designate two geographical areas within the State to be targeted by the project. One area will serve as the "home base" for the project, where services will be concentrated and in which a local school system will be selected to receive services and provide facilities for resource referral and counseling. The second geographical area will serve as a "peripheral" participant, receiving assistance and services from the home base.

(3) A high-risk teenager is any male or female who has reached the age of 10 years and whose age does not exceed 20 years, and who--

(A) has a history of academic problems;

(B) has a history of behavioral problems both in and out of school;

(C) comes from a one-parent household; or

(D) is pregnant or is a mother of a child.

(d) Applications; Selection Criteria.--(1) In selecting States to conduct demonstration projects under this section, the Secretary--

(A) shall consult with the Consortium on Adolescent Pregnancy;

(B) shall consider--

(i) the rate of teenage pregnancy in each State,

(ii) the teenage school dropout rate in each State,

(iii) the incidence of teenage substance abuse in each State, and

(iv) the incidence of teenage suicide in each State; and

(C) shall give priority to States whose applications--

(i) demonstrate a current strong State commitment aimed at reducing teenage pregnancy, suicide, drug abuse, and school dropout;

(ii) contain a "State support agreement" signed by the Governor, the State School Commissioner, the State Department of Human Services, and the State Department of Education, pledging their commitment to the project;

(iii) describe facilities and services to be made available by the State to assist in carrying out the project; and

(iv) indicate a demonstrably high rate of alcoholism among its

residents.

(2) Of the States selected to participate in the demonstration projects conducted under this section--

(A) one shall be a geographically small State with a population of less than 1,250,000; -

(B) one shall be a State with a population of over 20,000,000; and

(C) two shall be States with populations of more than 1,000,000 but less than 20,000,000.

(e) Evaluation and Report.--(1) Each State conducting a demonstration project under this section shall submit to the Secretary for his approval an evaluation plan that provides for examining the effectiveness of the project in both the home base and peripheral area of the State.

(2) Not later than October 1, 1992, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted by States pursuant to the plans described in paragraph (1).

(f) Funding.--(1) Three-fifths of the total amount appropriated pursuant to this section for any fiscal year for each State conducting a demonstration project shall be expended by such State for the provision of services and facilities within the State's designated project home base, and 5 percent of such three-fifths shall be set aside for the conduct of the State's evaluation as provided for in subsection (e).

(2) Two-fifths of the total amounts appropriated pursuant to this section for any fiscal year for each State conducting a demonstration project shall be expended by such State for the provision of services and facilities within the State's designated peripheral area, and 5 percent of such two-fifths shall be set aside for the conduct of the State's evaluation as provided for in subsection (e).

(g) Duration.--A demonstration project conducted under this section shall be commenced not later than September 30, 1989, and shall be conducted for a 3-year period; except that the Secretary may terminate a project before the end of such period if he determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

(h) Authorization of Appropriations.--For the purpose of funding in equal amounts each State demonstration project conducted under this section, there is authorized to be appropriated not to exceed \$1,500,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 507. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until June 30, 1990, the waiver granted to such State under section 1115(a) of the Social Security Act to conduct a prepaid medicaid demonstration project.

TITLE VI--MISCELLANEOUS PROVISIONS

SEC. 601. INCLUSION OF AMERICAN SAMOA AS A STATE UNDER TITLE IV.

(a) In General.--The last sentence of section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended to read as follows: "Such term when used in title IV also includes American Samoa."

(b) Limitation on Payments to American Samoa.--Section 1108 of such Act (42 U.S.C. 1308) is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

(d) The total amount certified by the Secretary under parts A and E of title IV with respect to a fiscal year for payment to American Samoa (exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies) shall not exceed

\$1,000,000."

(c) Conforming Amendments.--(1) Section 403 of such Act (42 U.S.C. 603) is amended--

(A) in paragraphs (1) and (2) of subsection (a), by striking "and Guam," each place it appears and inserting in lieu thereof "Guam, and American Samoa,"; and

(B) in subsections (i)(4) and (j), by striking "or the Virgin Islands" and inserting in lieu thereof "the Virgin Islands, or American Samoa".

(2) The heading of section 1108 of such Act (42 U.S.C. 1308) is amended to read as follows:

"Limitation on Payments to Puerto Rico, the Virgin Islands, Guam, and American Samoa".

(3) The last sentence of section 1118 of such Act (42 U.S.C. 1318) is amended by inserting before the period the following: ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(d) Effective Date.--The amendments made by this section shall become effective on October 1, 1988.

SEC. 602. INCREASE IN AMOUNT AVAILABLE FOR PAYMENT TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM.

(a) In General.--Section 1108(a) of the Social Security Act (42 U.S.C. 1308(a)) is amended--

(1) in paragraph (1)--

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) \$72,000,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) \$82,000,000 with respect to the fiscal year 1989 and each fiscal year thereafter;"

(2) in paragraph (2)--

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) \$2,400,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) \$2,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter;"

(3) in paragraph (3)--

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) \$3,300,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) \$3,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter."

(b) Effective Date.--The amendments made by subsection (a) shall become effective on October 1, 1988.

SEC. 603. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

(a) In General.--Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new section:

"Assistant Secretary for Family Support

"Sec. 418. The programs under this part, part D, and part F shall be administered by an Assistant Secretary for Family Support within the

Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law."

(b) Compensation:--Section 5315 of title 5, United States Code, is amended by striking "(4)" at the end of the item relating to Assistant Secretaries of Health and Human Services and inserting in lieu thereof "(5)".

(c) Effective Date.--The amendments made by this section shall become effective on February 1, 1989.

SEC. 604. RESPONSIBILITIES OF THE STATE.

(a) In General.--Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), 401(f), and 403(a) of this Act) is amended--

(1) by striking "and" at the end of paragraph (42);

(2) by striking the period at the end of paragraph (43) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (43) the following new paragraph:

"(44) provide that the State agency shall--

"(A) be responsible for assuring that the benefits and services under the programs under this part, part D, and part F are furnished in an integrated manner, and

"(B) consistent with the provisions of this title, ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible."

(b) Effective Date.--The amendments made by subsection (a) shall become effective on July 1, 1989.

SEC. 605. ESTABLISHMENT OF PREELIGIBILITY FRAUD DETECTION MEASURES.

(a) In General.--Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), 401(f), 403(a), and 604(a) of this Act) is amended--

(1) by striking "and" at the end of paragraph (43);

(2) by striking the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (44) the following new paragraph:

"(45) provide (in accordance with regulations issued by the Secretary) for appropriate measures to detect fraudulent applications for aid to families with dependent children prior to the establishment of eligibility for such aid."

(b) Effective Date; Regulations.--(1) The amendments made by subsection (a) shall become effective on October 1, 1989.

(2) The Secretary of Health and Human Services shall issue final regulations with respect to the requirement added by the amendment made by subsection (a) not later than 6 months after the date of the enactment of this Act.

SEC. 606. UNIFORM REPORTING REQUIREMENTS.

Section 403 of the Social Security Act is amended by inserting immediately before subsection (f) the following new subsection:

"(e) In order to assist in obtaining the information needed to carry out subsection (b)(1) and otherwise to perform his duties under this part, the Secretary shall establish uniform reporting requirements under which each State will be required periodically to furnish such information and data as the Secretary may determine to be necessary to ensure that sections 402(a)(37), 402(a)(43), and 402(g)(1)(A), are being effectively implemented.

including at a minimum the average monthly number of families assisted under each such section, the types of such families, the amounts expended with respect to such families, and the length of time for which such families are assisted. The information and data so furnished with respect to families assisted under section 402(g) shall be separately stated with respect to families who have earnings and those who do not, and with respect to families who are receiving aid under the State plan and those who are not."

SEC. 607. STATE REPORTS ON EXPENDITURE AND USE OF SOCIAL SERVICES FUNDS.

Section 2006 of the Social Security Act is amended--

(1) by striking that part of the second sentence of subsection (a) which precedes "as the State finds necessary" and inserting in lieu thereof "Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c))";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)--

"(1) the number of individuals who received services paid for in whole or in part with funds made available under this title, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

"(2) the amount spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

"(3) the criteria applied in determining eligibility for services (such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs); and

"(4) the methods by which services were provided, showing separately the services provided by public agencies and those provided by private agencies, and broken down in each case to reflect the types of services and circumstances involved.

The Secretary shall establish uniform definitions of services for use by the States in preparing the information required by this subsection, and make such other provision as may be necessary or appropriate to assure that compliance with the requirements of this subsection will not be unduly burdensome on the States."

SEC. 608. MISCELLANEOUS TECHNICAL CORRECTIONS TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.

(a) Modification of Provisions Relating to Employment Maintenance of Effort.--Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended--

(1) in subsection (a)(1)--

(A) by striking "(c)(1)" and inserting "(c)(1)(A)", and

(B) by striking "during the period described in subsection (c)(1)(A)" and inserting "(determined as if they were provided in that period)";

(2) in subsection (a)(2)--

(A) by striking "(c)(2)" and inserting "(c)(1)(B)", and

(B) by striking "during the period described in subsection (c)(1)(B)" and inserting "(determined as if they were provided in that period)";

(3) in subsections (a)(3)(A) and (a)(3)(B), by inserting "provided as of

the date of the enactment of this Act" after "means benefits";

(4) in subsection (b)(1)--

(A) by inserting "1989" after "50 percent of the", and

(B) by striking "of the duplicative part A benefits" and inserting "of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under part A of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(5) in subsection (b)(2)--

(A) by inserting "1990" after "50 percent of the", and

(B) by striking "of the duplicative part B benefits" and inserting "of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under part B of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act."; and

(6) in subsection (b)(3)--

(A) in subparagraph (A), by striking "the actuarial value of duplicative part A benefits and duplicative part B benefits" and inserting "the amount of the additional benefits or refunds to be provided under subsections (a)(1) and (a)(2)";

(B) in subparagraph (A)(i), by striking "on the basis of" and inserting "as being equal to the respective national";

(C) in subparagraph (B), by striking "Computation of actuarial value" and inserting "Publication of guidelines and national average actuarial values for minimum additional benefits and refunds"; and

(D) by striking clause (i) of subparagraph (B) and all that follows through "shall include instructions" and inserting the following:

"(i) calculate and publish--

"(I) the national average actuarial value for the following year of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under such part as such part was in effect before the date of the enactment of this Act, and

"(II) the national average actuarial value for the following year of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under such part as such part was in effect before the date of the enactment of this Act,

to be used by employers who exercise the option under subparagraph (A)(i) in determining the minimum amount of additional benefits or refunds to be provided under subsections (a)(1) and (a)(2), respectively; and

"(ii) publish guidelines to be used by employers who exercise the option under subparagraph (A)(ii) in determining the minimum amount of additional benefits or refunds to be provided under subsections (a)(1) and (a)(2), respectively.

The Secretary shall publish, before the beginning of 1989 with respect to part A benefits and before the beginning of 1990 with respect to part B benefits, guidelines".

(b) Inclusion of Provisions Repealing Authority to Administer Proficiency Examinations.--The Medicare Catastrophic Coverage Act of 1988 is amended by

inserting after section 429 the following new section (and by inserting a corresponding item in the table of contents of such Act):

"SEC. 430. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

"(a) Repeal.--Section 1123 of the Social Security Act (42 U.S.C. 1320a-2) is repealed.

"(b) Effect of Repeal.--Nothing in the amendment made by subsection (a) shall be construed as affecting the qualification of any individual, who has been determined under the program established under section 1123 of the Social Security Act to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions."

(c) Continuation of Cost Pass-Through for Certified Registered Nurse Anesthetists.--Section 9320 of the Omnibus Budget Reconciliation Act of 1986 is amended--

(1) in subsection (i), by striking "The amendments" and inserting "Except as provided in subsection (k), the amendments", and

(2) by adding at the end the following new subsection:

"(k) Authorization of Continuation of Pass-Through.--

"(1) Subject to paragraph (2), the amendments made by this section shall not apply during 1989, 1990, and 1991 to a hospital located in a rural area (as defined for purposes of section 1886(d) of the Social Security Act) if the hospital establishes, before April 1, 1989, to the satisfaction of the Secretary of Health and Human Services that--

"(A) as of January 1, 1988, the hospital employed or contracted with a certified registered nurse anesthetist (but not more than one full-time equivalent certified registered nurse anesthetist),

"(B) in 1987 the hospital had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services that did not exceed 250 (or such higher number as the Secretary determines to be appropriate), and

"(C) each certified registered nurse anesthetist employed by, or under contract with, the hospital has agreed not to bill under part B of title XVIII of such Act for professional services furnished by the anesthetist at the hospital.

"(2) Paragraph (1) shall not apply in 1990 or 1991 to a hospital unless the hospital establishes, before the beginning of each respective year, that the hospital has had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services in the previous year that did not exceed 250 (or such higher number as the Secretary determines to be appropriate).

