

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2533 SJ SJR 30

2533

1       “(3) At the time of its application for a grant under this  
2 subsection the State shall submit to the Secretary a state-  
3 ment describing in reasonable detail the project for which the  
4 proceeds of the grant are to be used, and the State shall from  
5 time to time thereafter submit to the Secretary such reports  
6 with respect to the project as the Secretary may specify.

7       “(4) Amounts expended by a State in carrying out a  
8 special project assisted under this section shall be considered,  
9 for purposes of section 458(b) (as amended by section 6(a) of  
10 the Child Support Enforcement Amendments of 1983), to  
11 have been expended for the operation of the State’s plan ap-  
12 proved under section 454.

13       “(5) There is authorized to be appropriated the sum of  
14 \$15,000,000 for each fiscal year beginning with the fiscal  
15 year 1985, to be used by the Secretary in making grants  
16 under this subsection.”.

17           PERIODIC REVIEW OF EFFECTIVENESS OF STATE

18                   PROGRAMS; MODIFICATION OF PENALTY

19       SEC. 8. (a)(1) Section 452(a)(1) of the Social Security  
20 Act is amended to read as follows:

21           “(4) conduct a review of such State’s program  
22 pursuant to such plan, no less frequently than once  
23 every three years, in order to determine whether such  
24 program substantially complies with the requirements

1 of this part and to evaluate its effectiveness in carrying  
2 out the purposes of this part;”.

3 (2) Section 402(a)(27) of such Act is amended by strik-  
4 ing out “operate a child support program in conformity with  
5 such plan” and inserting in lieu thereof “operate a child  
6 support program in substantial compliance with such plan”.

7 (b) Section 403(h) of such Act is amended to read as  
8 follows:

9 “(h) In any case where a State’s program operated  
10 under part D is found by the Secretary as a result of a review  
11 conducted under section 452(a)(4) not to meet the require-  
12 ments of such part, and where corrective action within such  
13 period or periods as the Secretary may by regulation pre-  
14 scribe has not been adequate to place the program (after such  
15 period or periods) in substantial compliance with all such re-  
16 quirements, the amount otherwise payable to such State  
17 under this part for any quarter beginning after September 30,  
18 1983, and after the close of the applicable period for correc-  
19 tive action, shall be reduced by—

20 “(1) not more than 2 per centum, or

21 “(2) not more than 3 per centum, if the finding is  
22 the second consecutive such finding made as a result of  
23 such a review, or

1           “(3) not more than 5 per centum, if the finding is  
2           the third or a subsequent consecutive such finding  
3           made as a result of such a review;  
4           and such reduction shall continue until the first subsequent  
5           quarter throughout which the program is found to meet all  
6           such requirements.”.

7           (c) The amendments made by this section shall become  
8           effective October 1, 1983.

9           EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORI-  
10           TY TO CHILD SUPPORT ENFORCEMENT PROGRAM

11           SEC. 9. (a) Section 1115(a) of the Social Security Act is  
12           amended—

13           (1) by striking out “part A” in the matter preced-  
14           ing paragraph (1) and inserting in lieu thereof “part A  
15           or D”;

16           (2) by striking out “402,” in paragraph (1) and  
17           inserting in lieu thereof “402, 454,”; and

18           (3) by striking out “403,” in paragraph (2) and  
19           inserting in lieu thereof “403, 455,”.

20           (b) Section 1115 of such Act is further amended by  
21           adding at the end thereof the following new subsection:

22           “(c) In the case of any experimental, pilot, or demon-  
23           stration project undertaken under subsection (a) to assist in  
24           promoting the objectives of part D of title IV, the project—

“(1) must be designed to improve the financial well-being of children, and may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

“(2) must not result in increased cost to the Federal Government under the program of aid to families with dependent children.”.

CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN  
IN FOSTER CARE

SEC. 10. (a)(1) Section 457 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(d) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for 3 months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

“(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

1           “(2) shall be paid to the public agency responsible  
2 for supervising the placement of the child to the extent  
3 that the amounts collected exceed the foster care main-  
4 tenance payments made with respect to the child  
5 during such period but not the amounts required by a  
6 court or administrative order to be paid on behalf of  
7 the child during such period; and the responsible  
8 agency may use the payments in the manner it deter-  
9 mines will serve the best interests of the child, includ-  
10 ing setting such payments aside for the child's future  
11 needs or making all or a part thereof available to the  
12 person responsible for meeting the child's day-to-day  
13 needs; and

14           “(3) shall be retained by the State, if any portion  
15 of the amounts collected remains after making the pay-  
16 ments required under paragraphs (1) and (2), to the  
17 extent that such portion is necessary to reimburse the  
18 State (with appropriate reimbursement to the Federal  
19 Government to the extent of its participation in the fi-  
20 nancing) for any past foster care maintenance pay-  
21 ments (or payments of aid to families with dependent  
22 children) which were made with respect to the child  
23 (and with respect to which past collections have not  
24 previously been retained);

1 and any balance shall be paid to the State agency responsible  
2 for supervising the child care placement, for use by such  
3 agency in accordance with paragraph (2).”.

4 (2) Section 457(b) of such Act is amended by inserting  
5 “(subject to subsection (d))” after “shall” in the matter pre-  
6 ceding paragraph (1).

7 (b) Part D of title IV of such Act is further amended—

8 (1) in section 454(4)(B), by inserting “including an  
9 assignment with respect to a child on whose behalf a  
10 State agency is making foster care maintenance pay-  
11 ments under part E,” immediately after “such assign-  
12 ment is effective,”, and by inserting “or E” immedi-  
13 ately after “part A”; and

14 (2) in section 456(a), by inserting “or secured on  
15 behalf of a child receiving foster care maintenance pay-  
16 ments” immediately after “section 402(a)(26)”.

17 (c) Section 471(a) of such Act is amended—

18 (1) by striking out “and” at the end of paragraph  
19 (15);

20 (2) by striking out the period at the end of para-  
21 graph (16) and inserting in lieu thereof “; and”; and

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

24 “(17) provides that, where appropriate, all steps  
25 will be taken, including cooperative efforts with the

1 State agencies administering the plans approved under  
2 parts A and D, to secure an assignment to the State of  
3 any rights to support on behalf of each child receiving  
4 foster care maintenance payments under this part.”.

5 (d) The amendments made by this section shall become  
6 effective October 1, 1983, and shall apply to collections made  
7 on or after that date.

8 ENFORCEMENT WITH RESPECT TO BOTH CHILD AND  
9 SPOUSAL SUPPORT

10 SEC. 11. (a) Section 454(4)(B) of the Social Security  
11 Act is amended by striking out “and, at the option of the  
12 State,” and inserting in lieu thereof “, and”.

13 (b) The amendment made by subsection (a) shall become  
14 effective October 1, 1985.

15 MODIFICATIONS IN CONTENT OF SECRETARY'S ANNUAL  
16 REPORT

17 SEC. 12. (a) Section 452(a)(10)(C) of the Social Security  
18 Act is amended—

19 (1) by inserting “(i)” immediately after “(C)”; and

20 (2) by adding at the end thereof the following new  
21 clause:

22 “(ii) the payment status of all child support cases  
23 in each State for which an obligation has been estab-  
24 lished at the time the report is submitted (with a sepa-  
25 rate description of those cases which are interstate in

1 nature), as more particularly set forth in subsection  
2 (f);”.

3 (b) Section 452 of such Act is further amended by  
4 adding at the end thereof the following new subsection:

5 “(f)(1) The information with respect to child support  
6 cases in each State which is required by subparagraph (C)(i)  
7 of subsection (a)(10) to be contained in any report submitted  
8 under such subsection shall specifically include the following,  
9 separately stated for each of the 12 categories of cases speci-  
10 fied in paragraph (2):

11 “(A)(i) The total number of such child support  
12 cases (filed with the State agency of such State under  
13 this part) in which the full amount of the support obli-  
14 gation has been paid for all months in the particular  
15 fiscal year to which the report relates, with the  
16 amounts of the support obligations involved in those  
17 cases;

18 “(ii) the total number of such cases in which at  
19 least 90 percent but less than the full amount of the  
20 support obligation has been so paid, with the amounts  
21 of the support obligations established and support col-  
22 lections made in those cases;

23 “(iii) the total number of such cases in which at  
24 least 66 $\frac{2}{3}$  percent but less than 90 percent of the sup-  
25 port obligation has been so paid, with the amounts of

1 the support obligations established and support collec-  
2 tions made in those cases;

3 “(iv) the total number of such cases in which at  
4 least  $33\frac{1}{3}$  percent but less than  $66\frac{2}{3}$  percent of the  
5 support obligation has been so paid, with the amounts  
6 of the support obligations established and support col-  
7 lections made in those cases;

8 “(v) the total number of such cases in which some  
9 but less than  $33\frac{1}{3}$  percent of the support obligation  
10 has been so paid, with the amounts of the support obli-  
11 gations established and support collections made in  
12 those cases; and

13 “(vi) the total number of such cases in which no  
14 part of the support obligation has been paid, with the  
15 amounts of the obligations involved in those cases; and

16 “(B) the number of such child support cases (filed  
17 with the State agency of such State under this part), in  
18 each of the six subclasses described in clauses (i)  
19 through (vi) of subparagraph (A) within each of such  
20 categories, which were filed in such State on behalf of  
21 children residing in another State or against parents  
22 residing in another State in the particular fiscal year to  
23 which the report relates, specifying (for each such sub-  
24 class)—

1           “(i) the total number of such cases which  
2           were initiated in the State of filing, with the  
3           amounts of the support obligations established and  
4           support collections made in those cases,

5           “(ii) the number of such cases which were  
6           initiated in another State (identifying each such  
7           State by name) and in which the State of filing  
8           was requested to take action to establish paterni-  
9           ty, obtain support obligations, or collect support,

10           “(iii) the number of the cases described in  
11           clause (ii) in which action was taken in response  
12           to the request, and

13           “(iv) the actions (described in clause (ii))  
14           which were so taken.

15   Such information shall also include any other matter which  
16   the Secretary may deem necessary for an effective assess-  
17   ment of the current status of interstate child support collec-  
18   tions.