"(3) The Secretary shall implement this subsection in such a manner as to maintain budget neutrality consistent with section 1833(1)(3) of the Social Security Act."

(d) Miscellaneous Technical Corrections to Various Provisions in the Medicare Catastrophic Coverage Act of 1988 ("MCCA").--

(1) Abbreviations used.--In this subsection:

(A) The term "MCCA" refers to the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360).

(B) The term "OBRA" refers to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(2) Section 103.--The second sentence of section 1818(d)(1) of the Social Security Act, as amended by section 103 of MCCA, is amended by striking "entire".

(3) Section 104.--Section 104 of MCCA is amended--

(A) in subsection (a)(1), by striking "paragraphs (2) and (3)" and inserting "paragraph (2) and subsection (b)";

(B) in subsection (b)(1)--

(i) by striking "(1) the amendment made to section 1813(a)(1) of such Act" and inserting "(1)(A) section 1813(a)(1) of such Act (as amended by this subtitle)", and

(ii) by adding at the end the following new subparagraph:

"(B) if that individual begins a period of hospitalization (as defined in such section) during 1989 or 1990 after the end of that spell of illness, the first period of hospitalization during 1989 or 1990 that begins after that spell of illness shall be considered to be (for purposes of such section) the first period of hospitalization that begins during that year; and";

(C) in subsections (c)(1) and (c)(2), by striking "by medicare beneficiaries" and inserting "by (or on behalf of) medicare beneficiaries";

(D) in subsection (c)(2), by striking "cost reporting periods beginning on or after October 1, 1988" and inserting "portions of cost reporting periods occurring on or after January 1, 1989";

(E) in subsection (c)(2), by inserting before the period at the end the following: ", without regard to whether such a hospital is paid on the basis described in subparagraph (A) or (B) of section 1886(b)(1) of such Act";

(F) in subsection (d)(5), by striking "each place it appears"; and

(G) by adding at the end of subsection (d) the following new paragraph:

"(7) Section 1833(b) (42 U.S.C. 13951(b)) is amended by adding at the end the following new sentence: 'The deductible under the previous sentence for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1813(a)(2) to blood or blood cells furnished the individual in the year.'";

(4) Section 201.--Section 201(a)(1)(A) of MCCA is amended by striking "subsection" and inserting "subsections".

(5) Section 202.--(A) Section 1842(o)(1) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended--

(i) in subparagraph (A)(i), by striking "subparagraph (D)(i)" and inserting "paragraph (4)", and

(ii) in subparagraph (F)(ii), by inserting "an" before "eligible organization".

(B) Section 1842(f)(3) of the Social Security Act, as added by section 202(e)(1) of MCCA, is amended by inserting ", including claims processing functions" after "and related functions".

(C) Section 1842(b)(3)(K) of the Social Security Act, as inserted by section 202(e)(2)(B) of MCCA, is amended by inserting ", including claims processing functions," after "and for related functions".

(D) Section 1842(c)(1)(A)(ii) of the Social Security Act, as added by section 202(e)(3)(A)(iii) of MCCA, is amended by inserting ", including claims processing functions" after "and related functions".

(E) Section 202(e)(3)(B) of MCCA is amended by inserting ", including claims processing functions" after "and related functions".

(F) Section 202(e)(3)(C) of MCCA is amended by striking "Section 1842(b)(2)" and inserting "Section 1842(b)(2)(A)".

(G) Section 1842(b)(2)(A) of the Social Security Act, as amended by section 202(e)(3)(C) of MCCA, as revised by the previous amendment, is amended by inserting ", including claims processing functions" after "and related functions".

(H) Section 202(e)(5)(A) of MCCA is amended by--

(i) by striking "paragraph (3)" and inserting "paragraph (4)", and
(ii) by adding "and" after the semicolon at the end.

(I) Section 1847(b)(3) of the Social Security Act, as added by section 202(j) of MCCA, is amended by striking "the contingency margin (established under section 1841A(d) for the following year)" and inserting "the contingency margin required for the following year".

(6) Section 203.--(A) Section 1861 of the Social Security Act is amended by adding immediately before subsection (jj), as added by section 203(b) of MCCA the following new heading:

"Home Intravenous Drug Therapy Services".

(B) Section 203(c)(3) of MCCA is amended by adding at the end the following new sentence: "Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this paragraph."

(7) Section 205.--Section 205(e)(1)(A) of MCCA is amended by redesignating clause (iv) as clause (iii).

(8) Section 208.--The second sentence of section 208(b) of MCCA is amended by striking "shall include in the report" and inserting "shall report, not later than 2 years after the date of the enactment of this Act,".

(9) Section 211.--(A) Section 1839(g) of the Social Security Act, as added by section 211(a) of MCCA, is amended--

(i) in paragraph (1)(B)(iii)(I), by striking "and" and inserting "over",

(ii) in paragraph (1)(B)(iii)(II), by inserting "premium" after "supplemental", and

(iii) in paragraph (7)(A)(ii), by inserting "each" before "such year,".

(B) Section 1839(f) of the Social Security Act, as amended by section 211(b) of MCCA, is amended by striking "for that January below the amount of benefits payable to that individual for that December" and inserting "for that December below the amount of benefits payable to that individual for that November".

(10) Section 212.--(A) Section 1841A(a)(1) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "1841(j)" and inserting "1840(i)".

(B) Section 1840(i) of the Social Security Act, as added by section 212(b)(1) of MCCA, is amended by striking "Supplemental" and inserting "Supplementary".

(11) Section 213.--Section 213 of MCCA is amended by striking "(a) In General.--".

(12) Section 221.--Section 221(g)(2) of MCCA is amended by striking "subsection (c)" and inserting "subsection (d)".

(13) Section 222.--Section 222 of MCCA is amended--

(A) in paragraph (1), by striking "sections 1833(a)(1)(A) and 1876" and inserting "section 1876", and

(B) in paragraph (2), by inserting "and organizations paid under section 1833(a)(1)(A) of such Act" after "organizations".

(14) Section 301.--Section 301 of MCCA is amended--

(A) in subsection (b)(1), by striking "clause (ii)" and inserting "subparagraph (B)" and by adding "and" at the end;

(B) by striking paragraph (2) of subsection (b) and by redesignating paragraph (3) of such subsection as paragraph (2);

(C) in subsection (b)(2), as so redesignated, by striking "by adding at the end the following new clause" and inserting "by striking

subparagraph (B) and inserting the following";

(D) in the matter inserted by subsection (b)(2), as so redesignated and amended--

(i) by redesignating subclauses (I) through (IV) of clause (ii) and subclauses (I) through (V) of clause (iii) as clauses (i) through (iv) or subparagraph (B) and clauses (i) through (v) of subparagraph (C), respectively;

(ii) in subparagraph (B), as so redesignated, by striking "in clause (iii)" and inserting "in subparagraph (C)"; and

(iii) in subparagraph (C), as so redesignated, by striking "under clause (ii)" and inserting "under subparagraph (3)";

(E) in subsection (c)--

(i) by adding "and" at the end of paragraph (1),

(ii) by striking "; and" at the end of paragraph (2), and inserting a period, and

(iii) by striking paragraph (3);

(F) in subsection (d)(2), in the subparagraph (C) amended by such paragraph, by inserting "section" before "1833(b)";

(G) in subsection (d)--

(i) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and

(ii) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) in paragraph (3), by inserting ', without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under the plan' after 'qualified medicare beneficiary' the first place it appears:";

(H) in subsection (e)(1)--

(i) by inserting "(A)" before "Section", and

(ii) by adding at the end the following new subparagraphs:

"(B) Subsection (h)(1) of such section is further amended by inserting '(A)' after 'include' and by inserting before the period at the end the following: ', or (B) qualified medicare beneficiaries (as defined in section 1905(p)(1))'."

"(C) The second sentence of subsection (h)(2) of such section is amended by inserting '(except in the case of qualified medicare beneficiaries, as defined in section 1905(p)(1))' after 'shall be applied' the second place it appears.";

(I) in subsection (e)(2)--

(i) in subparagraph (C), by striking "and" at the end and by redesignating such subparagraph as subparagraph (D);

(ii) in subparagraph (D), by striking the period at the end and inserting ", and" and by redesignating such subparagraph as subparagraph (E); and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) in subsection (a), by striking paragraph (15):";

(J) in paragraph (5)(B) of the matter added by subsection (g)(2)--

(i) by striking "paragraph (2)(A)" and inserting "paragraph (2)", and

(ii) by striking "clause (ii)" and inserting "subparagraph (B)"; and

(K) in subsection (h)(2), by inserting 'first calendar quarter beginning after the close of the' after "additional requirements before the first day of the".

(15) Section 302.--(A) Section 302(a)(2)(B) of MCCA is amended--

- (i) in clause (i), by striking "not more" the first place it appears and inserting "(not more", and
 - (ii) in clause (iif), by striking "clause" and inserting "clauses".
- (B) Section 1902(1)(2)(A) of the Social Security Act, as amended by section 302(a)(2)(B)(i-f) of MCCA, is amended--
- (i) in clause (ii)--
 - (I) by striking "Subject to clause (iii), the" and inserting "The".
 - (II) in subclause (I), by inserting "or, if greater, the percentage provided under clause (iii)," after "75 percent,"; and
 - (ii) in clause (iii), by striking "(ii)" each place it appears and inserting "(ii)(I)".
- (C) Section 1923(a)(2) of the Social Security Act is amended by indenting the subparagraph (C) added by section 302(b)(2) of MCCA 2 ems.
- (16) Section 303.--(A) Section 1924 of the Social Security Act, as inserted by section 303(a)(1)(B) of MCCA, is amended--
- (i) in the last sentence of subsection (c)(1)(B), by striking "has right to a fair hearing" and all that follows through "needs allowance" and inserting "will have a right to a fair hearing under subsection (e)(2)";
 - (ii) in subsection (c)(2)(B), by striking "resources shall not" and all that follows through "does not exceed" and inserting "resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds";
 - (iii) in subsection (d)(3)(A)(i), by striking "nonfarm";
 - (iv) in subsection (d)(4), by striking "subparagraph (C)" and inserting "subparagraph (B)";
 - (v) in the first sentence of subsection (e)(2)(A), by inserting before the period at the end the following: "if an application for benefits under this title has been made on behalf of the institutionalized spouse";
 - (vi) in subsection (f)(1)--
 - (I) by striking "to the community spouse (or to another for the sole benefit of the community spouse)", and
 - (II) by striking "pacticable" and inserting "practicable"; and
 - (vii) in subsection (f)(3), by striking "spouse of a family member" and inserting "spouse or a family member".
- (B) Section 1917(c) of the Social Security Act, as amended by section 303(b) of MCCA, is amended--
- (i) in paragraph (1)--
 - (I) by inserting "for nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for services under section 1915(c)" after "period of ineligibility" the first place it appears,
 - (II) by inserting "or after" after "during", and
 - (III) by striking "the individual's application for medical assistance under the State plan" and inserting "the date the individual becomes an institutionalized individual (if the individual is entitled to medical assistance under the State plan on such date) or, if the individual is not so entitled, the date the individual applies for such assistance while an institutionalized individual";
 - (ii) in paragraph (2)(A)(ii), by inserting "(I)" after "who" and by inserting "(II)" after "or" the first place it appears;
 - (iii) in paragraph (2)(A)(iii), by striking "of the individual's admission to the medical institution or nursing facility" and

inserting "the individual becomes an institutionalized individual";
 (iv) in paragraph (2)(A)(iv), by striking "of such individual's admission to the medical institution or nursing facility" and inserting "the individual becomes an institutionalized individual";
 (v) in paragraph (2)(B)--

(I) by inserting "(i)" after "transferred", and

(II) by striking "or the individual's child who is blind or permanently and totally disabled" and inserting ", (ii) to the individual's child described in subparagraph (A)(ii)(II), or (iii) to (or to another for the sole benefit of) the individual's spouse if such spouse does not transfer such resources to another person other than the spouse for less than fair market value";

(vi) in paragraph (3), by striking "in a medical institution or nursing facility" and inserting "in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in section 1902(a)(10)(A)(ii)(VI)"; and

(vii) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'resources' has the meaning given such term in section 1613, without regard to the exclusion described in subsection (a)(1) thereof."

(C) Section 1902(r)(2)(A) of the Social Security Act, as added by section 303(e)(5)(C) of MCCA, is amended by striking "or under subsection (f)" and inserting "or (f) or under section 1905(p)".

(D) Section 303(g) of MCCA is amended--

(i) in paragraph (2)(B), by inserting before the period at the end the following: ". except that such section shall not apply with respect to inter-spousal transfers occurring before October 1, 1989";

(ii) in paragraph (2)(C), by inserting before the period at the end the following: ", and the laws and policies established by the State as of June 30, 1988, or provided for before July 1, 1988, shall continue to apply through September 30, 1989, (and may, at a State's option continue after such date) to inter-spousal transfers occurring before October 1, 1989"; and

(iii) in paragraph (5), by striking "other than subsection (e)" and inserting "other than paragraphs (1) and (5) of subsection (e)".

(17) Section 411(a).--Section 1842(n)(1)(A) of the Social Security Act, as clarified by section 411(a)(3)(C) of MCCA, is amended by striking "the the supplier's" and inserting "the supplier's".

(18) Section 411(b).--(A) Subclauses (III) and (IV) of section 1886(b)(3)(B)(i) of the Social Security Act, as amended by section 411(b)(1)(A) of MCCA, are amended by striking "for for hospitals" and inserting "for hospitals".

(B) Section 411(b)(1)(E) of MCCA is amended by designating subparagraph (E) as clause (ii) and by inserting immediately before such subparagraph the following:

"(E)(i) Section 1886(d)(3)(A)(i) of the Social Security Act, as amended by section 4002(c)(1)(B)(i) of OBRA, is amended by striking 'occurring' and inserting 'occurring'."

(C) Section 411(b)(4) of MCCA is amended by adding at the end the following new subparagraph:

"(E) Section 4005(b)(3)(B) of OBRA is amended by striking 'on' after '(B)'."

(D) Section 411(b)(6)(C) of MCCA is amended--

(i) in clause (ix)(I), by striking "payers" and inserting "payers".

(ii) in clause (ix)(III), by striking "and" before "other persons".

and

(iii) in clause (x)(II), by striking "operation" and inserting "operations".

(E) Section 411(b)(8)(A)(i) of MCCA is amended, in paragraph (1)(A)(ii) of the amendment inserted by such section, by inserting "the" immediately before "previous".

(19) Section 411(c).--Section 411(c) of MCCA is amended--

(A) in paragraph (2), by adding at the end the following new subparagraph:

"(C) Section 1366(a)(1) of the Social Security Act, as amended by section 4012(a) of OBRA, is amended--

"(i) by striking 'and' at the end of subparagraph (M), and

"(ii) by striking the period at the end of subparagraph (N) and inserting ', and'.";

(C) in paragraph (4)--

(i) by striking "and" at the end of subparagraph (A),

(ii) by redesignating subparagraph (B) as subparagraph (C), and

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) in subparagraph (B)(i), by inserting 'of such subparagraph.' after '(v)(I)', and"; and

(C) by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Section 4015.--Section 4015(a) of OBRA is amended--

"(A) in the first sentence of paragraph (7) by striking 'the the' and inserting 'the', and

"(B) in paragraph (10), by striking 'affect' and inserting 'effect'.".

(20) Section 411(d).--(A) Section 411(d)(2)(A) of MCCA is amended by striking "by inserting" and all that follows and inserting the following: "to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.'".

(B) Section 411(d)(4)(A) of MCCA is amended--

(i) in clause (i)--

(I) by striking "accreditation" the first place it appears and inserting "certification", and

(II) by striking "accreditation survey conducted by a State agency or" and inserting "certification survey conducted by a State agency or accreditation survey conducted by a"; and

(ii) in clause (ii), amend subclause (II) to read as follows:

"(II) by striking 'pursuant to an agreement with the Secretary under section 1864' and inserting 'utilized by the Secretary under section 1865'.".

(C) Section 411(d)(4)(A)(ii)(I) of MCCA is amended by striking "such".

(D) The subsection inserted by section 411(d)(4)(B)(ii) of MCCA is amended by striking "agency" and inserting "agency)".

(21) Section 411(f).--(A) Section 1842(i)(3) of the Social Security Act, as redesignated by section 4042(b)(1)(C)(iii) of OBRA as amended by section 411(f)(2)(C) of MCCA, is amended by striking "paragraph (3)" and inserting "subsection (b)(3)".

(B) Section 411(f)(2)(F)(i) of MCCA is amended, in the matter inserted by such section--

(i) by striking "139u(b)(4)(A)" and inserting "1395u(b)(4)(A)", and

(ii) by striking the closing single quotation mark and the period

that follows it.

(C) Section 411(f)(8)(D) of MCCA is amended by redesignating clauses (ii) through (v) as clauses (iii) through (vi), respectively, and by inserting after clause (i) the following new clause:

'(ii) in paragraph (4)(C), by striking 'Radiologist' and inserting 'For radiologist', and by striking '1842(b)(4)(E, (ii))' and inserting '1842(i)(3)';".

(D) Section 411(f)(9)(B) of MCCA is amended by inserting "and inserting '(or other applicable limit)' " before the semicolon at the end.

(E) Section 411(f)(10)(A)(iii) of MCCA is amended by striking "physician" and inserting "individual".

(F) Section 411(f)(10)(C)(i) of MCCA is amended--

(i) by striking "and" at the end of subclause (V),

(ii) by striking the period at the end of subclause (VI) and inserting ", and", and

(iii) by adding at the end the following new subclause:

"(VII) in subsection (d)(2), by striking 'continued' and inserting 'continues'."

(G) Subclause (II) of section 411(f)(10)(C)(i) of MCCA is amended to read as follows:

"(II) by striking 'physician' and 'a physician' each place either appears (other than the third place either appears in subsection (a)(4)) and inserting 'individual' and 'an individual', respectively;"

(H) Section 411(f)(10)(C)(i)(IV) of MCCA is amended--

(i) by striking "paragraph (1)(A)" and inserting "subsection (a)(1)(A)", and

(ii) by striking the comma after "Loan Program".

(22) Section 411(g).--(A) Section 411(g)(1)(B) of MCCA is amended--

(i) by amending clause (xi) to read as follows:

"(xi) in paragraphs (8)(B) and (9)(B), by striking '(as defined in section 1886(d)(2)(D))' and inserting '(as defined by the Secretary)' and, in clause (i) of such paragraphs, by striking the comma after '1991';" and

(ii) by amending clause (xv) to read as follows:

"(xv) in paragraph (12), by striking 'for each region (as defined in section 1886(d)(2)(D))' and inserting 'for one or more entire regions defined for purposes of paragraphs (8)(B) and (9)(B)'; and".

(B) Section 1833(i)(6) of the Social Security Act, as added by section 4063(e)(1) of OBRA as amended by section 411(g)(2)(E) of MCCA, is amended by striking "other than" the first place it appears and inserting "including".

(C) Section 411(g)(3)(G)(i)(I) of MCCA is amended by striking "and 'certification'" and by striking "and 'approval'", respectively".

(D) Section 411(g)(4)(C)(i) of MCCA is amended by striking the comma after "1988" the first place it appears.

(23) Section 411(h).--(A) Section 411(h)(3)(B) of MCCA is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii), as so redesignated, the following new clause:

"(i) by striking '1395' and inserting '13951'."

(B) Section 1861(s)(2)(K)(i)(I) of the Social Security Act, as designated by the amendment made by section 411(h)(6) of MCCA, is amended by striking "intermediate care facility (as defined in section 1905(c))" and inserting "nursing facility (as defined in section 1919(a))".

(24) Section 411(i).--(A) Section 411(i)(1)(E) of MCCA is amended by striking the comma after "1988".

(B) The paragraph (26) added by section 411(i)(4)(C)(vi) of MCCA is amended--

(i) by striking "and" at the end of subparagraph (A),

(ii) b. adding "and" at the end of clause (i) of subparagraph (B), and

(iii) by redesignating clause (iii) of subparagraph (B) as subparagraph (C) and by moving the indentation of such subparagraph 2 ems to the left.

(C) Section 411(i)(4) of MCCA is amended--

(i) in subparagraph (D)(i)(I), by striking ", 1842(j)(2), or 1867(d)" and inserting "or 1842(j)(2)", and

(ii) in subparagraph (D)(ii)--

(I) by inserting "and" at the end of subclause (III),

(II) by striking subclause (IV), and

(III) by redesignating subclause (V) as subclause (IV).

(25) Section 411(j).--(A) Section 411(j)(3) of MCCA is amended by adding at the end the following new subparagraph:

"(C) Section 4094(e) of OBRA is amended by striking 'feasibility' and inserting 'feasibility'."

(B) Section 411(j)(4)(C) of MCCA is amended by striking "before 'paragraph (2)'"

(26) Section 411(k).--(A) Section 411(k)(6)(A)(vi)(IV) of MCCA is amended by striking "the election made by a State under" and inserting "whether the hospital is described in subparagraph (A) or (B) of".

(B) Section 411(k)(6)(A)(vii)(II) of MCCA is amended by inserting "the first place it appears" before the comma.

(C) The paragraph added by section 411(k)(6)(A)(vii)(III) of MCCA is amended by striking "Statewide" and inserting "statewide".

(D) Section 1923(b)(3)(B)(i) of the Social Security Act, as designated by section 411(k)(6)(B)(i) of MCCA and as amended by section 411(k)(6)(4)(v) of MCCA, is amended by inserting "of subparagraph (A)" after "clause (i)(II)".

(E) Section 1923(c) of the Social Security Act, as designated by section 411(k)(6)(B)(i) of MCCA, by striking "subsection (c)" and inserting "this subsection".

(F) Section 411(k)(6)(B)(vi) of MCCA is amended by striking "(c)" and inserting "(d)".

(G) Section 411(k)(9) of MCCA is amended by striking "(A)" immediately after ".--".

(H) Section 411(k)(10)(B)(ii)(II) of MCCA is amended by striking "1128(a)" and "1320a-7(a)" and inserting "1128A(a)" and "1320a-7a(a)", respectively.

(I) Section 1128A(1) of the Social Security Act, as added by section 4118(e)(1)(B) of OBRA and as amended by section 411(k)(10)(B)(ii)(III) of MCCA, is amended by inserting "for penalties, assessments, and an exclusion" after "liable".

(J) Section 4118(e)(10)(C) of OBRA, as inserted by section 411(k)(10)(D) of MCCA, is amended by inserting "of subsection (i)" after "at the end".

(K) Section 411(k)(10)(D) of MCCA is amended--

(i) in the paragraph (6)(B) inserted by such section, by striking "or section 1867(d)(2)", and

(ii) in subparagraphs (A) and (B) of the paragraph (11) inserted by such section and in the paragraphs (12) and (13) inserted by such section, by striking "1842(j)(2), or 1867(d)(2)" and inserting "or 1842(j)(2)".

(L) Section 411(k)(16)(B) of MCCA is amended--

(i) by striking "and" at the end of clause (ii),
 (ii) by redesignating clause (iii) as clause (iv), and
 (iii) by inserting after clause (ii) the following new clause:
 "(iii) in clause (iii), by striking the period at the end and
 inserting '; or', and".

(M) Section 411(k)(17)(A)(iv) of MCCA is amended by inserting a comma immediately before "(d)" the second place it appears.

(27) Section 411(l).--(A) Section 411(l)(1)(A) of MCCA is amended by redesignating clauses (iv) through (xi) as clauses (v) through (xii), respectively, and by inserting after clause (iii) the following new clause:

"(iv) in subsection (c)(1), by adding at the end the following new subparagraph:

"(D) Use of psychopharmacologic drugs.--Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.'";

(B) Section 411(l)(1) of MCCA is amended by adding at the end the following new subparagraph:

"(C) Section 4201(d) of OBRA, as amended by subparagraph (B), is further amended by adding at the end the following new paragraphs:

"(3) Section 1883(f) of such Act (42 U.S.C. 1395tt(f)) is amended by striking "section 1861(j)(15)" and inserting "section 1819".

"(4) The third sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by striking "1861(j)" and inserting "1819(a)".

"(5) Section 1861(n) of such Act (42 U.S.C. 1395x(n)) is amended by striking "or (j)(1) of this section" and inserting "of this section or section 1819(a)(1)".'";

(C) Section 411(l)(2)(A) of MCCA is amended by inserting a comma immediately after "this title" and immediately after "title XVIII".

(D) Section 411(l)(2)(D)(i) of MCCA is amended by striking "care".

(E) Section 411(l)(3)(C) of MCCA is amended by inserting "(i)" after "(C)" and by adding at the end the following new clauses:

"(ii) Section 4211 of OBRA (101 Stat. 1330-196) is amended by striking the following (and the immediately preceding quotation marks and period):

"(c) State Requirements Relating to Nursing Facility Requirements.--Section 1919 of such Act is further amended by adding at the end the following new subsection:'

"(iii) Section 1919(c)(2)(B)(iii)(III) of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended by striking 'responsibile' and inserting 'responsible'.".

(F) Section 411(l)(3)(H)(i) of MCCA is amended by striking "each place it appears".

(G) Section 411(l)(3)(H)(iii) of MCCA is amended by inserting "services" immediately after "nursing facility" the first place it appears.

(H) Section 411(l)(3) of MCCA is amended by adding at the end the following new subparagraph:

"(J) Section 4211(h)(2)(B) of OBRA is amended by inserting a comma before 'nursing facility,' the second place it appears.".

(I) Section 411(l)(5) of MCCA is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) in paragraph (2)(B)(ii), by striking 'practical' and inserting 'practicable';".