19           “(2) The categories of child support cases (filed with the  
20   State agency of a State under this part) with respect to  
21   which information is to be provided in the report, under sub-  
22   paragraphs (A) and (B) of paragraph (1), shall include—

23           “(A) four categories of cases in which the support  
24   rights involved are assigned to the State under section

1 402(a)(26) and in which the child is currently receiving  
2 aid to families with dependent children, as follows:

3 “(i) all such cases in which a support obliga-  
4 tion has been established,

5 “(ii) all such cases in which a new or in-  
6 creased support obligation was so established  
7 during the particular fiscal year to which the  
8 report relates,

9 “(iii) those cases described in clause (i) in  
10 which support was collected under this part  
11 during such fiscal year, and

12 “(iv) those cases described in clause (ii) in  
13 which support was collected under this part  
14 during such fiscal year;

15 “(B) four categories of cases in which the support  
16 rights involved are assigned to the State under section  
17 402(a)(26) but in which the child is not currently re-  
18 ceiving aid to families with dependent children, as fol-  
19 lows:

20 “(i) all such cases in which a support obliga-  
21 tion has been established,

22 “(ii) all such cases in which a new or in-  
23 creased support obligation was so established  
24 during the particular fiscal year to which the  
25 report relates,

“(iii) those cases described in clause (i) in which support was collected under this part during such fiscal year, and

“(iv) those cases described in clause (ii) in which support was collected under this part during such fiscal year; and

“(C) four categories of cases to which neither subparagraph (A) nor subparagraph (B) applies, as follows:

“(i) all such cases in which a support obligation has been established,

“(ii) all such cases in which a new or increased support obligation was established during the particular fiscal year to which the report relates,

“(iii) those cases described in clause (i) in which support was collected under this part during such fiscal year, and

“(iv) those cases described in clause (ii) in which support was collected under this part during such fiscal year.”.

(c) The amendments made by this section shall apply with respect to reports (under section 452(a)(10) of the Social Security Act) for fiscal years beginning on or after October 1, 1986.

1     REQUIREMENT THAT AVAILABILITY OF CHILD SUPPORT  
2             ENFORCEMENT SERVICES BE PUBLICIZED

3             SEC. 13. (a) Section 454 of the Social Security Act (as  
4 amended by sections 3(a) of this Act) is further amended—

5                 (1) by striking out "and" at the end of paragraph  
6 (19);

7                 (2) by striking out the period at the end of para-  
8 graph (20) and inserting in lieu thereof "; and"; and

9                 (3) by adding after paragraph (20) the following  
10 new paragraph:

11                 “(21) provide that the State will regularly and  
12 frequently publicize, through public service announce-  
13 ments and other means, the availability of child sup-  
14 port enforcement services under the plan and other-  
15 wise, including information as to any application fees  
16 which may be imposed for such services and a tele-  
17 phone number or postal address at which further infor-  
18 mation may be obtained.”.

19             (b) The amendments made by subsection (a) shall  
20 become effective October 1, 1985.

21             STATE COMMISSIONS ON CHILD SUPPORT

22             SEC. 14. (a) As a condition of the State's eligibility for  
23 Federal payments under part A or D of title IV of the Social  
24 Security Act for quarters beginning more than 90 days after  
25 the date of the enactment of this Act and ending prior to

1 October 1, 1985, the Governor of each State, within 30 days  
2 after such date, shall (subject to subsection (f)) appoint a  
3 State Commission on Child Support.

4 (b) Each State Commission appointed under subsection  
5 (a) shall be composed of members appropriately representing  
6 all aspects of the child support system, including custodial  
7 and non-custodial parents, the agency or organizational unit  
8 administering the State's plan under part D of such title IV,  
9 the State judiciary, the executive and legislative branches of  
10 the State government, child welfare and social services agen-  
11 cies, and others.

12 (c) It shall be the function of each State Commission to  
13 examine, investigate, and study the operation of the State's  
14 child support system for the primary purpose of determining  
15 the extent to which such system has been successful in secur-  
16 ing support and parental involvement both for children who  
17 are eligible for aid under a State plan approved under part A  
18 of title IV of such Act and for children who are not eligible  
19 for such aid, giving particular attention to such specific prob-  
20 lems (among others) as visitation, the establishment of appro-  
21 priate objective standards for support, the enforcement of in-  
22 terstate obligations, the availability, cost, and effectiveness of  
23 services both to children who are eligible for such aid and to  
24 children who are not, and the need for additional State or  
25 Federal legislation to obtain support for all children.

1 (d) Each State Commission shall submit to the Governor  
2 of the State and make available to the public, no later than  
3 October 1, 1985, a full and complete report of its findings  
4 and recommendations resulting from the examination, inves-  
5 tigation, and study under this section. The Governor shall  
6 transmit such report to the Secretary along with his com-  
7 ments thereon.

8 (e) None of the costs incurred in the establishment and  
9 operation of a State Commission under this section, or in-  
10 curred by such a Commission in carrying out its functions  
11 under subsections (c) and (d), shall be considered as expendi-  
12 tures qualifying for Federal payments under part A or D of  
13 title IV of the Social Security Act or be otherwise payable or  
14 reimbursable by the United States or any agency thereof;  
15 except that costs incurred by such a Commission or its mem-  
16 bers for transportation within the State, and such other costs  
17 incurred by the Commission or its members as may be spe-  
18 cifically allowed by the Secretary in regulations, shall be con-  
19 sidered for purposes of section 455(a)(1) of the Social Secu-  
20 rity Act to be expenditures for the operation of the State's  
21 plan approved under section 454 of such Act.

22 (f) If the Secretary determines, at the request of any  
23 State on the basis of information submitted by the State and  
24 such other information as may be available to the Secretary,  
25 that such State—

1 (1) has placed in effect and is implementing objec-  
2 tive standards for the determination and enforcement of  
3 child support obligations,

4 (2) has established within the five years prior to  
5 the enactment of this Act a commission or council with  
6 substantially the same functions as the State Commis-  
7 sions provided for under this section, or

8 (3) is making satisfactory progress toward fully ef-  
9 fective child support enforcement and will continue to  
10 do so,

11 then such State shall not be required to establish a State  
12 Commission under this section and the preceding provisions  
13 of this section shall not apply.

14 WISCONSIN CHILD SUPPORT INITIATIVE

15 SEC. 15. (a) If the State of Wisconsin requests the Sec-  
16 retary of Health and Human Services to waive any require-  
17 ment or requirements of part A or D of title IV of the Social  
18 Security Act which would otherwise be applicable, so as to  
19 permit modifications in such State's programs under parts A  
20 and D of such title IV for the purpose of enabling such State  
21 to make an adequate test of its Child Support Initiative, the  
22 Secretary shall approve such request upon a determination  
23 that--

24 (1) the purposes of the requested waivers are--

1 (A) to provide the State with flexibility in  
2 the methods and procedures to be used to assist  
3 single-parent households in obtaining adequate  
4 child support (including the provision of such as-  
5 sistance where no application has been made for  
6 services under part D of such title IV),

7 (B) to permit the State to limit the testing of  
8 such Initiative to specified areas of the State, or  
9 to test alternatives in different sub-State areas,  
10 notwithstanding sections 402(a)(1) and 454(1) of  
11 such Act,

12 (C) to permit the State to establish payment  
13 methods or procedures designed to reinforce pa-  
14 rental responsibility for the child, and

15 (D) to permit the State to use Federal pay-  
16 ments made to it under section 403 of the Social  
17 Security Act to ensure that there is an adequate  
18 level of support in cases where the contribution of  
19 the absent parent, by itself, is inadequate (includ-  
20 ing cases where the family is ineligible for aid to  
21 families with dependent children, without requir-  
22 ing such family to reduce its income or assets to  
23 the prevailing level of eligibility for such aid); and

24 (2) the modifications in and alternative procedures  
25 under parts A and D of such title IV which would be

1       allowed pursuant to the requested waivers will improve  
2       the financial well-being of children in the State, and  
3       will not have the effect of disadvantaging children in  
4       need of support,

5       and upon the approval of such request the State of Wisconsin  
6       shall be entitled (with respect to such Initiative) to receive  
7       Federal payments under parts A and D of title IV of the  
8       Social Security Act as though such Initiative, and the stand-  
9       ards, requirements, and procedures thereunder, were in com-  
10      plete conformity with parts A and D of such title IV without  
11      the need for any waivers under this section; except that the  
12      modifications and alternative procedures which would be al-  
13      lowed pursuant to the requested waivers shall not result in  
14      total costs to the Federal Government in connection with the  
15      State's program under part A of such title IV during the  
16      period of the Initiative which are higher than the costs which  
17      would be incurred by the Federal Government during such  
18      period in connection with the State's program under part A  
19      of such title IV as that program was in effect immediately  
20      prior to the approval of the request.

21       (b) Amounts expended by the State of Wisconsin in car-  
22      rying out its Child Support Initiative with waivers approved  
23      under subsection (a) shall be considered, for purposes of sec-  
24      tion 458(b) of the Social Security Act (as amended by section

1 6(a) of this Act), to have been expended for the operation of  
2 the State's plan approved under section 402.

3 INCLUSION OF MEDICAL SUPPORT IN CHILD SUPPORT  
4 ORDERS

5 SEC. 16. The Secretary of Health and Human Services  
6 shall issue regulations to require that State agencies adminis-  
7 tering the child support enforcement program under part D of  
8 title IV of the Social Security Act petition for the inclusion of  
9 medical support as part of any child support order whenever  
10 health care coverage is available to the absent parent at a  
11 reasonable cost. Such regulations shall also provide for im-  
12 proved information exchange between such State agencies  
13 and the State agencies administering the State medicaid pro-  
14 grams under title XIX of such Act with respect to the avail-  
15 ability of health insurance coverage.

16 INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR  
17 SERVICE TO STATE AGENCIES

18 SEC. 17. Section 453(f) of the Social Security Act is  
19 amended by striking out “, after determining that the absent  
20 parent cannot be located through the procedures under the  
21 control of such State agencies.”.