(striking "condition specified in paragraph (1)" and inserting "condition
fol specified in paragraph (2)".

" (g) Effective Date.--(1) The amendments made by subsections (a), (b), and
sec (d) shall be effective as if included in the enactment of the Medicare
art Catastrophic Coverage Act of 1988.

((2) The amendments made by subsection (c) and subsection (f) (other than
sub paragraph (5)) shall take effect on the date of the enactment of this Act.

((h) Quality Control Transition.--There shall not be taken into account, for
fol purposes of section 1903(u) of the Social Security Act, payments and
expenditures for medical assistance which are made on or after January 1,
add 1989, and before July 1, 1989, and which are attributable to medicare-cost
(iv sharing for qualified medicare beneficiaries (as defined in section 1905(p) of
(such Act).

par SEC. 609. EXTENSION OF QUALITY CONTROL PENALTY MORATORIUM.

fol (a) Moratorium Extended.--Section 403 of the Social Security Act (as amended
" by section 201(c)(2) of this Act) is further amended by adding at the end the
following new subsection:

rea "(d)
" (m)(1) During the 12-month period beginning on July 1, 1988 (in this
as amen subsection referred to as the 'moratorium period'), the Secretary shall not
the fol impose any reductions in payments to States pursuant to subsection (i) (or
prior regulations), or pursuant to any comparable provision of law relating to
eli the programs under this part in Puerto Rico, Guam, the Virgin Islands,
wid American Samoa, or the Northern Mariana Islands.

" (2) During the moratorium period--

((A) the Secretary and the States shall continue to operate the quality
end control systems in effect under this part, and to calculate the error
" (p) rates under the provisions referred to in paragraph (1), including the
as amen process of requesting and reviewing waivers; and

1986, i (B) the Departmental Grant Appeals Board shall, notwithstanding
(paragraph (1), review disallowances for fiscal year 1981 and thereafter
Sec and hear appeals with respect thereto (but collection of disallowances
fol owed as a result of Departmental Grant Appeals Board decisions shall not
" (c) occur)."

(f), (h (b) Conforming Amendments.--(1) Subparagraph (A) of section 12301(c)(1) of
in the the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272)
section is amended by striking "titles IV-A and" and inserting in lieu thereof "title".

((2) Paragraph (2) of section 12301(c) of such Act is amended by inserting
ins "under title XIX" before ", and shall reduce payments".

(e) E (c) Effective Date.--The amendments made by subsections (a) and (b) shall
shall e take effect on July 1, 1988.

conduct
Joint S
conditi

TITLE VII--FUNDING PROVISIONS

SEC. 701. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

((a) General Rule.--Subsection (c) of section 2653 of the Deficit Reduction
ame Act of 1984 is amended by striking "before July 1, 1988" and inserting "on or
(before January 10, 1994".

((b) Coordination of Disclosure Provisions.--

ins (1) In general.--Paragraph (10) of section 6103(1) of the Internal
(Revenue Code of 1986 (relating to disclosure of certain information to
ind agencies requesting a reduction under section 6402(c) or 6402(d)) is
99- amended to read as follows:

("(10) Disclosure of certain information to agencies requesting a
by reduction under section 6402(c) or 6402(d).--

((A) Return information from internal revenue service.--The
sec Secretary may, upon receiving a written request, disclose to officers

striking "condition specified in paragraph (1)" and inserting "condition specified in paragraph (2)".

(g) Effective Date.--(1) The amendments made by subsections (a), (b), and (d) shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(2) The amendments made by subsection (c) and subsection (f) (other than paragraph (5)) shall take effect on the date of the enactment of this Act.

(h) Quality Control Transition.--There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which are made on or after January 1, 1989, and before July 1, 1989, and which are attributable to medicare-cost sharing for qualified medicare beneficiaries (as defined in section 1905(p) of such Act).

SEC. 609. EXTENSION OF QUALITY CONTROL PENALTY MORATORIUM.

(a) Moratorium Extended.--Section 403 of the Social Security Act (as amended by section 201(c)(2) of this Act) is further amended by adding at the end the following new subsection:

"(m)(1) During the 12-month period beginning on July 1, 1988 (in this subsection referred to as the 'moratorium period'), the Secretary shall not impose any reductions in payments to States pursuant to subsection (i) (or prior regulations), or pursuant to any comparable provision of law relating to the programs under this part in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

"(2) During the moratorium period--

"(A) the Secretary and the States shall continue to operate the quality control systems in effect under this part, and to calculate the error rates under the provisions referred to in paragraph (1), including the process of requesting and reviewing waivers; and

"(B) the Departmental Grant Appeals Board shall, notwithstanding paragraph (1), review disallowances for fiscal year 1981 and thereafter and hear appeals with respect thereto (but collection of disallowances owed as a result of Departmental Grant Appeals Board decisions shall not occur)."

(b) Conforming Amendments.--(1) Subparagraph (A) of section 12301(c)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking "titles IV-A and" and inserting in lieu thereof "title".

(2) Paragraph (2) of section 12301(c) of such Act is amended by inserting "under title XIX" before ", and shall reduce payments".

(c) Effective Date.--The amendments made by subsections (a) and (b) shall take effect on July 1, 1988.

TITLE VII--FUNDING PROVISIONS

SEC. 701. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

(a) General Rule.--Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "before July 1, 1988" and inserting "on or before January 10, 1994".

(b) Coordination of Disclosure Provisions.--

(1) In general.--Paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of certain information to agencies requesting a reduction under section 6402(c) or 6402(d)) is amended to read as follows:

"(10) Disclosure of certain information to agencies requesting a reduction under section 6402(c) or 6402(d).--

"(A) Return information from internal revenue service.--The Secretary may, upon receiving a written request, disclose to officers

(J) Section 411(1)(6) of MCCA is amended by adding at the end the following new subparagraph:

"(F) Section 1910(b)(1) of the Social Security Act, as redesignated by section 4212(e)(3)(C) of OBRA, is amended by inserting 'or section 1919' after '1902(a)(28)'."

(K) Section 411(1)(9)(B)(ii) of MCCA is amended by striking "(c) as subsection (d)" and inserting "(b) as subsection (c)".

(L) Section 411(1) of MCCA is further amended by adding at the end the following new paragraph:

"(11) Section 4203.--Section 1819(h)(5) of the Social Security Act, as added by section 4203(a)(2) of OBRA, is amended by striking '(iii), and (iv) of paragraph (2)(A)' and inserting 'and (iii) of paragraph (2)(B)'."

(28) Section 411(n).--Section 411(n) of MCCA is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Section 9116.--Subsection (d) of section 9116 of OBRA is amended to read as follows:

"(d) Conforming Amendment.--Section 1923(a)(2) of the Social Security Act, as amended by section 4118(p)(9) of this Act, is amended by adding at the end the following new subparagraph:

"(E) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202 (e) or (f) of this Act)."

(29) Section 411(p).--Section 411 of MCCA is amended by adding at the end the following new subsection:

"(p) Miscellaneous.--Section 2312(c) of the Deficit Reduction Act of 1984, as amended by section 9320(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking 'end' and inserting 'ends'."

(30) Section 428.--(A) Subsection (c)(1) of section 1140 of the Social Security Act, as added by section 428(a) of MCCA, is amended to read as follows:

"(c)(1) The provisions of section 1128A (other than subsections (a), (b), (f), (h), and (i)) shall apply to civil money penalties under subsection (b) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a)."

(B) Section 428(b) of MCCA is amended by striking "Medical" and inserting "Medicare".

(e) Extension of Pilot Program.--The Secretary of Health and Human Services shall extend through December 31, 1989, the pilot test program, being conducted by States under the Annual Grant Award Study established by the Joint State/Federal Cash Management Reform Task Force, on the same terms and conditions that existed as of September 30, 1988.

(f) Miscellaneous Corrections.--

(1) Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended by striking subsection (f).

(2) Section 1915(a)(2) of the Social Security Act, as amended by section 8(h)(2) of Public Law 100-93, is amended by striking "Restricts" and inserting "restricts".

(3) Section 1905(c) of the Social Security Act is amended by moving the indentation of paragraph (3), as added by section 9435(b)(2) of Public Law 99-509, 2 ems to the left.

(4) Section 1903(m)(2)(B)(i)(II) of the Social Security Act is amended by striking "1902(a)(13)(A)(ii)" and inserting "1902(a)(10)(D)".

(5) Effective as of the date of the enactment of Public Law 95-292, section 226(a) of the Social Security Act (42 U.S.C. 426(a)) is amended by

and employees of any agency seeking a reduction under subsection (c) or (d) of section 6402--

"(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

"(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

"(iii) the amount of such reduction,

"(iv) whether such taxpayer filed a joint return, and

"(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

"(B) Restriction on use of disclosed information.--Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c) or (d) of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c) or (d) of section 6402."

(2) Conforming amendments.--

(A) Subsection (1) of section 6103 of such Code is amended by striking paragraph (11) and by redesignating paragraph (12) as paragraph (11).

(B) Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "(10), (11), or (12)" each place it appears and inserting "(10), or (11)".

(C) Paragraph (2) of section 7213(a) of such Code is amended by striking "(9), (10), or (11)" and inserting "(9), or (10)".

(3) Effective dates.--

(A) In general.--The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(B) Special rule.--Nothing in section 2653(c) of the Deficit Reduction Act of 1984 shall be construed to limit the application of paragraph (10) of section 6103(1) of the Internal Revenue Code of 1986 (as amended by this subsection).

SEC. 702. LIMITATION ON USE OF REIMBURSEMENT ARRANGEMENTS TO AVOID 2-PERCENT FLOOR.

(a) General Rule.--Section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding at the end thereof the following new subsection:

"(c) Certain Arrangements Not Treated as Reimbursement Arrangements.--For purposes of subsection (a)(2)(A), an arrangement shall in no event be treated as a reimbursement or other expense allowance arrangement if--

"(1) such arrangement does not require the employee to substantiate the expenses covered by the arrangement to the person providing the reimbursement, or

"(2) such arrangement provides the employee the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

The substantiation requirements of the preceding sentence shall not apply to any expense to the extent that substantiation is not required under section 274(d) for such expense by reason of the regulations prescribed under the 2nd sentence thereof."

(b) Effective Date.--The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 703. MODIFICATIONS TO DEPENDENT CARE CREDIT AND EXCLUSION FOR DEPENDENT CARE ASSISTANCE.

(a) Reduction in Maximum Age of Nonhandicapped Qualifying Individual.--Subsections (b)(1)(A) and (e)(5)(B) of section 21 of the Internal Revenue Code of 1986 are each amended by striking "age of 15" and inserting "age of 13".

(b) Limitation on Credit Reduced by Amount of Exclusion.--Subsection (c) of section 21 of such Code is amended by adding at the end thereof the following new sentence:

"The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year."

(c) Requirement of Furnishing Identifying Information With Respect to Service Provider.--

(1) Credit.--Subsection (e) of section 21 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) Identifying information required with respect to service provider.--No credit shall be allowed under subsection (a) for any amount paid to any person unless--

"(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit. In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

(2) Exclusion.--Subsection (e) of section 129 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) Identifying information required with respect to service provider.--No amount paid or incurred by an employer for dependent care assistance provided to an employee shall be excluded from the gross income of such employee unless--

"(A) the name, address, and taxpayer identification number of the person performing the services are included on the return to which the exclusion relates, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return to which the exclusion relates.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

(3) Conforming amendment.--Paragraph (2) of section 6109(a) of such Code is amended by striking "shall furnish" and inserting "or whose identifying number is required to be shown on a return of another person shall furnish".

(d) Effective Date.--The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 704. TAXPAYER IDENTIFICATION NUMBER REQUIRED FOR DEPENDENTS WHO HAVE ATTAINED AGE 2.

(a) General Rule.--Paragraph (2) of section 6109(e) of the Internal Revenue

Code of 1986 (relating to furnishing number for certain dependents) is amended by striking "age of 5" and inserting "age of 2".

(b) Effective Date.--The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 26, 1989

SUBJECT: Possible violation of Rule 24
HCS CSSB 70(Judiciary)

TO: Representative Peter Goll
Attn: Hayden

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is a draft HCS CSSB 70(Judiciary). There may be a Rule 24 problem with the changes you requested for the CS.

Rule 24(c) of the Uniform Rules prohibits a committee of the second house from reporting a committee substitute for a bill that requires a change in the title of the bill. And, as you know, the title of a bill must be descriptive of its contents.

The title of CSSB 70(Finance), the bill enacted by the senate, is "An Act relating to certain testing in contested paternity actions . . ." Your changes in sec. 2 of the bill affect the circumstances under which the CSEA will represent minor children by allowing putative fathers to request the CSEA to appear for the minor. And it eliminates the current authority of the CSEA to appear on behalf of the minor or other legal custodian. In addition, the inclusion of "and not otherwise legitimated" appears to place a limit on the circumstances under which the CSEA may act. In my opinion, these changes are not described by the current bill title.

I would be happy to prepare a resolution allowing suspension of the appropriate Uniform Rules to allow amendment of the bill title, if you wish. Please let me know your wishes on this matter.

TL:gc:kb
WKG9/123

Enclosure

MEMORANDUM

State of Alaska


TO: The Honorable Peter Goll
House of Representatives
Alaska State Legislature

DATE: April 25, 1989

FILE NO.: 0177T

THRU:

TELEPHONE NO.: 263-6270

FROM: Linda Langston 
Director
Child Support Enforcement Division

SUBJECT: CHILD SUPPORT ENFORCEMENT
DIVISION AMENDMENT TO CSSB 70

When I was in Juneau several weeks ago, you and I discussed SB 70 (Uehling) and I promised you I would send you the language for an amendment that CSED would like to see made to the bill. I've discussed this in detail with Janet Kowalski of Senator Uehling's staff, and I understand Senator Uehling accepts our amended language.

We are asking for this change because of a recent policy memorandum from the Federal office of Child Support Enforcement which has clarified how State child support agencies (IV-D agencies) are to interpret Federal regulations defining who is eligible to apply to a IV-D agency for paternity establishment services.

The language below, and shown on the attached copy of CSSB 70, is being requested by us to meet the new interpretation. I would be very grateful if you would offer this as an amendment on our behalf.

Sec. 2. AS 47.23.040(a) is amended to read:

- (a) On application by the mother, other legal custodian, or putative father, the agency shall appear on behalf of minor children [or their mother or legal custodian] or the State and initiate efforts to have the paternity of children born out of wedlock and not otherwise legitimated determined by the court [on voluntary application by the mother or other legal custodian].

I am trying to get down to Juneau early Thursday and can come to your office for further discussions then at any time that is convenient for you. I'll be in my office here in Anchorage all day tomorrow. My direct phone number is 263-6270.

LL:tr

89-142

Offered: 2/22/89
Referred: Rules

6-0231J

Original sponsors: Uehling, Pearce,
and Sturgulewski

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 70 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain testing in contested
7 paternity actions; amending Rule 35, Alaska Rules of
8 Civil Procedure; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 25.20.050 is amended by adding new subsections to read:

12 (a) On request of a party in a contested paternity action to
13 which the state is a party, the court shall order the mother, the
14 child, and the putative parent to submit to a blood test, tissue-type
15 test, protein comparison, or other scientifically accepted procedure
16 designed to determine the statistical probability that the putative
17 parent is a legal parent of the child in question.

18 (f) If the child support enforcement agency is a party in a
19 contested paternity action, the agency shall request the court to
20 order the tests and procedures described in (a) of this section. The
21 agency may recover the costs of tests as a cost of the action, except
22 that no costs shall be recovered from a person who is a recipient of
23 aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent
24 Children).

25 * Sec. 2. AS 47.23.040(a) is amended to read:
26 *ON APPLICATION BY THE MOTHER, OTHER LEGAL CUSTODIAN, OR PUTATIVE FATHER,*
27 (a) ~~The~~ agency shall appear on behalf of minor children ~~or their~~
28 mother or legal custodian ~~or the state and initiate efforts to have~~
29 ~~the paternity of children born out of wedlock~~ *AND NOT OTHERWISE LEGITIMATED*
~~determined by the court~~
~~on voluntary application by the mother or other legal custodian.~~ When

1 the agency is a party in a contested paternity action. it shall re-
2 quest and pay for tests and procedures under AS 25.20.030(f). The
3 agency may recover the costs of the tests as a cost of the action.
4 except that no costs shall be recovered from a person who is a recidi-
5 ent of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Depen-
6 dent Children).

7 * Sec. 3. AS 25.20.030(a), enacted by sec. 1 of this Act, has the
8 effect of amending Civil Rule 35 by requiring a court in a contested pater-
9 nity action to which the state is a party to order certain genetic tests on
10 the request of a party.

11 * Sec. 4. This Act takes effect November 1, 1989.

(6) Keeping Personal Property:

For keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.

(7) Mileage.

For mileage actually and necessarily traveled in going to serve, and in returning from the place of service, of any process described in paragraph (1) above, whether or not service was obtained, for the first 25 total miles of any portion thereof 3.50

And for each mile in excess of 25 actually and necessarily traveled State mileage rate

(8) No fee shall be charged under this schedule for any service rendered to the state or any agency or department thereof.

(b) All service of civil process and duties ancillary thereto under the Rules of Civil Procedure and applicable statutes shall be performed by private persons appointed under Civil Rule 4(c)(1), (4)(c)(3) or 4(c)(4), or by persons authorized by Civil Rule 45(c); provided, that a member of the Alaska State Troopers or other peace officer may render assistance to a process server as provided in Civil Rule 4(c)(3) or serve any process when directed to do so by the Commissioner of Public Safety. In this paragraph, "civil process" includes any summons, subpoena, attachment, notice of levy, intent to levy or garnishment, execution, or other writ in a civil action, but does not include any process, civil or criminal, served on behalf of the state for any department or agency thereof.

(Amended by SCO 526 effective October 1, 1982; by SCO 527 effective October 1, 1982; by SCO 548 effective February 1, 1983; by SCO 549 effective February 1, 1983; by SCO 588 effective January 1, 1984; by SCO 592 effective July 1, 1984; and by SCO 815 effective August 1, 1987)

Annotations

Cases

Admin. Director Instructions 60-2 (Fee Schedule)

Rule 12. Procedure for Counsel and Guardian Ad Litem Appointments at Public Expense.

(a) Intent. The court shall appoint counsel or a guardian ad litem only when the court specifically determines that the appointment is clearly authorized by law or rule, and that the person for whom the appointment is made is financially eligible for an appointment at public expense.

(b) Appointments under AS 18.85.100(a) (Public Defender Agency).

(1) Appointment Procedure.

(A) When a person is entitled to counsel under AS 18.85.100(a), appointments shall be made first to the public defender agency. If the agency files a motion to withdraw on the grounds that it cannot represent the person because of a conflict of interest, if the parties stipulate on the record that the agency has a conflict of interest, or if the court on its own motion finds an obvious conflict of interest, the court accepting such motion or stipulation or making such finding shall appoint the office of public advocacy to provide counsel.

(B) The court may appoint an attorney in a case in which the office of public advocacy has been appointed only if:

(i) The office of public advocacy has shown that it is unable to provide counsel either by staff or by contract; and

(ii) The office of public advocacy has provided the court with the name or names of the attorneys who shall be appointed in that particular case.

The office of public advocacy shall be responsible for compensating any attorney appointed under this subparagraph.

(C) All claims for payment for services performed after July 1, 1984, by attorneys appointed by the court shall be submitted to the director of the office of public advocacy, under such procedures as the director may prescribe. The director shall approve, modify or disapprove the claim.

(2) Determination of Indigency. Determination of indigency or financial inability for appointments under paragraph (B) of this rule must be made in accordance with the provisions of Criminal Rule 39.

(3) Assessment of Costs. To the extent that a person for whom counsel is appointed under paragraph (B) of this rule is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court shall order the person to pay for these items. When counsel is appointed for a child when the child's parents or custodian are financially able but refuse to employ counsel to assist the child, the court may, when appropriate, assess as costs against the parents, guardian or custodian the cost to the state for providing such counsel.

(c) Appointments under AS 44.21.410 (Office of Public Advocacy).

(1) A...
qualifies...
under AS...
office of...
appointing...
the autho...
discretion...
cific reas...
guardian...
the appo...
affecting...
an ad li...
guardian...
guardian...
best inte...
(2) In...
to the of...
than an...
of intere...
is indige...
maximu...
CFR 16...
tion b...
whose i...
legal se...
indigen...
indigen...
funds n...
ment. te...
for the...
the per...
the per...
the par...
the cos...
regions...
could b...
(3) u...
under the...
disbur...
ment...
suppor...
possib...
order...
tative...
belong...
erty is...
(d)...
(1) m...
ment. p...
public...
those...
clear...
that...
autho...
court...
(2)

18.85.100(a) (Public

led to counsel under shall be made first to f the agency files a ounds that it cannot a conflict of interest. cord that the agency he court on its own ict of interest, the stipulation or mak- the office of public

in attorney in a case advocacy has been

acy has shown that either by staff or by

ecacy has provided ies of the attorneys articular case.

shall be responsible ointed under this

for services per- neys appointed by the director of the such procedures as he director shall re claim.

cy. Determination for appointments must be made in Criminal Rule 39.

the extent that inted under para- o provide an ices and facilities s, the court shall ems. When coun- he child's parents le but refuse to f, the court may, ainst the parents, to the state for

21.410 (Office of

(1) **Appointment Procedure.** When a person qualifies for counsel or guardian ad litem services under AS 44.21.410, the court shall appoint the office of public advocacy. The court in its order appointing the office of public advocacy must state the authority for the appointment. In the case of a discretionary appointment, the court must give specific reasons for the appointment. In the case of a guardian ad litem appointment, the court shall limit the appointment to the pendency of the proceedings affecting the child's welfare, shall outline the guardian ad litem's responsibilities, and shall limit the guardian's authority to those matters related to the guardian's effective representation of the minor's best interests.

(2) **Indigency Determination.** For appointments to the office of public advocacy under this rule, other than an appointment required because of a conflict of interest with the public defender agency, a person is indigent if the person's income does not exceed the maximum income level for Alaska set forth in 45 CFR 1611, Appendix A, for eligibility for representation by the legal services corporation. A person whose income exceeds the maximum amount for legal services representation may be determined indigent only if a judge makes a specific finding of indigency on the record, taking into account the funds necessary for the person to maintain employment, to provide shelter, and to clothe, feed and care for the person and the person's immediate family, the person's outstanding contractual indebtedness, the person's ability to afford representation based on the particular matter and the complexity of the case, the costs of living and attorneys fees in different regions of the state, and any liquid assets which could be counted as income.

(3) **Assessment of Costs.** In an appointment under AS 25.24.310 for representation of a minor, the court shall enter an order for costs, fees and disbursements in favor of the state. If the appointment is made in a proceeding in which custody, support or visitation is an issue, the court shall, if possible, avoid assigning costs to only one party by ordering that costs of the minor's legal representative or guardian services be paid from property belonging to both parents before a division of property is made.

(d) **Other Appointments at Public Expense.**

(1) **Withdrawal from Unauthorized Appointment.** The public defender agency and the office of public advocacy shall accept appointments only in those cases for which the basis for the appointment is clearly authorized. If the agency or office determines that the basis for an appointment is not clearly authorized, the agency or office shall file with the court a motion to withdraw from the appointment.

(2) **Constitutionally Required Appointments.**

(A) If the court determines that counsel, or a guardian ad litem, or other representative should be appointed for an indigent person, and further determines that the appointment is not authorized by AS 18.85.100(a) or AS 44.21.410, but in the opinion of the court is required by law or rule, the court shall appoint an attorney who is a member of the Alaska Bar Association to provide the required services. Other persons may be appointed to provide required services to the extent permissible by law.

(B) Appointments may be made in the following types of cases without prior approval of the administrative director, but only in cases in which the required services would not otherwise be provided by a public agency:

(i) Attorneys for biological parents in adoption cases to the extent required by the Indian Child Welfare Act (25 USC 1901 et seq.).

(ii) Attorneys for minor children and indigent parents or custodians of minor children in minor guardianship cases brought pursuant to AS 13.26.060(d).

(iii) Attorneys for respondents in protective proceedings brought pursuant to AS 13.26 in which appointment of the office of public advocacy is not mandated by statute.

(iv) Attorneys for minor children or incompetents who are heirs or devisees of estates in cases in which the attorneys' fees cannot be paid as a cost of administration from the proceeds of the estate.

(v) Attorneys for indigent putative fathers in actions to establish paternity in which the state of Alaska provides representation for mothers.

(vi) Attorneys to represent indigent respondents in involuntary alcohol commitments brought pursuant to AS 47.37.

(vii) Attorneys appointed for absent service persons pursuant to the Soldiers and Sailors Civil Relief Act (50 USC §520) when the opposing party is financially unable to pay for such representation.

In all other cases, the court shall inform the administrative director of the specific reasons why an appointment is required prior to making the appointment.

(C) The presiding judge shall designate the area court administrator and a clerk of court for each court location in the district to keep and make available to the court in each location lists of attorneys or other persons eligible to receive court appointments under section (d)(2) of this rule.