1 EXTENSION OF ELIGIBILITY UNDER TITLE XIX WHEN SUP-  
2 PORT COLLECTION RESULTS IN TERMINATION OF  
3 AFDC ELIGIBILITY

4 SEC. 18. Section 406 of the Social Security Act is  
5 amended by adding at the end thereof the following new sub-  
6 section:

7 “(h) Each dependent child, and each relative with whom  
8 such a child is living (including the spouse of such relative as  
9 described in subsection (e)), who becomes ineligible for aid to  
10 families with dependent children as a result (wholly or partly)  
11 of the collection or increased collection of child or spousal  
12 support under part D, and who has received such aid in at  
13 least three of the six months immediately preceding the  
14 month in which such ineligibility begins, shall be deemed to  
15 be a recipient of aid to families with dependent children for  
16 purposes of title XIX for an additional four calendar months  
17 beginning with the month in which such ineligibility begins.”.

18 GENERAL EFFECTIVE DATE

19 SEC. 19. Except where otherwise specifically provided,  
20 the provisions of this Act and the amendments made thereby

1 shall become effective on the date of the enactment of this  
2 Act.

Passed the House of Representatives November 16,  
1983.

Attest:                    BENJAMIN J. GUTHRIE,  
*Clerk.*

Public Law 98-68  
98th Congress

## Joint Resolution

To designate the month of August 1983 as "National Child Support Enforcement Month".

Aug. 5, 1983  
[S.J. Res. 56]

Whereas significant progress has been made toward improving laws and regulations dealing with child support enforcement by the States;

Whereas the provisions of part D of title IV of the Social Security Act have provided a needed response in alleviating problems that exist within and among States as to legal rights and financial needs of their citizens;

Whereas the child support program's ultimate goal is to reduce financial deprivation among America's children by ensuring that the responsibility of support rests with the responsible parent, thereby diminishing the need for welfare dependency by women and children;

Whereas the dedicated service of family support enforcement personnel, the judiciary and the legal community has contributed to increased child support collections, paternity establishments and the location of absent parents;

Whereas the growth and success of child support programs have resulted from and continue to rely on increased cooperation of Federal, State and local agencies: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the month of August 1983 is designated "National Child Support Enforcement Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the month with appropriate programs, ceremonies and activities.

National Child  
Support  
Enforcement  
Month.

Approved August 5, 1983.

## LEGISLATIVE HISTORY—S.J. Res. 56

CONGRESSIONAL RECORD, Vol. 129 (1983):  
July 16, considered and passed Senate  
July 27, considered and passed House.

○

98TH CONGRESS  
1ST SESSION

S. 1708

To amend part D of title IV of the Social Security Act to assure that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of the economic status of their parents and that parents prevent their children from becoming a burden on taxpayers by fulfilling, to the best of their ability, their financial obligations on behalf of their children.

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IN THE SENATE OF THE UNITED STATES

JULY 29 (legislative day, JULY 25), 1983

Mr. GRASSLEY (for himself, Mr. DOLE, Mr. DURENBERGER, Mr. WALLOP, and Mr. HEINZ) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend part D of title IV of the Social Security Act to assure that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of the economic status of their parents and that parents prevent their children from becoming a burden on taxpayers by fulfilling, to the best of their ability, their financial obligations on behalf of their children.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*



1       “(e) In order to encourage and reward State child sup-  
2 port programs which perform in a cost effective and efficient  
3 manner to secure support for all children who have sought  
4 assistance in securing support, whether such children reside  
5 within the State or elsewhere and regardless of the economic  
6 circumstances of their parents, the Secretary (subject to sec-  
7 tion 3(b) of the Child Support Enforcement Act of 1983) shall  
8 pay to each State for each quarter, beginning with the quar-  
9 ter commencing October 1, 1985—

10       “(1) if the full amount of the support sought in  
11 cases filed (after June 1984) with the State agency ad-  
12 ministering the State's plan approved under this part  
13 was paid in more than 30 percent of such cases for  
14 each month during the 12-month period ending with  
15 the fourth month before the beginning of such quarter,  
16 an incentive payment equal to—

17       “(A) 0.2 percent of the total amount expend-  
18 ed by the State during such quarter for the oper-  
19 ation of its plan approved under section 454, mul-  
20 tiplied by

21       “(B) the difference (to the nearest whole  
22 number of percentage points) between (i) the per-  
23 centage of such cases in which the full amount of  
24 the support sought was paid for the 12 months in-  
25 volved, and (ii) 30 percent,

1       except that if the average amount collected per case  
2       was less than the payment for a family of two which  
3       was in effect (in the months involved) under the State's  
4       plan approved under section 402, the incentive pay-  
5       ment otherwise determined under this paragraph shall  
6       be reduced to an amount which bears the same ratio to  
7       the payment so determined as such average amount  
8       collected bears to such standard of need; and

9               “(2) if at least 80 percent of the support sought in  
10       cases filed (after June 1984) with the State agency  
11       under this part was paid in more than 70 percent of  
12       such cases for each month during the 12-month period  
13       ending with the fourth month before the beginning of  
14       such quarter, an incentive payment equal to—

15               “(A) 0.4 percent of the total amount expend-  
16       ed by the State during such quarter for the oper-  
17       ation of its plan approved under section 454, mul-  
18       tiplied by

19               “(B) the difference (to the nearest whole  
20       number of percentage points) between (i) the per-  
21       centage of such cases in which at least 80 percent  
22       of the support sought was paid for the 12 months  
23       involved, and (ii) 70 percent.

24       except that if the average amount collected per case  
25       was less than the payment for a family of two which

1 was in effect (in the months involved) under the State's  
2 plan approved under section 402, the incentive pay-  
3 ment otherwise determined under this paragraph shall  
4 be reduced to an amount which bears the same ratio to  
5 the payment so determined as such average amount  
6 collected bears to such standard of need; and

7 “(3) if at least 80 percent of the support sought in  
8 cases filed (after June 1984) with the State agency  
9 under this part on behalf of children not residing in the  
10 State, or against parents not residing in the State, was  
11 paid in more than 50 percent of such cases for each  
12 month during the 12-month period ending with the  
13 fourth month before the beginning of such quarter, an  
14 incentive payment equal to—

15 “(A) 0.4 percent of the total amount expend-  
16 ed by the State during such quarter for the oper-  
17 ation of its plan approved under section 454, mul-  
18 tiplied by

19 “(B) the difference (to the nearest whole  
20 number of percentage points) between (i) the per-  
21 centage of such cases in which at least 80 percent  
22 of the support sought was paid for the 12 months  
23 involved, and (ii) 50 percent; and

24 “(4) if the total amount of the support collected in  
25 cases filed with the State agency under this part on

1       behalf of children receiving aid to families with depend-  
2       ent children (otherwise than pursuant to section 407)  
3       under a State plan approved under section 402, during  
4       the 12-month period ending with the fourth month  
5       before the beginning of such quarter, exceeded 5 per-  
6       cent of the total amount of the aid to families with de-  
7       pendent children which was payable with respect to all  
8       such children during that period, an incentive payment  
9       equal to—

10               “(A) 1 percent of the total amount so collect-  
11               ed, multiplied by

12               “(B) the difference (to the nearest whole  
13               number of percentage points) between (i) the per-  
14               centage of the total amount of the aid to families  
15               with dependent children, payable with respect to  
16               children on whose behalf such support was col-  
17               lected during the 12-month period involved, which  
18               is represented by the total amount of the support  
19               so collected, and (ii) 5 percent;

20       except that if one or more political subdivisions of a State  
21       participates in the enforcement and collection of support in  
22       cases filed with the State agency of such State during the  
23       period involved, such subdivision or subdivisions shall be enti-  
24       tled to receive a proportionate share of any incentive pay-  
25       ments made to the State under this subsection with respect to

1 that period, and the State's right to receive such incentive  
2 payments shall be conditional upon its execution of an agree-  
3 ment satisfactory to the Secretary to pay such proportionate  
4 share to such subdivision or subdivisions."

5 (b)(1) Section 458 of such Act is repealed effective Octo-  
6 ber 1, 1985; but if the total amount of the incentive pay-  
7 ments to which any State is entitled under section 455(e) of  
8 such Act (as added by subsection (a) of this section) for the  
9 fiscal year 1986, 1987, or 1988 is less than the applicable  
10 percentage (determined under paragraph (2)) of the amount  
11 that would have been payable to such State for that fiscal  
12 year under such section 458, in connection with the adminis-  
13 tration of its child support enforcement plan approved under  
14 section 454 of such Act, if such section (as in effect prior to  
15 October 1, 1985) had remained in effect and its provisions  
16 had been applied to collections made by such State in that  
17 fiscal year, the Secretary of Health and Human Services  
18 shall make such additional payments to the State under sec-  
19 tion 455(e) of such Act as may be necessary to assure that  
20 the total amount of such incentive payments is no less than  
21 the applicable percentage of the amount that would have  
22 been so payable under such section 458.

23 (2) For purposes of paragraph (1), the "applicable per-  
24 centage" of the amount that would have been payable to a

1 State under section 458 of the Social Security Act for a fiscal  
2 year is—

3 (A) 80 percent of such amount in the case of the  
4 fiscal year 1986,

5 (B) 60 percent of such amount in the case of the  
6 fiscal year 1987, and

7 (C) 40 percent of such amount in the case of the  
8 fiscal year 1988.

9 COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX

10 REFUNDS

11 SEC. 4. (a) Section 464(a) of the Social Security Act is  
12 amended—

13 (1) by inserting "or which such State has under-  
14 taken to collect under section 454(6) and which has  
15 become past due since such undertaking commenced,"  
16 after "402(a)(26)," in the first sentence;

17 (2) by striking out "he shall withhold" in the  
18 second sentence and inserting in lieu thereof "he shall  
19 (subject to subsection (c)) withhold";

20 (3) by inserting "shall" before "pay such amount"  
21 in the second sentence;

22 (4) by inserting before the period at the end of the  
23 second sentence the following: "in the case of past-due  
24 support assigned to the State pursuant to section  
25 402(a)(26), or in the case of past-due support which

1 the State has undertaken to collect under section  
2 454(6), shall pay such amount to the State agency for  
3 distribution, after deduction of any fees imposed by the  
4 State to cover the costs of collection, to the child or  
5 parent to whom such support is owed"; and

6 (5) by adding at the end thereof the following new  
7 sentence: "In specifying the amount of past-due sup-  
8 port which an individual owes in its notice under the  
9 first sentence of this subsection, the State agency may  
10 limit such notice to past-due support which accrued on  
11 and after the date on which the case involved was filed  
12 with it under this part or may at its option include  
13 past-due support which accrued during any period  
14 before that date."

15 (b) Section 464 of such Act is further amended by redес-  
16 ignating subsection (c) as subsection (d), and by inserting  
17 after subsection (b) the following new subsection:

18 "(c) Before any amount is withheld from a refund other-  
19 wise due an individual under subsection (a), such individual  
20 shall be notified of the proposed action and shall be given a  
21 reasonable opportunity to contest it if such individual believes  
22 that the withholding (including the amount proposed to be  
23 withheld) is not proper in this case because of mistakes of fact  
24 or, if applicable, because of payments by him or her of the  
25 arrearage involved."

1 (c) Section 6402(c) of the Internal Revenue Code of  
2 1954 is amended by inserting "or which has agreed to collect  
3 such support under section 454(6) of such Act" after "the  
4 State to which such support has been assigned".

5 (d) The amendments made by this section shall apply  
6 with respect to notices received from State agencies (with  
7 respect to individuals owing past-due support) on or after the  
8 180th day following the date of the enactment of this Act.

#### 9 IMPROVED ENFORCEMENT TECHNIQUES

10 SEC. 5. (a) Section 454 of the Social Security Act is  
11 amended—

12 (1) by striking out "and" at the end of paragraph  
13 (18);

14 (2) by striking out the period at the end of para-  
15 graph (19) and inserting in lieu thereof "; and"; and

16 (3) by adding after paragraph (19) the following  
17 new paragraph:

18 "(20) provide that the State will adopt and fully  
19 implement the procedures designed to increase program  
20 effectiveness which are set forth in section 466."

21 (b) Part D of title IV of such Act is further amended by  
22 adding at the end thereof the following new section:

1 "PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD  
2 SUPPORT ENFORCEMENT

3 "SEC. 466. (a) In order to comply with the provisions of  
4 section 454(20), each State shall adopt and use the following  
5 procedures, consistent with regulations of the Secretary and  
6 in accordance with State law, to increase the effectiveness of  
7 the program it administers under this part:

8 "Withholding From Wages

9 "(1) Procedures for carrying out a program of withhold-  
10 ing from wages of amounts payable as support. Under such  
11 procedures—

12 "(A) in the case of each absent parent against  
13 whom a support order is or has been entered by a  
14 State, so much of his or her wages must be withheld  
15 as is necessary to comply with the order (but not in  
16 excess of amounts permitted under section 303(b) of  
17 the Consumer Credit Protection Act (15 U.S.C.  
18 1673(b)), and such withholding must begin as soon as  
19 is administratively feasible and without the need for  
20 amendment of such order, not later than (i) the date on  
21 which such program becomes effective, such order be-  
22 comes effective, or the payments which the absent  
23 parent has failed to make under such order equal the  
24 support payable for two months or longer, whichever  
25 of the three is latest, (ii) the date on which the absent

1 parent requests that such withholding begin, or (iii)  
2 such earlier date as the State may select;

3 “(B) the State must provide advance notice to  
4 each individual to whom subparagraph (A) applies re-  
5 garding the withholding that will occur and the proce-  
6 dures such parent must follow if he or she believes that  
7 withholding (including the amount to be withheld) is  
8 not proper in this case because of mistakes of fact or, if  
9 applicable, payments by such parent of the arrearage:

10 “(C)(i) the employer of any individual to whom  
11 subparagraph (A) applies, upon the State giving notice,  
12 must be required to withhold from the individual’s  
13 wages the amount specified by such notice (which shall  
14 include a fee to be paid to the employer unless waived  
15 by him or her) and pay it instead (after deducting and  
16 retaining any portion of such amount designated by the  
17 State as a fee for the employer) to the State (unless  
18 the State directs that payment be made to another  
19 public entity for distribution in accordance with section  
20 457);

21 “(ii) the notice given by the State to the employer  
22 must specify the amount to be withheld from the em-  
23 ployee’s wages and the amount to be retained by the  
24 employer as a fee for effectuating the withholding,  
25 which in the case of withholding to satisfy an arrear-

(iii)

1       age shall include an amount equal to the fee in addition  
2       to the amount withheld to satisfy such arrearage, the  
3       amount of such fee to be established by the State in  
4       accordance with criteria prescribed by the Secretary;  
5       and

6               “(iii) methods must be established by the State to  
7       simplify the withholding process for employers to the  
8       greatest extent possible, including permitting any em-  
9       ployer to combine all withheld amounts into a single  
10      payment to the State;

11              “(D) provision for terminating withholding must  
12      be made, consistent with such circumstances as the  
13      Secretary may by regulation prescribe;

14              “(E) provision must be made for the imposition of  
15      a fine against any employer who discharges from em-  
16      ployment or refuses to employ such an individual be-  
17      cause of the existence of the wage withholding and the  
18      obligations which it imposes upon the employer;

19              “(F) the employer must be held liable to the State  
20      for any amount he fails to withhold (up to the amount  
21      of the arrearage) from wages following his receipt of  
22      proper notice;

23              “(G) provision must be made for giving notice to,  
24      and requesting the enforcement of a State support  
25      order entered against an individual by, the child sup-

1 port enforcement agency of any other State in which  
2 such individual is employed; and

3 “(H) provision must be made under State law for  
4 the priority of support collection under this subsection  
5 over any other legal process against the same wages.

6 “Quasi-Judicial or Administrative Procedures

7 “(2) Quasi-judicial or administrative procedures for en-  
8 tering child support orders which have the same force and  
9 effect under the State's law as orders entered by a court, for  
10 enforcing support orders entered through the use of judicial,  
11 quasi-judicial, or administrative procedures whether under  
12 the procedures of that or any other State, and for limiting the  
13 use of the State's generally applicable judicial procedures to  
14 review of the orders entered or enforcement action taken only  
15 upon request by a party or by the parent with whom the child  
16 is living.

17 “Procedures for Collection of Past-Due Support From State  
18 Tax Refunds

19 “(3) Procedures under which, at the request of the State  
20 child support enforcement agency to enforce a support order  
21 of that or any other jurisdiction—

22 “(A) refunds (if any) of State income tax which  
23 would otherwise be payable to an individual are re-  
24 duced, after notice to that individual of the proposed  
25 reduction and the procedures to be followed to contest

1 the reduction, by the amount of any past-due support  
 2 (as defined in section 464(c)) owed by such individual  
 3 for any child with respect to whom collection services  
 4 under any other provision of this part are made availa-  
 5 ble, and

6 “(B) the amount by which such refund is reduced  
 7 is paid to such State for distribution in accordance with  
 8 section 457 (unless the State directs that payment be  
 9 made to another public entity), and notice of the indi-  
 10 vidual’s home address is furnished to the State agency  
 11 administering the plan approved under this part.

12 “Procedures for Imposing Liens Against Property for Past-  
 13 Due Support

14 “(4) Procedures under which liens are imposed against  
 15 real property for amounts of past-due support (as defined in  
 16 section 464(c)) owed by an absent parent who resides in or  
 17 owns property in the State.

18 “Procedures for Reporting of Past-Due Support to Credit  
 19 Agencies

20 “(5) Procedures by which information regarding the  
 21 amounts of past-due support owed by absent parents residing  
 22 in the State will be periodically shared with consumer credit  
 23 bureau organizations (as defined in section 416 of Public Law  
 24 96-374); except that before any such information with re-  
 25 spect to an absent parent is furnished to any such network

1 such parent shall be notified of the proposed action and given  
2 a reasonable opportunity to contest the accuracy of the infor-  
3 mation involved.

4 "Procedures for Medical Support

5 "(3) Procedures under which the State will seek medical  
6 support for children for whom it is seeking financial support  
7 when such medical support would be available at a reason-  
8 able cost through employment-related health care or health  
9 insurance and when such health care or insurance could not  
10 otherwise be provided by the custodial parent.

11 "(b) If a State demonstrates to the satisfaction of the  
12 Secretary, through the presentation to him of such data per-  
13 taining to caseloads, processing times, administrative costs,  
14 average support collections, and any other actual or estimat-  
15 ed data he may specify, that the use of any one or more of  
16 the procedures required by or pursuant to this section will not  
17 increase the effectiveness and efficiency of the State child  
18 support enforcement program, he may exempt the State for a  
19 specified period of time or, in the case of the procedures re-  
20 quired by subsection (a)(2), with respect to a specified politi-  
21 cal subdivision of the State, and subject to his continuing  
22 review should circumstances change, from the requirement to  
23 use such procedure or procedures."

24 (c) The amendments made by this section shall become  
25 effective on October 1, 1984; except that if the enactment of

1 new or additional legislation is required in any State in order  
2 for such State to comply with such amendments they shall  
3 become effective at the close of the first session of the legisla-  
4 ture of such State which ends on or after January 1, 1985.

5 CHILD SUPPORT CLEARINGHOUSES AND CENTRAL  
6 REGISTRIES

7 SEC. 6. (a) Section 455 of the Social Security Act (as  
8 amended by section 3 of this Act) is further amended by  
9 adding after subsection (e) the following new subsection:

10 “(f)(1) The Secretary is authorized to make grants to  
11 States to assist in the development or improvement of  
12 clearinghouses and other information management systems to  
13 aid in the enforcement of support by facilitating the collection  
14 and exchange, both within a State or locality and among  
15 States and localities, of child support information, including  
16 information concerning—

17 “(A) amounts of support ordered (or agreed be-  
18 tween the parties) to be paid with respect to children  
19 residing in the State;

20 “(B) amounts of support ordered (or agreed) to be  
21 paid by parents residing or employed in the State;

22 “(C) amounts of support collected or paid with re-  
23 spect to such children or from such parents and the  
24 dates upon which it was paid (either to the State or to  
25 the child’s custodial parent or guardian); and

1           “(D) amounts of past-due support owed to each  
2 child residing in the State and to be paid by each  
3 parent residing or employed in the State and the dura-  
4 tion of such arrearages;

5 and to provide for the orderly receipt and dissemination, both  
6 within a State and to the appropriate agencies of cooperating  
7 States, of information relating to support obligations of and  
8 payments from parents residing or employed in the State.