The attorney lists will first be compiled from names of persons who have volunteered to accept these appointments. If there are insufficient volunteers, the court will make appointments on a rotation basis from lists of eligible attorneys obtained

Under this standard, the IV-D agency must:

(a) Use appropriate local locate sources such as officials and employees administering public assistance, general assistance, medical assistance, food stamps and social services (whether such individuals are employed by the State or a political subdivision), relatives and friends of the absent parent, current or past employers, the local telephone company, the U.S. Postal Service, financial references, unions, fraternal organizations, and police, parole, and probation records if appropriate;

(b) Establish working relationships with all appropriate local agencies in order to utilize local locate resources effectively;

(c) Use appropriate State agencies and departments, which as a minimum must include those departments which maintain records of public assistance, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records;

(d) Utilize all appropriate State and local locate sources within 60 days of referral of the case pursuant to § 235.70 of this title or application under § 302.33;

(e) Transmit appropriate cases to the Federal PLS to locate absent parents;

(f) Refer cases to the IV-D agency of any other State if there is reasonable belief that the absent parent may be present in such State. The IV-D agency of such other State shall follow the procedures prescribed in paragraphs (a) through (d) of this section for such cases.

[43 FR 33249, July 31, 1978, as amended at 50 FR 19650, May 9, 1985]

§ 303.4 Establishment of support obligations.

For all cases referred to the IV-D agency or applying under § 302.33 of this chapter, the IV-D Agency must:

(a) When necessary, establish paternity pursuant to the standards of § 303.5;

(b) Utilize appropriate State statutes and legal processes in establishing the support obligation pursuant to § 302.50 of this chapter.

(c) Review the support obligation periodically and whenever the IV-D agency becomes aware of changes in the factors which determine the amount of the support obligation.

[40 FR 27164, June 26, 1975, as amended at 50 FR 19650, May 9, 1985]

§ 303.5 Establishment of paternity.

(a) For all cases referred to the IV-D agency or applying under § 302.33 of this chapter in which paternity has not yet been established, the IV-D agency must:

(1) Attempt to establish paternity by court order or other legal process established under State law; or

(2) Establish paternity by acknowledgment if under the State law such acknowledgment has the same legal effect as court-ordered paternity, including the right to benefits other than child support.

(b) The IV-D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the opinion of the IV-D agency, it would not be in the best interests of the child to establish paternity.

(c) The IV-D agency shall identify laboratories within the State which perform legally and medically acceptable tests, including blood tests, which tend to identify the father or exclude the alleged father from paternity. A list of such laboratories shall be available to appropriate courts and law enforcement officials, and to the public upon request.

[40 FR 27164, June 26, 1975, as amended at 50 FR 19650, May 9, 1985]

§ 303.6 Enforcement of support obligations.

For all cases under the State plan in which the obligation to support and the amount of the obligation have been established, the IV-D agency must maintain an effective system for identifying, within 30 days, those cases in which there is a failure to comply with the support obligation and to contact such delinquent individuals as soon as possible in order to enforce the obligation and obtain the current support obligation and any arrearages.

Such attempts to collect support must include the institution of the following procedures as applicable and necessary:

(a) Contempt proceedings to enforce an extant court order;

(b) Garnishment or similar proceedings if the State's statutes and constitution permit such a procedure and the individual can be brought under the jurisdiction of the courts of the State;

(c) Proceedings to attach real or personal property if the State's law provides for such a procedure and the individual is subject to such procedure;

(d) Any other collection or enforcement procedure described in the State plan pursuant to § 302.17 of this chapter;

(e) Applications to utilize the courts of the United States pursuant to § 303.73 of this chapter, and proceedings to enforce an order in the courts of the United States if such application is certified; and,

(f) Applications for collection of the delinquent support obligation by the Secretary of the Treasury pursuant to § 302.71 of this chapter.

[40 FR 27164, June 26, 1975, as amended at 47 FR 24719, June 8, 1982; 47 FR 57282, Dec. 23, 1982]

§ 303.7 Cooperation with other States.

(a) For all cases referred to the IV-D agency under the State plan of another State, the IV-D agency must assist the other State in locating an absent parent, establishing paternity, or securing support for a child or children and for the spouse (or former spouse) of the absent parent with whom the child or children are living in the other State. Under this standard, the IV-D agency must:

(1) When necessary, locate the putative father or absent parent utilizing the standards prescribed in § 303.3;

(2) When necessary, establish paternity or assist the other State in establishing paternity;

(3) Process and enforce all court orders referred by another State, whether pursuant to the Uniform Reciprocal Enforcement of Support Act or other legal processes. The IV-D agency shall utilize the same remedies normally applied to its own cases;

(4) Collect any support payments from the absent parent and forward them to the State to whom they are owed; and,

(5) Inform the State which initiated the action of the status of the case periodically and on request.

(b) For all cases referred for securing support by the IV-D agency under the State plan to the IV-D agency of another State, the IV-D agency must provide the IV-D agency of the other State sufficient information to act on the case, including but not limited to the following:

(1) Whether the case involves a recipient of aid under the State's title IV-A or IV-E plan;

(2) The amount of the current assistance payment, if any;

(3) Notice of any termination of eligibility for assistance; and

(4) Any other information prescribed by instructions of the Office.

(c) For all cases referred by the IV-D agency under the State plan to the IV-D agency of another State which require location activities, the IV-D agency shall provide sufficient information to assist the IV-D agency of the other State, such as the absent parent's social security account number and other identifying information to the extent it is available.

[40 FR 27164, June 26, 1975, as amended at 47 FR 57282, Dec. 23, 1982; 50 FR 19650, May 9, 1985]

§ 303.10 Procedures for case assessment and prioritization.

(a) The IV-D agency may implement a case assessment and prioritization system statewide or in a particular political subdivision of the State to manage its caseload.

(b) In implementing a case assessment and prioritization system, the IV-D agency must:

(1) Develop written procedures for the evaluation and prioritization of cases upon receipt and upon becoming aware of changes in case circumstances;

(2) Include all of its cases in the system, including cases referred from the title the IV-A agency under § 235.70 of this title, cases in which applications for services are received

DE:
CSE: 24

JUN 30 10 10 AM '88

DEPARTMENT OF HEALTH AND HUMAN SERVICES
FAMILY SUPPORT ADMINISTRATION
OFFICE OF CHILD SUPPORT ENFORCEMENT

REGIONAL REPRESENTATIVE'S MEMORANDUM NO. 88-05

June 27, 1988

TO: State IV-D Directors

SUBJECT: Paternity Determination Services for the Alleged Father when the Custodial Parent Has Not Asked for IV-D Services to Establish Paternity

This is in response to a memorandum from Region VIII regarding the provision of paternity establishment services to alleged fathers. The Region requested a policy interpretation to determine whether a State IV-D agency is obligated to accept an application for services in cases in which the custodial parent is not receiving AFDC and has not applied for IV-D services.

Section 454(b)(A) of the Social Security Act provides that the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State. Because the statute specifically states "any individual," we cannot exclude a category of applicants.

Therefore, alleged fathers may apply for IV-D services that seek to determine paternity, establish an order and assure payment of child support. Putative fathers applying for paternity establishment services should be apprised of the following: they may be required to submit to a blood test to provide evidence of paternity; the court will be asked to consider the income and resources of both parents and to apportion support liability between them; the IV-D agency cannot represent the father in an adversarial or traditional "attorney - client" capacity, but will perform services they deem to be appropriate and in the best interests of the child; custody and visitation issues cannot be handled by IV-D staff; and, the applicant for services may be assessed costs, if the State has elected to recover costs, pursuant to 45 C.F.R. 302.33(d).

Below are responses to two additional questions posed by Region VIII, which relate to paternity:

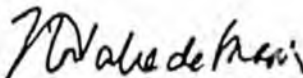
1. Question: Is there any provision in the regulations that protects the best interests of the child, e.g., where it is common knowledge that the man alleging paternity is a convicted felon who has served time for assault and battery?

Response: Regulations at 45 CFR 303.5(b) state that a IV-D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if in the opinion of the IV-D agency, it would not be in the best interests of the child to establish paternity. No other IV-D regulations governing paternity establishment address the best interests of the child in non-AFDC cases. However, we believe that the "good cause circumstances" set forth at 45 CFR 232.42, although not directly applicable, may have some bearing in these cases. If the IV-D caseworker has cause to believe that paternity establishment might present a clear risk of physical or emotional harm to the child, even if no State law was applicable, there could arguably be cause for not pursuing paternity establishment. We believe that such cases would be rare and that an administrative review should be required to make any "good cause determination". This "good cause" policy could be analogous to the "good cause circumstances" set forth at 45 CFR 232.42 and applied when a custodial parent applies for AFDC.

2. Question: Are the natural mother's wishes to be respected if she indicates that she does not want a relationship between the child and the man alleging paternity?

Response: When a paternity suit is initiated, the court hears and decides the factual and legal issues of the case. After paternity is adjudicated, custody and visitation issues would be resolved after consideration of the child's best interests, and the parents' interests and concerns may bear on those determinations.

I hope this information is helpful. If you have any questions, please contact Phyllis Benton of my staff at (206) 442-8361.


Natalie deMaar

cc: Department/Agency Heads

Christine FLORES, Petitioner,

v.

David FLORES, Respondent.

No. 3832

Supreme Court of Alaska.

July 13, 1979.

In divorce proceeding, the Superior Court, Third Judicial District, S. J. Buckalew, J., ruled that permanent counsel would not be appointed for wife due to lack of funds and that case should proceed with wife unrepresented, and wife filed petition for review. The Supreme Court, Matthews, J., held that due process clause of State Constitution guaranteed wife, an indigent party, the right to court-appointed counsel in a private child custody proceeding in which her spouse was represented by Alaska legal services corporation.

Ordered accordingly.

Connor, J., dissented in part and concurred in part and filed opinion.

1. Constitutional Law ⇐314

Due process clause of State Constitution guaranteed wife, an indigent party, the right to court-appointed counsel in private child custody proceeding in which her spouse was represented by Alaska legal services corporation, where interest at stake was wife's right to direct upbringing of her child, where legal issues were much more complex than usual because of jurisdictional problems and because divorce proceedings were taking place in two states, and where wife lacked funds to come to Alaska and would otherwise have lost custody proceeding by default. Const. art. 1, § 7.

2. Divorce ⇐301

There is a strong state interest in divorce-child custody proceedings, for, unlike commercial contracts, legally binding marriages and divorces are wholly creations of the state and any provision for child custody in a divorce order is fully enforceable by the state.

3. Attorney and Client ⇐23

Where due process clause of State Constitution gave wife, an indigent party who resided in California, the right to court-appointed counsel in a divorce-child custody proceeding in which husband was represented by Alaska legal services corporation, where Alaska legal services corporation did not have regulations relating to such matters as record keeping, access to files, supervision, and physical separation of offices which would have been sufficient to insure that two attorneys employed by corporation could represent conflicting positions in litigation, where children's rules of procedure did not furnish basis for imposing duty of representation on public defender agency, counsel had to be appointed from the private bar, with compensation permitted under administrative rule. Const. art. 1, § 7; Rules of Children's Procedure, rule 12; Rules Governing the Administration of all Courts, rule 15.1.

4. Divorce ⇐301

Children's rule requiring appointment of counsel to represent parents who are financially unable to employ counsel to represent themselves, where issues are complex or have serious consequences was not intended to apply to divorce proceedings. Rules of Children's Procedure, rule 12; Rules Governing the Administration of all Courts, rule 15.1.

Max F. Gruenberg, Jr., and G. R. Eschbacher, Anchorage, for petitioner.

Donald E. Clocksin and Lucinda McBurney, Alaska Legal Services, Anchorage, for respondent.

Dana Fabe, Asst. Public Defender and Brian Shortell, Public Defender, Anchorage, amicus curiae.

Before BOOCHEVER, C. J., and RABINOWITZ, CONNOR and MATTHEWS, JJ.

OPINION

MATTHEWS, Justice.

This petition for review presents a single issue: whether an indigent party has the

right to court-appointed counsel in a private child custody proceeding in which her spouse is represented by Alaska Legal Services Corporation (ALSC). We hold that the due process clause of the Alaska Constitution¹ guarantees such a right.

The petition for review stems from a divorce proceeding in which custody of the couple's child is the only contested issue. The petitioner, Christine Flores, and the respondent, David Flores, are both indigent. Christine is a California resident and has evidently remained in that state throughout the time period relevant here. On or about November 18, 1976, David removed the couple's child from California to Alaska without Christine's consent. He subsequently obtained the services of ALSC and filed for divorce in Anchorage on December 20, 1976, but service was not made on Christine until April of 1977. In the interim, she obtained the services of the Legal Aid Society of Sacramento and filed for dissolution of the marriage in the Sacramento court on January 21, 1977. Service was made on David, and on March 18 the California court found that it had jurisdiction and granted interim custody to Christine. David subsequently obtained service on Christine and was awarded interim custody by an Anchorage court.

At that point, Christine's California counsel contacted a private Anchorage attorney

who agreed to make a limited appearance for the sole purpose of requesting appointment of permanent counsel for Christine. An initial hearing was held on August 31, 1977, on a motion to join the Public Defender Agency as the real party in interest since Christine was attempting to require that agency to represent her in the divorce proceeding. It was stipulated that ALSC was unable to take conflicting sides of a divorce and that ALSC was without funds to hire a private attorney. The trial judge subsequently signed an order permitting service on the Public Defender.