9           “(2) The Secretary shall by regulation prescribe the re-  
10 quired characteristics and capabilities of an information man-  
11 agement system to be funded under this section. Any State  
12 desiring to receive a grant hereunder shall submit an applica-  
13 tion, in such form and containing such information as the  
14 Secretary may require, and including a description of the pro-  
15 posed system and the planning and analysis necessary to es-  
16 tablish that system.

17           “(3)(A) Grants under this section may be made for such  
18 period as is specified in the grant award; grants for the con-  
19 tinuation of the project in subsequent years may be made but  
20 only if the State has provided such information as the Secre-  
21 tary may require on the development or improvement of the  
22 system over the period for which funding had previously been  
23 provided.

24           “(B) The Secretary shall specify the share of the project  
25 costs, over the period for which the grant is made, to be

1 required in the form of a financial contribution from the State  
2 (other than in the form of goods, services, use of facilities, or  
3 similar inkind contributions) in an amount at least equal to 10  
4 percent, but no more than 20 percent, of the total cost of the  
5 project for such period. Payments under this section may be  
6 made at such time or times as the Secretary may determine,  
7 and may be made in advance or by way of reimbursement  
8 (with necessary adjustments on account of previously made  
9 overpayments or underpayments), and in such installments  
10 and on such conditions as he may prescribe.

11       “(4) There is authorized to be appropriated the sum of  
12 \$20,000,000 to carry out the purposes of this section for  
13 each of fiscal years 1984 through 1989. Amounts appropri-  
14 ated pursuant to this subsection shall remain available until  
15 expended.”.

16       (b) Section 452(a)(10) of such Act is amended by strik-  
17 ing out “and” at the end of subparagraph (G), by redesi-  
18 gnating subparagraph (H) as subparagraph (I), and by insert-  
19 ing after subparagraph (G) the following new paragraph:

20               “(H) data showing the number of cases by State  
21 filed on behalf of children seeking support in which all  
22 support owed was fully paid in each of the preceding  
23 12 months, the number of such cases in which at least  
24 80 percent of the support owed was paid in each of the  
25 preceding 12 months, the number of such cases in

1 which less than half the support owed was paid, and  
2 the number of such cases in which no support was  
3 paid; and”.

4 QUARTERLY SYSTEM OF INDIVIDUAL WAGE REPORTING

5 SEC. 7. (a)(1) Subsection (a) of section 303 of the Social  
6 Security Act is amended by striking out the period at the end  
7 of paragraph (9) and inserting in lieu thereof “; and”, and by  
8 adding at the end thereof the following new paragraph:

9 “(10) Requiring all persons paying remuneration  
10 subject to contributions under the State law (deter-  
11 mined without regard to any limitation on the amount  
12 of remuneration so subject) to submit, not less fre-  
13 quently than quarterly, reports to the State agency  
14 charged with the administration of the State law which  
15 show—

16 “(A) the name and address of each individual  
17 to whom such remuneration is paid,

18 “(B) the amount of such remuneration paid  
19 to each individual, and

20 “(C) such other information as such State  
21 agency may deem appropriate to administer the  
22 State law;”.

23 (2) The amendment made by subsection (a) shall apply  
24 with respect to services performed after December 31, 1984.

1 (b)(1)(A) Subparagraph (A) of section 303(e)(1) of such  
2 Act is amended to read as follows:

3 "(A) shall disclose, upon request and on a reim-  
4 bursable basis, to officers or employees of any State or  
5 local child support enforcement agency, any of the fol-  
6 lowing information contained in the records of such  
7 State agency—

8 "(i) wage information,

9 "(ii) whether an individual is receiving, has  
10 received, or has made application for unemploy-  
11 ment compensation, and the amount of any such  
12 compensation being received (or to be received) by  
13 such individual,

14 "(iii) the current (or most recent) home ad-  
15 dress of such individual, and

16 "(iv) whether an individual has refused an  
17 offer of employment and, if so, a description of the  
18 employment so offered and the terms, conditions,  
19 and rate of pay thereof, and".

20 (B) Subsection (e) of section 303 of such Act is  
21 amended by adding at the end thereof the following  
22 new paragraph:

23 "(5) For purposes of section 455 of this Act, expenses  
24 incurred to reimburse a State agency for furnishing informa-  
25 tion or services pursuant to this subsection shall be consid-

1 ered to constitute expenses incurred in the administration of  
2 the plan described in the last sentence of paragraph (1).”.

3 (2) Section 303 of such Act is further amended by  
4 adding at the end thereof the following new subsections:

5 “(f)(1) The State agency charged with the administra-  
6 tion of the State law—

7 “(A) shall disclose, upon request and on a reim-  
8 bursable basis, to officers or employees of a State or a  
9 political subdivision charged with the administration of  
10 a State plan for aid and services to needy families with  
11 children approved under part A of title IV of this Act,  
12 any of the following information contained in the  
13 records of such State agency—

14 “(i) wage information,

15 “(ii) whether an individual is receiving, has  
16 received, or has made application for unemploy-  
17 ment compensation, and the amount of any such  
18 compensation being received (or to be received) by  
19 such individual,

20 “(iii) the current (or most recent) home ad-  
21 dress of such individual, and,

22 “(iv) whether an individual has refused an  
23 offer of employment and, if so, a description of the  
24 employment so offered and the terms, conditions,  
25 and rate of pay therefor, and

1           “(B) shall establish such safeguards as are neces-  
2           sary (as determined by the Secretary of Labor in regu-  
3           lations) to insure that information disclosed under sub-  
4           paragraph (A) is used for purposes of determining an  
5           individual’s eligibility for aid or services, or the amount  
6           of such aid or services, under State plans approved  
7           under part A of title IV of this Act.

8           “(2) Whenever the Secretary of Labor, after reasonable  
9           notice and opportunity for hearing to the State agency  
10          charged with the administration of the State law, finds that  
11          there is a failure to comply substantially with the require-  
12          ment of paragraph (1), the Secretary of Labor shall notify  
13          such State agency that further payments will not be made to  
14          the State until the Secretary is satisfied that there is no  
15          longer any such failure. Until the Secretary of Labor is so  
16          satisfied, the Secretary shall make no further certification to  
17          the Secretary of the Treasury with respect to such State.

18          “(3) For purposes of section 403 of this Act, expenses  
19          incurred to reimburse a State agency for furnishing informa-  
20          tion pursuant to paragraph (1) shall be considered to consti-  
21          tute expenses incurred in the administration of the State plan  
22          approved under part A of title IV of this Act.

23          “(g) The State agency charged with the administration  
24          of the State law shall be furnished, upon request and on a  
25          reimbursable basis, any information contained in the records

1 of any agency or office referred to in subsection (d), (e), or (f)  
2 to which the State agency has furnished any information  
3 under such subsection relating to an individual and the earn-  
4 ings, employment, health, and address of such individual.  
5 Any information furnished to the State agency under this  
6 subsection shall be used only for purposes of determining an  
7 individual's eligibility for unemployment compensation or the  
8 amount of unemployment compensation payable to an indi-  
9 vidual. No finding of a failure to comply substantially with  
10 any of the requirements of subsection (d), (e), or (f) shall be  
11 made or enforced with respect to any such agency or office  
12 which is failing to comply with this subsection."

13 (3)(A) Paragraph (2) of section 304(a) of such Act is  
14 amended to read as follows:

15 "(2) makes a finding with respect to a State or a  
16 State agency under subsection (b), (c), (d), (e), or (f) of  
17 section 303,".

18 (B) Section 454(19)(A) of the Social Security Act is  
19 amended by striking out "section 508 of the Unemployment  
20 Compensation Amendments of 1976" and inserting in lieu  
21 thereof "section 303(e) of this Act".

22 (C) Subsection (a) of section 3304 of the Internal Reve-  
23 nue Code of 1954 is amended by striking out paragraph (16)  
24 and by redesignating paragraphs (17) and (18) as paragraphs  
25 (16) and (17), respectively.

(D) (i) Subsection (b) of section 3 of the Wagner-Peyser  
Act (as amended by the Job Training Partnership Act) is  
hereby repealed.

(ii) Subsection (b) of section 508 of the Unemployment  
Compensation Amendments of 1976 is hereby repealed.

(4) The amendments made by this subsection shall take  
effect on the date of the enactment of this Act.

○

98TH CONGRESS  
1ST SESSION

# S. 1691

To amend the Social Security Act to recognize effective program administration in the financing of State programs of child support enforcement, to improve the ability of States to collect child support for non-AFDC families, and otherwise strengthen and improve such programs and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 27 (legislative day, JULY 25), 1983

Mr. ARMSTRONG (for himself, Mr. DOLE, Mr. WALLOP, Mr. GRASSLEY, Mr. SYMMS, Mr. CHAFEE, Mr. ROTH, Mr. DURENBERGER, Mrs. HAWKINS, Mr. PACKWOOD, Mr. DANFORTH, Mrs. KASSEBAUM, and Mr. HEINZ) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Social Security Act to recognize effective program administration in the financing of State programs of child support enforcement, to improve the ability of States to collect child support for non-AFDC families, and otherwise strengthen and improve such programs and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Child Support Enforce-  
4       ment Amendments of 1983".

1 PAYMENTS IN RECOGNITION OF EFFECTIVE PROGRAM AD-  
2 MINISTRATION; FEDERAL PARTICIPATION IN STATE  
3 ADMINISTRATIVE COSTS

4 SEC. 2. (a) Section 455 of the Social Security Act is  
5 amended by adding at the end thereof the following new sub-  
6 section:

7 "(e) The Secretary shall prescribe by regulation criteria  
8 pursuant to which he will from time to time make payments,  
9 in addition to amounts authorized under subsection (a), to  
10 each State agency administering a plan approved under this  
11 part whose program is found to be exemplary in the amount  
12 of collections made, the cost efficiency with which the pro-  
13 gram is operated, or the magnitude of the costs to other as-  
14 sistence programs that the Secretary finds could reasonably  
15 have been expected to occur but for the operation and the  
16 effective performance of the State's program. The Secretary,  
17 in recognizing such performance, may consider factors such  
18 as the amount of a State's collections in a prior or base  
19 period and the cost efficiency of a State's program as com-  
20 pared to other State programs (or to the national average of  
21 such programs). The total amount paid by the Secretary  
22 under this subsection for any fiscal year with respect to col-  
23 lections on behalf of individuals receiving aid to families with  
24 dependent children shall be equal to the amount paid under  
25 this subsection with respect to collections on behalf of indi-

1 viduals for whom services are provided under section 454(6).  
2 The Secretary shall, not less frequently than biennially,  
3 review and, if necessary, revise the criteria in order to further  
4 encourage and recognize effective child support enforcement  
5 programs.”.