A second hearing was held on November 14, 1977, at which an attorney from the Public Defender Agency was present as well as an ALSC attorney representing David Flores and the private attorney representing Christine Flores. The trial judge ruled that permanent counsel would not be appointed due to lack of funds and that the case should proceed with Christine unrepresented.

Petition for review of this ruling was made pursuant to Alaska Appellate Rules 23² and 24,³ and an entry of default in the divorce-child custody proceeding was stayed pending the outcome of the petition.⁴

We exercised our discretion by granting immediate review because of a substantial likelihood that injustice would result if normal appellate procedure were allowed to

1. Alaska Const. art. I, § 7.

2. Alaska R.App. P. 23(e) provides:

An aggrieved party, including the State of Alaska, may petition this court as set forth in Rule 24 to be permitted to review any order or decision of the superior court, not otherwise appealable under Rule 5, in any action or proceeding, civil or criminal, as follows:

(e) Where postponement of review until normal appeal may be taken from a final judgment will result in injustice because of impairment of a legal right, or because of unnecessary delay, expense, hardship, or other related factors.

3. Alaska R.App. P. 24(a) specifies:

A review is not a matter of right, but will be granted only: (1) where the order or decision sought to be reviewed is of such sub-

stance and importance as to justify deviation from the normal appellate procedure by way of appeal and to require the immediate attention of this court; or (2) where the sound policy behind the general rule of requiring appeals to be taken only from final judgments is outweighed by the claim of the individual case that justice demands a present and immediate review of a particular non-appealable order or decision; or (3) where the superior court has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by an inferior court or administrative tribunal, as to call for this court's power of supervision and review.

4. Christine Flores is prevented by her indigency from travelling to Alaska to make a court appearance.

take its course.⁵ Because of the petitioner's need for immediate representation, we entered an order requiring the superior court to appoint private counsel for her, indicating that an opinion would follow and that the order "is not intended to intimate the view of the court on the ultimate issues."

[1] In holding that the due process clause of the Alaska Constitution⁶ guarantees the right to counsel in this case, we recognize that the right is one usually associated with criminal proceedings. We also note, however, that this court has consistently avoided any formalistic categorization of proceedings as "criminal" and "civil" when determining if strict due process safeguards are required. "Due process is flexible, and the concept should be applied in a manner which is appropriate in the terms of the nature of the proceeding."⁷ Thus we have previously held that the due process clause of the Alaska Constitution requires that counsel be provided for defendants in civil contempt proceedings, *Ottom v. Zaborac*, 525 P.2d 537 (Alaska 1974), and in paternity suits, *Reynolds v. Kimmons*, 569 P.2d 799 (Alaska 1977), where the state supplies counsel to the mother.

The interest at stake in this case is one of the most basic of all civil liberties, the right to direct the upbringing of one's child.⁸ This right has consistently been recognized by the United States Supreme Court as being among the "liberties" protected by the due process clause of the Federal Constitution. *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); *May v. Anderson*, 345 U.S. 528, 73 S.Ct. 840, 97 L.Ed. 1221 (1953); *Prince v. Massachusetts*, 321 U.S. 158, 64 S.Ct. 438, 88 L.Ed. 645 (1944); *Pierce v. Society of the Sisters*, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925);

5. See note 2, *supra*.

6. "No person shall be deprived of life, liberty, or property, without due process of law." Alaska Const. art. I, § 7.

7. *Ottom v. Zaborac*, 525 P.2d 537, 539 (Alaska 1974).

8. Although the divorce proceeding will not sever all parental rights of the petitioner, an award

Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1923).

In *Reynolds*, we recognized the importance of the parent-child relationship. Although *Reynolds* was a paternity proceeding, we quoted with approval the decision of the Ninth Circuit in *Cleaver v. Wilcox*, 499 F.2d 940 (9th Cir. 1974), which was a class action brought by indigent parents seeking injunctive relief and a declaratory judgment to the effect that whenever indigent parents become involved in child dependency proceedings, they are entitled to appointment of counsel.⁹ The court refused to adopt an inflexible rule that counsel was required in all child dependency proceedings, but it did hold the following:

Parents are entitled to a judicial decision on the right to counsel in each case. The determination should be made with the understanding that *due process requires the state to appoint counsel whenever an indigent parent, unable to present his or her case properly, faces a substantial possibility of the loss of custody or of prolonged separation from a child.*

Id. at 945 (footnote omitted) (emphasis added).

[2] It is true that both *Reynolds* and *Cleaver* involved proceedings that were prosecuted by the state, but that does not remove the present case from the scope of their rationale. Although a private individual initiated the proceeding below, he was represented by counsel provided by a public agency. Fairness alone dictates that the petitioner should be entitled to a similar advantage. Furthermore, there is a strong state interest in divorce-child custody proceedings. Unlike commercial contracts, legally binding marriages and divorces are wholly creations of the state.⁹ Any provi-

of custody to the respondent will have the same consequences, due to the distance between California and Alaska and the petitioner's indigency.

9. For this reason, the United States Supreme Court in *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971), held that divorce proceedings must meet due process requirements. In striking down state procedures

sion for child custody in a divorce order is fully enforceable by the state.¹⁰ In this case, Christine Flores stands to lose a basic "liberty" just as surely as if she were being prosecuted for a criminal offense.

We have noted on previous occasions that "[c]hild custody determinations are among the most difficult in the law."¹¹ Although the legal issues in a given case may not be complex, the crucial determination of what will be best for the child can be an exceedingly difficult one as it requires a delicate process of balancing many complex and competing considerations that are unique to every case. A parent who is without the aid of counsel in marshalling and presenting the arguments in his favor will be at a decided and frequently decisive disadvantage which becomes even more apparent when one considers the emotional nature of child custody disputes, and the fact that all of the principals are likely to be distraught. This disadvantage is constitutionally impermissible where the other parent has an attorney supplied by a public agency.

In this case, the legal issues are much more complex than usual because of jurisdictional problems and because divorce proceedings are taking place in two states.

that required indigents seeking divorce to pay court fees and service-of-process costs, the Court reasoned:

[W]e are unaware of any jurisdiction where private citizens may covenant for or dissolve marriages without state approval. Even where all substantive requirements are concededly met, we know of no instance where two consenting adults may divorce and mutually liberate themselves from the constraints of legal obligations that go with marriage, and more fundamentally the prohibition against remarriage, without invoking the State's judicial machinery.

Resort to the judicial process by these plaintiffs is no more voluntary in a realistic sense than that of the defendant called upon to defend his interests in court. For both groups this process is not only the paramount dispute-settlement technique, but, in fact, the only available one. In this posture we think that this appeal is properly to be resolved in light of the principles enunciated in our due process decisions that delimit rights of defendants compelled to litigate their differences in the judicial forum.

Regardless of the complexity of the case, however, a denial of the right to counsel will necessarily be fatal to the petitioner's cause, because she lacks the funds to come to Alaska and will therefore lose the custody proceeding by default. Her right to be heard will truly be meaningless unless she is afforded the right to counsel.¹²

[3] Having determined that there is a constitutional right to counsel in proceedings of this nature, it is necessary to further consider who will act as such and who will pay. Three sources from which counsel may be furnished have been suggested. They are ALSC, the Public Defender Agency, and the private bar.

ALSC contends that it cannot furnish attorneys to represent opposing sides in litigation. That conclusion follows if ALSC is viewed as an ordinary law firm to which the rule applies which bars all members of a firm from representing a client when one member of a firm has a conflict of interest.¹³

It is not, however, an inevitable conclusion that ALSC could not under any circumstances furnish counsel to take both sides of a case. Regulations might be developed relating to such matters as record keeping,

401 U.S. at 376-77, 91 S.Ct. at 785, 28 L.Ed.2d at 118.

10. See *Public Defender Agency v. Superior Court*, 534 P.2d 947 (Alaska 1975), where we held that the Attorney General may enforce support orders.

If a parent takes a child under age 12 from the person having lawful custody of the child, without that person's consent, he has committed the criminal offense of child stealing. AS 11.15.290.

11. *Horton v. Horton*, 519 P.2d 1131, 1132 (Alaska 1974); reiterated in *Horutz v. Horutz*, 560 P.2d 397, 399 (Alaska 1977); *Lacy v. Lacy*, 553 P.2d 928, 929 (Alaska 1976).

12. We emphasize that our holding in this opinion is limited to cases involving child custody where an indigent party's opponent is represented by counsel provided by a public agency.

13. *Aleut Corporation v. McGarvey*, 573 P.2d 473 (Alaska 1978); *Borden v. Borden*, 277 A.2d 89 (D.C.1971); see *Estep v. Johnson*, 383 F.Supp. 1323 (D.Conn.1974).

access to files, supervision, and physical separation of offices which would be sufficient to ensure that two attorneys employed by ALSC could represent conflicting positions in litigation, each having undivided loyalty to his client and fully able to exercise that independent professional judgment which is required by the Code of Professional Responsibility.¹⁴ However, there now exist no such regulations and without them ALSC cannot realistically be considered as a source of legal representation.

Both parties contend that the Public Defender Agency has the statutory obligation to furnish counsel in this case. Their argument is that AS 18.85.100(a) requires the public defender to represent "[a]n indigent person who . . . is entitled to representation under the Supreme Court Rules of Children's Procedure . . ." and that Children's Rule 15(a)(3) requires the appointment of counsel in the present circumstances. It provides:

The court shall appoint counsel to represent the child, his parents, guardian, or custodian, when the assistance of counsel is desired, as follows:

(3) For his parents . . . when they are financially unable to employ counsel to represent themselves and the issues are complex or have serious consequences.

[4] We do not believe that Children's Rule 15(a) was intended to apply to divorce proceedings. The scope of the Children's Rules is defined in Rule 1(b) which provides: "The procedure in children's matters shall be governed by these rules." The term "children's matters" is not further defined. However, reference is made throughout the rules to ch. 10, Title 47 of the Alaska Statutes, which deals exclusively with cases where the state as a party has

chosen to interfere with a parent's right of custody, either in a delinquency proceeding, or where a violation of law by the child is alleged, or in a dependency proceeding where a child may need protection. None of the rules is cross-referenced to Title 9 of the Alaska Statutes which governs child custody proceedings in divorce cases, and none of the rules refer to child custody proceedings in divorce cases. Light is cast upon the intended coverage of the Children's Rules by Rule 12 which defines the appropriate subjects of inquiry involved at "the child hearing." Those subjects are, "whether the child is delinquent, dependent, delinquent and dependent, or in need of supervision." For these reasons we conclude that the Children's Rules of Procedure are inapplicable to this case and cannot furnish a basis for imposing a duty of representation on the Public Defender Agency. In reaching this conclusion, we recognize that in several of our cases involving private parties we have referred to various provisions in the Children's Rules.¹⁵ However, in each of those cases, the citation was given to support an analogous procedure adopted in the case in question; we did not hold that the Children's Rules were directly applicable.

Having eliminated ALSC and the Public Defender Agency as present sources of representation, only the private bar remains.¹⁶ Counsel should be appointed from the private bar.

BURKE, J., not participating.

CONNOR, Justice, dissenting in part, concurring in part.

The majority holds today that our due process clause guarantees indigent civil litigants the right to counsel at public expense

14. We encourage such an effort.

15. The decisions are *Reynolds v. Kimmons*, 569 P.2d 799, 802 n. 10 (Alaska 1977); *Veazey v. Veazey*, 560 P.2d 382, 385 (Alaska 1977); *Johnson v. Johnson*, 544 P.2d 65, 72 n. 16 (Alaska 1975); *Carle v. Carle*, 503 P.2d 1050, 1053 n. 5 (Alaska 1972); *Sheridan v. Sheridan*, 466 P.2d 821, 825 n. 16 (Alaska 1970).

16. Administrative Rule 15.1 provides for compensation of attorneys appointed by the court to represent persons "under the Rules of Children's Procedure or pursuant to statute . . ." at the rate of forty dollars per hour. That rule is broad enough to permit compensation in cases such as the present one where the appointment of counsel is constitutionally required.

whenever "[t]he interest at stake . . . is one of the most fundamental of all civil liberties, the right to direct the upbringing of one's child." While I agree that in this case the petitioner, because of the extreme disadvantage to which she is put, should have counsel appointed for her from some source, there are a number of reasons why I am unable to join my colleagues in holding that all indigent child custody litigants are constitutionally entitled to counsel at public expense.

I can find no authoritative precedent, state or federal, to firmly support such an extension of due process rights. In *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971), the court merely struck down court fees and service of process fees that effectively denied access to the state courts to indigents seeking divorce. While the court did note the importance of the "basic position of the marriage relationship in this society's hierarchy of values,"¹ the key factor in the decision appears to have been the state monopolization of the means for legally dissolving the marriage relationship.² Since a legal divorce in Connecticut could *only* be obtained through the courts, filing fees which significantly impeded indigents' access to those courts and which did not serve a "countervailing state interest of overriding significance"³ were held to violate due process. In reaching this decision, the majority in *Boddie* carefully avoided any suggestion that the right to counsel was mandated in such cases. Here it is worth noting that, unlike the circumstances presented in *Boddie*, child custody litigants are not compelled to go to court to settle their claims.