6 (b) Section 455(a) of the Act is amended—

7 (1) by striking out “70 percent” in paragraph (1)  
8 and inserting instead “60 percent”, and by adding  
9 “and” at the end of such paragraph,

10 (2) by striking out “, and” after paragraph (2) and  
11 inserting a semicolon instead,

12 (3) by striking out paragraph (3), and

13 (4) by adding at the end of section 455(a) the fol-  
14 lowing new sentence: “In determining the total  
15 amounts expended by any State during a quarter, for  
16 purposes of this subsection, there shall be excluded an  
17 amount equal to the total of any fees collected or other  
18 income resulting from services provided under the plan  
19 approved under this part.”.

20 (c) Section 455(b) of the Act is amended—

21 (1) by striking out in paragraph (1) “under subsec-  
22 tion (a)” and inserting instead “under subsections (a)  
23 and (e)”, and

24 (2) by striking out “investigation” in paragraph  
25 (1)(B) and inserting instead “information”.

1 (d)(1) Section 457(a) of the Act is amended to read as  
2 follows:

3 "SEC. 457. (a) The amounts collected by a State pursu-  
4 ant to a plan approved under this part as support for one or  
5 more members of a family receiving aid to families with de-  
6 pendent children pursuant to a plan approved under part A  
7 shall be paid to the family to the extent that such amounts,  
8 from collections made periodically which represent monthly  
9 support payments, exceed the amount of such aid paid to the  
10 family during such period but do not exceed the amount re-  
11 quired by a judicial, quasi-judicial, or administrative order to  
12 be paid during such period to the family. Amounts in excess  
13 of those required to be paid to the family under the preceding  
14 sentence shall be retained by the State to the extent they do  
15 not exceed the total amount of such aid previously paid to the  
16 family (and with respect to which past collections have not  
17 been retained); any balance shall be paid to the family."

18 (2) Subsection (b) of section 457 is repealed.

19 (3) Subsection (c) of section 457 is redesignated as sub-  
20 section (b) and is amended by striking out "subsection (b)(3)  
21 (A) and (B) with respect to excess amounts described in sub-  
22 section (b)" and inserting instead "subsection (a)".

23 (4)(A) Section 452(d)(2) (A) and (B) are each amended  
24 by striking out "section 455(a)(3)" and inserting instead  
25 "section 454(16)".

1 (B) The last sentence of section 453(a) is repealed.

2 (C) Section 454(5) of the Act is amended by striking out  
3 "section 457(c)" and inserting instead "section 457(b)".

4 (D) Section 464(a) of the Act is amended by striking out  
5 "section 457(b)(3)" and inserting instead "section 457(a)".

6 (e) Section 458 of the Act is repealed.

7 (f)(1) Part D of title IV of the Act is amended by adding  
8 after section 457 the following new section:

9 "GRANTS TO STATES FOR CHILD SUPPORT CLEARING-  
10 HOUSES AND OTHER INFORMATION MANAGEMENT  
11 SYSTEMS

12 "SEC. 458. (a) The Secretary is authorized to make  
13 grants to States to assist in the development or improvement  
14 of clearinghouses and other information management systems  
15 to aid in the enforcement of support by facilitating the collec-  
16 tion and exchange, both within a State and among States, of  
17 child support information, including information concerning—

18 "(1) amounts of support ordered (or agreed be-  
19 tween the parties) to be paid with respect to children  
20 residing in the State;

21 "(2) amounts of support ordered (or agreed) to be  
22 paid by parents employed in the State: and

23 "(3) amounts of support collected or paid with re-  
24 spect to such children or from such parents and the

1        dates upon which it was paid (either to the State or to  
2        the child's custodial parent or guardian);  
3        and to provide for the orderly receipt and dissemination, both  
4        within a State and to the appropriate agencies of cooperating  
5        States, of information relating to support obligations of and  
6        payments from, parents residing or employed in the State.

7        "(b) The Secretary shall by regulation prescribe the re-  
8        quired characteristics and capabilities of an information man-  
9        agement system to be funded under this section. Any State  
10       desiring to receive a grant hereunder shall submit an applica-  
11       tion, in such form and containing such information as the  
12       Secretary may require, and including a description of the pro-  
13       posed system, and the planning and analysis necessary to es-  
14       tablish that system.

15       "(c)(1) Grants under this section may be made for such  
16       period as is specified in the grant award; grants for the con-  
17       tinuation of the project in subsequent years may be made, but  
18       only if the State has provided such information as the Secre-  
19       tary may require on the development or improvement of the  
20       system over the period for which funding had previously been  
21       provided.

22       "(2) The Secretary shall specify the share of the project  
23       costs, over the period for which the grant is made, to be  
24       required in the form of a financial contribution from the State  
25       (other than in the form of goods, services, use of facilities, or

1 similar inkind contributions) in an amount at least equal to 10  
2 percent, but no more than 30 percent, of the total cost of the  
3 project for such period. Payments under this section may be  
4 made at such time or times as the Secretary may determine,  
5 and may be made in advance or by way of reimbursement  
6 (with necessary adjustments on account of previously made  
7 overpayments or underpayments), and in such installments  
8 and on such conditions as he may prescribe.

9 “(d) There are authorized to be appropriated such sums  
10 as may be necessary to carry out the purposes of this section.  
11 Amounts appropriated pursuant to this subsection shall  
12 remain available until expended.”.

13 (2)(A) Section 452(d) of the Act is repealed.

14 (B) Section 452(e) of the Act is amended by—

15 (i) redesignating it as section 452(d), and

16 (ii) striking out “section 455(a)(3)” and inserting  
17 instead “section 458”.

18 (C) Section 454 of the Act is amended—

19 (i) by repealing paragraph (16) thereof, and

20 (ii) redesignating paragraphs (17), (18), and (19)  
21 as paragraph, (16), (17), and (18), respectively.

22 (g) The amendments made by this section shall become  
23 effective October 1, 1983.

1           IMPROVED EFFECTIVENESS OF CHILD SUPPORT  
2                           ENFORCEMENT PROGRAMS

3           SEC. 3. (a)(1) Section 454(6) of the Social Security Act  
4 is amended by striking out all after subparagraph (A) and  
5 inserting instead: "(B)(i) an application fee of at least \$25  
6 shall be imposed for furnishing such services, except that  
7 such fee shall not exceed such amount greater than \$25 as  
8 determined to be reasonable under regulations of the Secre-  
9 tary, and (ii) the State plan shall specify the class or classes  
10 of cases in which the fee will be paid by the State, and those  
11 in which it will be imposed upon the individual applying for  
12 such services, (C) any costs of providing collection services  
13 may be collected (or, if the absent parent owes past-due sup-  
14 port (as defined in section 464(e)), such costs shall be collect-  
15 ed) by the imposition of charges, in accordance with regula-  
16 tions of the Secretary, equal to at least 3 percent but not  
17 more than 10 percent of the current month's support obliga-  
18 tion, or of the current month's obligation and such past-due  
19 support, against the absent parent, and (D) the State may  
20 continue to collect support and impose collection charges for  
21 such period of time as the Secretary may by regulation pre-  
22 scribe (and State law shall provide for the imposition of liabil-  
23 ity for such collection charges upon the absent parent owing  
24 past-due support with respect to support payable for months  
25 after the enactment of the Child Support Enforcement

1 Amendments of 1983, and for the provision to such parent of  
2 advance notice of that liability), except that, in establishing  
3 the amount of support for which the absent parent is obligat-  
4 ed, or in collecting charges from the absent parent, the State  
5 shall take no action which would have the effect, directly or  
6 indirectly, of reducing the support which would otherwise be  
7 distributed, in accordance with the provisions of this part, to  
8 or on behalf of the child with respect to whom the support is  
9 owned;”.

10 (2) Section 455(a)(1)(B) of the Act (as amended by sec-  
11 tion 2 of this Act) is amended by striking out “fees collected”  
12 and inserting instead “fees collected (including fees paid by  
13 the State pursuant to section 454(6)(B)(ii))”.

14 (b)(1) Section 454 of the Social Security Act is  
15 amended—

16 (A) by striking out “and” after paragraph (18);

17 (B) by striking out the period at the end of para-  
18 graph (19) and inserting instead “: and”; and

19 (C) by adding at the end the following new para-  
20 graph;

21 “(20) provide that the State will adopt and fully  
22 implement the procedures designed to increase program  
23 effectiveness, as set out in section 467.”.

24 (2)(A) Part D of title IV of such Act is further amended  
25 by adding at the end the following new section:

1 "PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD  
2 SUPPORT ENFORCEMENT

3 "SEC. 467. In order to comply with the provisions of  
4 section 454(20), each State shall adopt and use the following  
5 procedures, consistent with regulations of the Secretary and  
6 in accordance with State law, to increase the effectiveness of  
7 the program it administers under this part:

8 "(1) Proc. ures for carrying out a program of  
9 withholding from wages amounts payable as support  
10 under which—

11 "(A) in the case of each absent parent  
12 against whom a support order is or has been en-  
13 tered by a State, so much of his wages are with-  
14 held as are necessary to comply with the order  
15 (but not in excess of amounts permitted under sec-  
16 tion 303(b) of the Consumer Credit Protection  
17 Act (15 U.S.C. 1673(b)), and such withholding  
18 begins as soon as is administratively feasible and  
19 without the need for amendment of such order not  
20 later than the date the (i) such program becomes  
21 effective, (ii) such support order becomes effective,  
22 or (iii) the payments which the absent parent has  
23 failed to make under such order equal the support  
24 payable for two months or longer, whichever of

1 the three is latest, or (iv) such earlier date as the  
2 State may select;

3 “(B) the State provides advance notice to  
4 each individual to whom subparagraph (A) applies  
5 regarding the withholding that will occur and the  
6 procedures he must follow if he believes that  
7 withholding (including the amount to be withheld)  
8 is not proper in his case because of mistake of fact  
9 or, if applicable, payment by him of the arrearage;

10 “(C)(i) the employer of an individual to  
11 whom subparagraph (A) applies, upon the State  
12 giving notice, is required to withhold from the in-  
13 dividual’s wage the amount specified by such  
14 notice (which shall include a fee to be paid to the  
15 employer unless waived by him) and pay it in-  
16 stead (after deducting and retaining any portion of  
17 such amount designated by the State as a fee for  
18 the employer) to the State (unless the State di-  
19 rects that payment be made to another public  
20 entity);

21 “(ii) the notice given by the State to the em-  
22 ployer will specify the amount to be withheld  
23 from the employee’s wages and the amount to be  
24 retained by the employer as a fee for effectuating  
25 the withholding, which, in the case of withholding

1 to satisfy an arrearage shall in addition to the  
2 amount withheld to satisfy such arrearage, the  
3 amount of such fee to be established by the State  
4 in accordance with criteria prescribed by the Sec-  
5 retary;

6 "(D) provision for terminating withholding is  
7 made, consistent with such circumstances as the  
8 Secretary may by regulation prescribe;

9 "(E) provision is made for the imposition of a  
10 fine against an employer who discharges such an  
11 individual from his employment because of the ex-  
12 istence of the wage withholding and obligations  
13 which it imposes upon the employer;

14 "(F) the employer is liable for the amount he  
15 fails to withhold (up to the amount of the arrear-  
16 age) from wages following his receipt of proper  
17 notice;

18 "(G) provision is made for giving notice to,  
19 and requesting the enforcement of a State support  
20 order entered against an individual by, the child  
21 support enforcement agency of any other State in  
22 which such individual is employed;

23 "(H) provision is made under State law for  
24 the priority of support collection under this sub-

1 section over any other legal process against the  
2 same wages;

3 “(2) Quasi-judicial or administrative procedures  
4 for entering child support orders in the State, which  
5 orders shall have the same force and effect under such  
6 State’s law as orders entered by a court, and for en-  
7 forcing support orders entered through the use of judi-  
8 cial, quasi-judicial, or administrative procedures,  
9 whether under the procedures of that or any other  
10 State, and for limiting the use of the State’s generally  
11 applicable judicial procedures to review of the orders  
12 entered or enforcement action taken only upon request  
13 by a party or by the parent with whom the child is  
14 living;

15 “(3) Procedures under which, at the request of  
16 the State child support enforcement agency to enforce  
17 a support order of that or any other jurisdiction, re-  
18 funds (if any) of State income tax which would  
19 otherwise be payable to an individual are reduced, after  
20 notice to him of the proposed reduction and the proce-  
21 dures he must follow if he wishes to contest the reduc-  
22 tion, by the amount of any past-due support (as defined  
23 in section 464(e)) owed by such individual for the bene-  
24 fit of a child receiving aid to families with dependent  
25 children (or, at the option of the State, any child with

1       respect to whom collection services under any other  
2       provision of this part are made available) and the  
3       amount by which such refund is reduced is paid, for  
4       distribution in accordance with section 457, to such  
5       State (unless the State directs that payment be made  
6       to another public entity) and notice of the individual's  
7       home address is furnished to the State agency adminis-  
8       tering the plan approved under this part.

9       If a State demonstrates to the satisfaction of the Secretary,  
10       through the presentation to him of such data pertaining to  
11       caseloads, processing times, administrative costs, average  
12       support collections, and any other actual or estimated data he  
13       may specify, that the use of any one or more of the proce-  
14       dures required by or pursuant to this section will not increase  
15       the effectiveness and the efficiency of the State child support  
16       enforcement program, he may exempt the State, for a speci-  
17       fied period of time or, in the case of paragraph (2), with re-  
18       spect to a specified political subdivision of the State, and sub-  
19       ject to his continuing review should circumstances change,  
20       from the requirement to use such procedure or procedures.”.

21       (B) Section 454(9)(C) of the Act is amended by striking  
22       out “a court of competent jurisdiction” and inserting instead  
23       “judicial, quasi-judicial, or administrative process”.

24       (c) The amendments made by this section shall become  
25       effective October 1, 1983, except that if a State agency ad-

1 ministering a plan approved under part D of title IV of the  
 2 Social Security Act demonstrates to the satisfaction of the  
 3 Secretary of Health and Human Services that it cannot, by  
 4 reason of State law comply, with the requirements of one or  
 5 more of such amendments, the Secretary may prescribe that  
 6 in the case of such State such amendment or amendments, as  
 7 the case may be, will become effective with (1) the first  
 8 month beginning after the close of the first session of such  
 9 State's legislature beginning after September 30, 1983 (or,  
 10 which began prior to October 1, 1983, and remained in ses-  
 11 sion at least twenty-five calendar days after such date), or (2)  
 12 the date upon which the State enacts enabling legislation,  
 13 whichever is earlier. For purposes of this subsection, the  
 14 term "session of a State's legislature" includes any regular,  
 15 special, budget, or other session of such State's legislature.

16 PERIODIC REVIEW OF EFFECTIVENESS OF STATE

17 PROGRAMS; MODIFICATION OF PENALTY

18 SEC. 4. (a)(1) Section 452(a)(4) of the Social Security  
 19 Act is amended to read as follows:

20 "(4)(A) conduct a review of each State's program  
 21 pursuant to such plan, no less frequently than once  
 22 every three years, in order to determine whether such  
 23 program substantially complies with the requirements  
 24 of this part and to evaluate its effectiveness in carrying  
 25 out the purposes of this part:".

1           (2) Section 402(a)(27) of the Act is amended by striking  
2 out "operate a child support program in conformity" and in-  
3 serting instead "operate a child support program in substan-  
4 tial compliance".

5           (3) The amendments made by this subsection shall be  
6 effective with respect to years beginning after September 30,  
7 1982.

8           (b)(1) Section 403(h) of the Act is amended to read as  
9 follows:

10           "(h) In the case of any State whose program operated  
11 under part D was found by the Secretary not to meet the  
12 requirements of such part, and with respect to which correc-  
13 tive action, within such period or periods as the Secretary  
14 may by regulation prescribe, has not been adequate to result  
15 in the program, after such period or periods, substantially  
16 complying with all such requirements, the amount payable  
17 under this part for any quarter beginning after September 30,  
18 1983, and after the close of the applicable period for correc-  
19 tive action, shall be reduced by—

20                   "(A) not more than 2 per centum, or

21                   "(B) not more than 3 per centum, if the finding is  
22 the second consecutive such finding made, or

23                   "(C) not more than 5 per centum, if the finding is  
24 the third or subsequent consecutive such finding made.

1 and such reduction shall continue until the first quarter  
2 throughout which the program is found to meet such require-  
3 ments.”.

4 (2) The amendment made by this subsection shall  
5 become effective October 1, 1983.

6 INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR  
7 SERVICE TO STATE AGENCIES

8 , SEC. 5. (a) Section 453(f) of the Social Security Act is  
9 amended by striking out “, after determining that the absent  
10 parent cannot be located through the procedures under the  
11 control of such State agencies,”.

12 (b) The amendment made by subsection (a) shall become  
13 effective upon enactment.

14 EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORI-  
15 TY TO CHILD SUPPORT ENFORCEMENT PROGRAM

16 SEC. 6. Effective upon enactment, section 1115(a) of  
17 the Social Security Act is amended—

18 (1) by striking out “part A” in the material pro-  
19 ceeding paragraph (1) and inserting instead “part A or  
20 D”,

21 (2) by striking out “402” in paragraph (1) and in-  
22 serting instead, “402, 454”, and

23 (3) by striking out “403” in paragraph (2) and in-  
24 serting instead “403, 455”.

1 MODIFICATIONS IN TIMING AND CONTENT OF REPORT BY  
2 SECRETARY

3 SEC. 7. (a) Section 452(a)(10) of the Act is amended—

4 (1) in the matter preceding subparagraph (A), by  
5 striking out “three” and inserting instead “six” and by  
6 striking out “beginning with the year 1977”;

7 (2) in subparagraph (A), by striking out “and  
8 local”;

9 (3) in subparagraph (C), by striking out “collec-  
10 tion of spousal support” and inserting instead “inter-  
11 state child support enforcement” and by striking out  
12 “(including the transitional period beginning July 1,  
13 1976, and ending September 30, 1976, in the case of  
14 the first report to which this subparagraph applies)”;  
15 and

16 (4) in the matter following subparagraph (H), by  
17 striking out “(A)” and inserting instead “(A) or (C)”.

18 (b) The amendments made by subsection (a) shall apply  
19 to reports due after September 30, 1982.

20 CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN  
21 IN FOSTER CARE

22 SEC. 8. (a) Section 457 of the Social Security Act is  
23 amended by adding at the end thereof the following new sub-  
24 section:

1       “(c) Notwithstanding the preceding provisions of this  
2 section, amounts collected by the State as child support for a  
3 month on behalf of a child for whom a public agency is  
4 making foster care maintenance payments under part E shall  
5 be paid to the public agency responsible for supervising the  
6 placement of such child, to the extent that the amounts col-  
7 lected exceed the monthly foster care maintenance payments  
8 but not the monthly amount required by a court or adminis-  
9 trative order to be paid on behalf of the child or agreed to by  
10 one or both parents of such child. The responsible agency  
11 may use the payment in the manner it determines will serve  
12 the best interests of the child, including setting aside such  
13 amounts for his future needs or making all or part thereof  
14 available to the person responsible for meeting the child’s  
15 day-to-day needs. Amounts in excess of those required to be  
16 paid monthly shall be retained by the State to the extent they  
17 do not exceed the total of past foster care maintenance pay-  
18 ments (or payments of aid to families with dependent chil-  
19 dren) made on behalf of such child (and with respect to which  
20 past collections have not previously been retained); any bal-  
21 ance shall be paid to the State agency responsible for super-  
22 vising the child care placement.”.