Cleaver v. Wilcox, 499 F.2d 940 (9th Cir. 1974), which the majority relies upon in the case at bar, was concerned with child dependency proceedings in which the state of California was a party. The excerpted language from that case which appears in the majority opinion here was uttered only in

1. *Boddie v. Connecticut*, *supra*, 401 U.S. at 374, 91 S.Ct. at 784, 28 L.Ed.2d at 116.

2. *Id.*

regard to such dependency proceedings. Moreover, the court in *Cleaver* did not establish a firm constitutional rule requiring court-appointed counsel in every dependency proceeding; rather, it established general guidelines to be applied on a case by case basis.⁴

Similarly, our previous decisions in this area do not require that counsel be provided to indigent civil litigants in private child custody proceedings. In *Otton v. Zaborac*, 525 P.2d 537 (Alaska 1974), we held that an indigent in a contempt proceeding, for non-support of his child, had a constitutional right to a court-appointed attorney, stating:

We base this decision on the right to jury trial in a contempt proceeding for non-payment of child support recognized in *Johansen v. State*, 491 P.2d 759 (Alaska 1971), and on the underlying rationale of that decision which focuses on the very real threat of incarceration. [footnote omitted].

Otton, *supra* at 538.

In explaining why the need for assistance of counsel was deemed greater when a jury trial was involved, we quoted the concurring opinion of Mr. Justice Powell in *Argersinger v. Hamlin*, 407 U.S. 25, 45-46, 92 S.Ct. 2006, 2016-17, 32 L.Ed.2d 530, 543 (1972):

An unskilled layman may be able to [represent] himself in a nonjury trial before a judge experienced in piecing together unassembled facts, but before a jury the guiding hand of counsel is needed to marshal the evidence into a coherent whole consistent with the best case on behalf of the [litigant].

Otton, *supra* at 540.

In a later case, *Reynolds v. Kimmons*, 569 P.2d 799 (Alaska 1977), we extended the right to counsel to an indigent defendant in a paternity suit brought by the state on behalf of the mother. In reaching that result, we relied heavily on the fact that in

3. *Id.* 401 U.S. at 377, 91 S.Ct. at 785, 28 L.Ed.2d at 118.

4. *Cleaver v. Wilcox*, *supra*, at 945.

such proceedings defendants suffer serious exposure to criminal liability.⁵ We also noted that any resultant paternity and support decree would be likely to have a major impact on the defendant's life and would be *res judicata* in later contempt proceedings that could result in incarceration.⁶ Furthermore, we reasoned that the need for counsel was heightened because the defendant was being prosecuted by the state with all of its resources and power.⁷ The *Reynolds* decision, therefore, was not simply based on the significance of the parent-child relationship, but was founded on other important factors as well.

Notwithstanding this absence of authoritative precedent, I am particularly troubled by the failure of the majority to give full consideration to those procedural aspects of private child custody proceedings which help to insure that even unrepresented litigants will have a full, fair opportunity to be heard.

First, as in any case, the court itself may call, question, and cross-examine witnesses in an effort to determine the best interests of the child. In this regard it is noteworthy that a Divorce Reform Task Force report of the National Council on Family Relations has recommended that child custody determinations should no longer be a product of adversarial proceedings. See, 1 Family Law Reporter 2026 (1974). Although the report does not specify any alternative procedures, its conclusion suggests that it may be preferable to leave the examination of witnesses in such proceedings solely to the province of the judge, thereby diminishing some of the adversarial aspects of these hearings.

Second, the Alaska legislature has, by statute, provided for the appointment of counsel to represent children who are the subject of private custody proceedings. AS 09.65.130. These attorneys, in fulfilling their obligations to their clients, must call, examine, and cross-examine witnesses for both sides and make appropriate evidential

objections. This, too, helps to insure that the strength and weaknesses of each opposing side will be fully and properly aired even without the assistance of counsel.

Finally, unlike other types of civil litigation, there is no right to a jury trial in private child custody proceedings. The determination of the best interest of the child is made solely by the court. AS 25.20.060. Thus, as implied in *Otton, supra*, there is no special need for "the guiding hand of counsel . . . to marshal the evidence into a coherent whole" for a jury; rather, the judge, experienced in piecing together unassembled facts, is capable of fully evaluating the evidence in favor of, and against, both sides.

In light of these considerations, I believe there is no sound basis for concluding that a private child custody litigant cannot be provided with a meaningful opportunity to be heard without the assistance of counsel. On the contrary, certain procedural aspects of child custody proceedings—the exclusive fact-finding role of the judge and independent counsel for the children—support the view that unrepresented child custody litigants may actually be afforded more due process "protection" than other private civil litigants, threatened with deprivation of other important rights, who do not have an attorney.

This brings me to a third troubling aspect of today's holding, namely, the extent to which the majority's reasoning, applied with basic notions of equal protection, logically requires counsel for other indigents in private litigation involving other rights. There, too, complex and emotional issues may be involved, along with important state interests in the outcome. These factors, the majority opinion suggests, enhance the need for assistance of counsel, and this would be especially true where the fact-finding role is delegated to a jury, as it often would be in other cases. See, *Otton, supra* at 540. Thus, I am unable to see

5. *Reynolds v. Kimmons, supra*, at 802.

7. *Id.* at 803.

6. *Id.*

how, logically, this court will be able to limit its holding today, consonant with equal protection, to deny appointed counsel to other indigent persons involved in such private civil litigation.⁸ This point was made by Chief Judge Breitel in a related case, *In the Matter of Smiley*, 36 N.Y.2d 433, 369 N.Y.S.2d 87, 330 N.E.2d 53, 57 (1975), where the New York Court held that there was no constitutional right to counsel in divorce cases:

It merits added comment that among the many kinds of private litigation which may drastically affect indigent litigants, matrimonial litigation is but one. Eviction from homes, revocation of licenses affecting one's livelihood, mortgage foreclosures, repossession of important assets purchased on credit, and any litigation which may result in the garnishment of income may be significant and ruinous for an otherwise indigent litigant. In short, the problem is not peculiar to matrimonial litigation. The horizon does not stop at matrimonial or any other species of private litigation.⁹ [footnote added]

Finally, there is another aspect of the court's decision which requires comment, and that is the cost to the public. Whether we place responsibility on the private bar or the state treasury, the cost ultimately will be borne by the public. Even if the initial burden were cast upon the private bar, the expense of providing counsel for indigent civil litigants eventually would be paid for from some other source. So far as I know, we lack reliable data on the legal needs of the poor in civil cases in Alaska and the

8. The majority opinion expresses the belief that a "public agency" supplied Mr. Flores with counsel in this case. I disagree. The Alaska Legal Services Corporation is a non-profit enterprise organized pursuant to 42 U.S.C. § 2996b, which established the national Legal Services Corporation. It is clear that the national Legal Services Corporation is not an agency of the federal government, nor are its staff members federal employees. 42 U.S.C. § 2996c(c); 42 U.S.C. § 2996d(e)(1). *Spokane County Legal Services, Inc. v. Legal Services Corporation*, 433 F.Supp. 278, 280 (E.D.Wash. 1977). In my view, the Alaska Legal Services Corporation is a private corporation and not an agency of the state or federal government.

expense of meeting those needs. Without such information, it seems to me hazardous to create an inflexible constitutional right, the impact of which we can only vaguely discern. In this regard, I think it unfortunate that the state has not been heard before the court takes this major constitutional step, as the state has an obvious interest in the ramifications of this decision.

For these reasons, I would hold that the petitioner is not entitled to counsel as a matter of constitutional right, but rather is entitled to appointed counsel in the discretion of the court.¹⁰



PURITAN LIFE INSURANCE
COMPANY, Appellant,

v.

Carolyn S. GUESS, Appellee.

No. 3807.

Supreme Court of Alaska.

July 20, 1979.

Beneficiary under life policy brought action against insurer. The Superior Court, Third Judicial District, J. Justin Ripley, J., entered judgment in favor of beneficiary, and insurer appealed. The Supreme Court,

Therefore, I conclude that a "public agency," in the sense of being an agency of the government, did not provide Mr. Flores with counsel in this case.

9. See also the opinion of Mr. Justice Black, dissenting from a denial of a petition for certiorari in *Meltzer v. C. Buck LeCraw & Co.*, 402 U.S. 954, 91 S.Ct. 1624, 29 L.Ed.2d 124 (1971).

10. It should be noted that AS 25.30.100(c) grants the superior court authority to order "another party" to pay "travel and other necessary expenses" of an out-of-state party if this would be "just and proper under the circumstances."

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 31, 1989

FURTHER REFERRALS:

Date of Committee Action: _____

The JUDICIARY Committee considered:

CSSB 70(FIN)

CS FOR SENATE BILL NO. 70 (Judiciary)

[GENETIC TESTING IN PATERNITY CASES]

"An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with HCS CS SB 70 (JUD) [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [] no recommendation
- [X] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- [X] zero fiscal note(s) 2/28/89 REVENUE
- [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend

_____		<input checked="" type="checkbox"/>	

Chairman's Signature

6-0231M
Lauterbach
5/2/89

Original sponsors: Uehling, Pearce,
and Sturgulewski

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 70 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain testing in contested
7 paternity actions; amending Rule 35, Alaska Rules of
8 Civil Procedure; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 25.20.050 is amended by adding new subsections to read:

12 (e) On request of a party in an action in which paternity is
13 contested and to which the state is a party, the court shall order the
14 mother, the child, and the putative father to submit to a blood test,
15 tissue-type test, protein comparison, or other scientifically accepted
16 procedure designed to determine the statistical probability that the
17 putative ^{parent} father is a legal parent of the child in question.

18 (f) If the child support enforcement agency is a party in an
19 action in which paternity is contested, the agency shall request the
20 court to order the tests and procedures described in (e) of this
21 section. The agency may recover the costs of tests as a cost of the
22 action, except that costs may not be recovered from a person who is a
23 recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with
24 Dependent Children).

25 * Sec. 2. AS 47.23.040(a) is amended to read:

26 (a) The agency shall appear on behalf of minor children or their
27 mother or legal custodian or the state and initiate efforts to have
28 the paternity of children born out of wedlock determined by the court.
29 When the agency is a party in an action in which paternity is

1 contested, it shall request and pay for tests and procedures under
2 AS 25.20.050(f). The agency may recover the costs of the tests as a
3 cost of the action, except that costs may not be recovered from a
4 person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid
5 to Families with Dependent Children) [ON VOLUNTARY APPLICATION BY THE
6 MOTHER OR OTHER LEGAL CUSTODIAN].

7 * Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the
8 effect of amending Civil Rule 35 by requiring a court in an action in which
9 paternity is contested and to which the state is a party to order certain
10 genetic tests on the request of a party.

11 * Sec. 4. This Act takes effect November 1, 1989.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

6-0231D
Lauterbach
4/26/89

Original sponsors: Uehling, Pearce,
and Sturgulewski

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 70 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain testing in contested
7 paternity actions; amending Rule 35, Alaska Rules of
8 Civil Procedure; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 25.20.050 is amended by adding new subsections to read:

12 (e) On request of a party in a contested paternity action to
13 which the state is a party, the court shall order the mother, the
14 child, and the putative parent to submit to a blood test, tissue-type
15 test, protein comparison, or other scientifically accepted procedure
16 designed to determine the statistical probability that the putative
17 parent is a legal parent of the child in question.

18 (f) If the child support enforcement agency is a party in a
19 contested paternity action, the agency shall request the court to
20 order the tests and procedures described in (e) of this section. The
21 agency may recover the costs of tests as a cost of the action, except
22 that no costs shall be recovered from a person who is a recipient of
23 aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent
24 Children).

25 * Sec. 2. AS 47.23.040(a) is amended to read:

26 (a) On application by the mother, other legal custodian, or
27 putative father, the [THE] agency shall appear on behalf of minor
28 children [OR THEIR MOTHER OR LEGAL CUSTODIAN] or the state and initi-
29 ate efforts to have the paternity of children born out of wedlock,

1 and not otherwise legitimated, determined by the court. When the
 2 agency is a party in a contested paternity action, it shall request
 3 and pay for tests and procedures under AS 25.20.050(f). The agency
 4 may recover the costs of the tests as a cost of the action, except
 5 that no costs shall be recovered from a person who is a recipient of
 6 aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent
 7 Children) [ON VOLUNTARY APPLICATION BY THE MOTHER OR OTHER LEGAL
 8 CUSTODIAN].

9 * Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the
 10 effect of amending Civil Rule 35 by requiring a court in a contested pater-
 11 nity action to which the state is a party to order certain genetic tests on
 12 the request of a party.

13 * Sec. 4. This Act takes effect November 1, 1989.