23       (b) Part D of title IV of the Act is amended—

24               (1) by inserting immediately after “such an as-  
25               assignment is effective”, in section 454(4)(B), “, includ-

1 ing an assignment with respect to a child on whose  
2 behalf a State agency is making foster care mainte-  
3 nance payments under part E", and by inserting "or  
4 E" immediately after "part A";

5 (2) by inserting ", in the case of an assignment  
6 under section 402(a)(26)," immediately after "except  
7 that" in section 454(5); and

8 (3) by inserting immediately after "section  
9 402(a)(26)", in section 456(a), "or secured on behalf of  
10 a child receiving foster care maintenance payments".

11 (c) Section 471(a) of the Social Security Act is amend-

12 ed—

13 (1) by striking out "and" following paragraph  
14 (15);

15 (2) by striking out the period at the end of para-  
16 graph (16) and inserting instead "; and"; and

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

19 "(17) provides that all steps will be taken includ-  
20 ing, where appropriate, cooperative efforts with the  
21 State agencies administering the plans approved under  
22 parts A and D, to secure an assignment to the State of  
23 any rights to support on behalf of each child receiving  
24 foster care maintenance payments under this part."

1           (d) The amendments made by this section shall become  
2 effective October 1, 1983 and apply to collections made on or  
3 after that date.

○



1 (1) the "feminization of poverty" is an urgent and  
2 increasing problem as the ranks of our Nation's poor  
3 are increasingly filled by women and children;

4 (2) divorce and single-parent families account for  
5 much of the flow into and out of poverty in our Nation;  
6 and

7 (3) our present child-support enforcement is inad-  
8 equate, and the Federal Government should accept the  
9 basic duty of enforcing family-support obligations.

10 STRENGTHENING STATE CHILD-SUPPORT PROCEDURES

11 SEC. 3. Part D of title IV of the Social Security Act is  
12 amended by adding at the end thereof the following new sec-  
13 tion:

14 "COLLECTION OF CHILD SUPPORT THROUGH MANDATORY  
15 DEDUCTIONS FROM WAGES UNDER STATE LAW

16 "SEC. 466. (a) In order for any State to be eligible for  
17 payments pursuant to this title or title XIX for any calendar  
18 quarter, such State must have enacted and implemented a  
19 State law providing for the collection of child support through  
20 a system of mandatory deductions from wages which satisfies  
21 the requirements of this section, and must be effectively en-  
22 forcing such law throughout the State during that quarter as  
23 determined in accordance with regulations prescribed by the  
24 Secretary.

(b) A State system of mandatory deductions from

wages shall satisfy the requirements of this section only if—

“(1) the system applies in every case where an individual residing in the State owes child support (as defined in subsection (c)) under an order of a court of such State, or under an order of an administrative process established by a law of such State, whether or not the obligation involved is one which has been assigned to the State under section 402(a)(26) or which has been (or could upon application have been) undertaken to be collected by the State under section 454(6);

“(2) the system provides for the deduction from the wages of the individual involved in any pay period (without regard to the nature of his or her employment or the manner in which the wages are paid) of an amount equal to any child-support payment or payments due from the individual during such pay period, plus an additional amount, if the individual owes any past-due child support, equal to 100 percent of such past-due child support or 25 percent of the individual's gross wages for such pay period (whichever is less); plus a reasonable amount to cover the costs of collection incurred by the employer and the State;

1           “(3) the system provides for the distribution of all  
2 amounts deducted from wages or otherwise collected  
3 pursuant to this section, under regulations which shall  
4 be prescribed by the Secretary within 60 days after the  
5 date of the enactment of this section, in the same  
6 manner as would have been required under the preced-  
7 ing provisions of this part if the support involved had  
8 been collected under those provisions and without  
9 regard to wage deductions; except that any fees or  
10 charges imposed to cover the costs of collection shall  
11 be paid by the individual from whom the amounts in-  
12 volved were deducted or otherwise collected;

13           “(4) the system provides for the utilization of the  
14 services and facilities which are otherwise available  
15 under this part in locating such individual, in adminis-  
16 tering the deduction process, and in distributing the  
17 amounts deducted, and for the establishment of such  
18 additional administrative requirements and procedures  
19 as may be necessary or appropriate (as determined  
20 under regulations of the Secretary) to carry out the  
21 purposes and objectives of this section;

22           “(5) the system provides for advance notice to  
23 each individual from whose wages deductions are to be  
24 made regarding the deduction that will occur and the  
25 procedures such parent must follow if he or she be-

1 believes that the deduction (including the amount to be  
2 deducted) is not proper because of mistakes of fact or,  
3 if applicable, payment by such parent of the arrearage;

4 “(6) the system provides for adequate notice to  
5 the employer of the specific amount to be deducted and  
6 the additional amount which may be retained by the  
7 employer as a fee for administrative costs in accord-  
8 ance with criteria established by the Secretary;

9 “(7) the system provides for as simple a deduction  
10 and payment process as possible, including permitting  
11 an employer to combine all deducted amounts into a  
12 single payment to the State or designated agency;

13 “(8) the system provides for procedures to notify  
14 employers that deductions are to be terminated when  
15 child support is no longer payable, consistent with such  
16 circumstances as the Secretary by regulation may pre-  
17 scribe;

18 “(9) the system provides for protection of the em-  
19 ployee’s privacy against disclosure of the deduction,  
20 and provides for a fine against any employer who dis-  
21 charges from employment or refuses to employ an indi-  
22 vidual because of the existence of the wage deduction  
23 requirement and the obligations it imposes upon the  
24 employer;

1           “(10) the system provides that the employer must  
2           be held liable to the State for any amount which such  
3           employer failed to deduct (up to the amount of the ar-  
4           rearage) from wages following the employer's receipt  
5           of proper notice;

6           “(11) the system provides for giving notice to, and  
7           requesting the enforcement of a State support order  
8           entered against an individual by, the child support en-  
9           forcement agency of any other State in which such in-  
10          dividual is employed;

11          “(12) the system provides that under State law  
12          the support collection under this section has priority  
13          over any other legal process applied against the same  
14          wages;

15          “(13) the system provides for a minimum subsist-  
16          ence amount which shall be established by each State,  
17          based upon such State's determination, which shall be  
18          the minimum amount ordered as child support;

19          “(14) the system provides for administrative pro-  
20          cedures for—

21                 “(A) entering child support orders which  
22                 shall have the same force and effect under the  
23                 State's law as orders entered by a court,

24                 “(B) enforcing support orders entered  
25                 through the use of judicial, quasi-judicial or ad-

ministration procedures whether under the procedures of that or any other State, and

“(C) utilizing the State’s generally applicable judicial procedures only for review of the orders entered or enforcement action taken, upon request for such review by a party or by the parent or guardian with whom the child is living; and

“(15) the State demonstrates to the satisfaction of the Secretary that it has taken all of the actions, made all of the arrangements, and entered into all of the agreements, which are necessary to extend its wage deduction system as described in subsection (d).

“(e) For purposes of this section—

“(1) the term ‘child support’ with respect to any individual means payments which are due from such individual under a court order (or an order of an administrative process established under State law) for the support and maintenance of a child or of a child and the parent with whom the child is living;

“(2) the term ‘past-due child support’ with respect to any period means any amount of child support which was due for a prior period but which remains unpaid; and

“(3) the term ‘wages’ means any and all remuneration for employment, determined without regard to

1 any exclusions from or limitations on such term (or the  
2 term 'employment') which may be applicable under  
3 other provisions of this Act or under other Federal,  
4 State, or local laws.

5 "(d) Consistent with the preceding provisions of this  
6 section, each State shall—

7 "(1) take such actions as may be necessary to  
8 extend its wage deduction system so that such system  
9 will include deductions of child support from forms of  
10 income other than wages, or will include the imposition  
11 of bonding, the use of State tax collection or refund  
12 procedures, or other requirements in cases involving in-  
13 dividuals whose income is from sources other than  
14 wages, in order to assure that child support owed by  
15 individuals in the State will be collected without regard  
16 to the types of such individuals' income or the nature  
17 of their income-producing activities; and

18 "(2) make such arrangements and enter into such  
19 agreements with other States as may be necessary to  
20 extend its wage deduction system so that such system  
21 will include deductions of child support owed by an in-  
22 dividual residing in such State where the applicable  
23 court order or administrative order was issued in an-  
24 other State, in order to assure that child support owed  
25 by individuals in the State will be collected without

1 regard to the residence of the child or spouse to whom  
2 the support is payable.”.

3 EFFECTIVE DATE

4 SEC. 4. The amendment made by this Act shall become  
5 effective on the first day of the eighteenth month which  
6 begins after the date of the enactment of this Act; but any  
7 State may at its option place such amendment in effect at  
8 any time prior to such first day.

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# Alaska State Legislature

Advisory Council Members  
Senator Kerttula, Chairman  
Senator Bennett  
Senator Fahrenkamp  
Senator Vic Fischer



1024 W. 6th Avenue, Suite 203  
Anchorage, Alaska 99501  
Phone: (907) 274-1426

## SENATE ADVISORY COUNCIL

### MEMORANDUM

TO: Senator Rick Halford  
FROM: Elizabeth Hickerson *EH*  
RE: DEPARTMENT OF LAW/CHILD SUPPORT ENFORCEMENT CASELOAD STATISTICS  
DATE: DECEMBER 23, 1983

Beverly Haywood, Legal Administrator Office of the AG, provided the following caseload information for the Human Services Section of the Department of Law. In addition to the child support enforcement (CSE) proceedings and the legal work for the Department of Health and Social Services, this section is responsible for legal services to the Departments of Education and Labor. Human service-type cases can be assigned to attorneys in other sections; for example, work for the Division of Corrections is usually done by the criminal attorneys rather than the civil attorneys. According to Ms. Haywood the number of cases, other than Corrections cases, assigned outside the section is statistically insignificant.

### STATEWIDE LIST OF ALL ATTORNEYS AND PARALEGALS IN THE HUMAN SERVICES SECTION

#### Anchorage

Barry, Elizabeth  
DeYoung, Jan Hart  
Edwards, Donald  
Fites, Deborah (paralegal)  
Janidlo, Thomas  
Landau, Robert  
Olsen, Dianne  
Stahl, Paul  
Stillner, Walt

#### Juneau

Bomengen, Kristen (paralegal)  
Robertson, Rick  
Scoccia, Linda  
Shaw, Elizabeth

#### Fairbanks

Alderman, Karol (paralegal)  
Munson, Myra  
Olson, Randy  
Snow, Rebecca

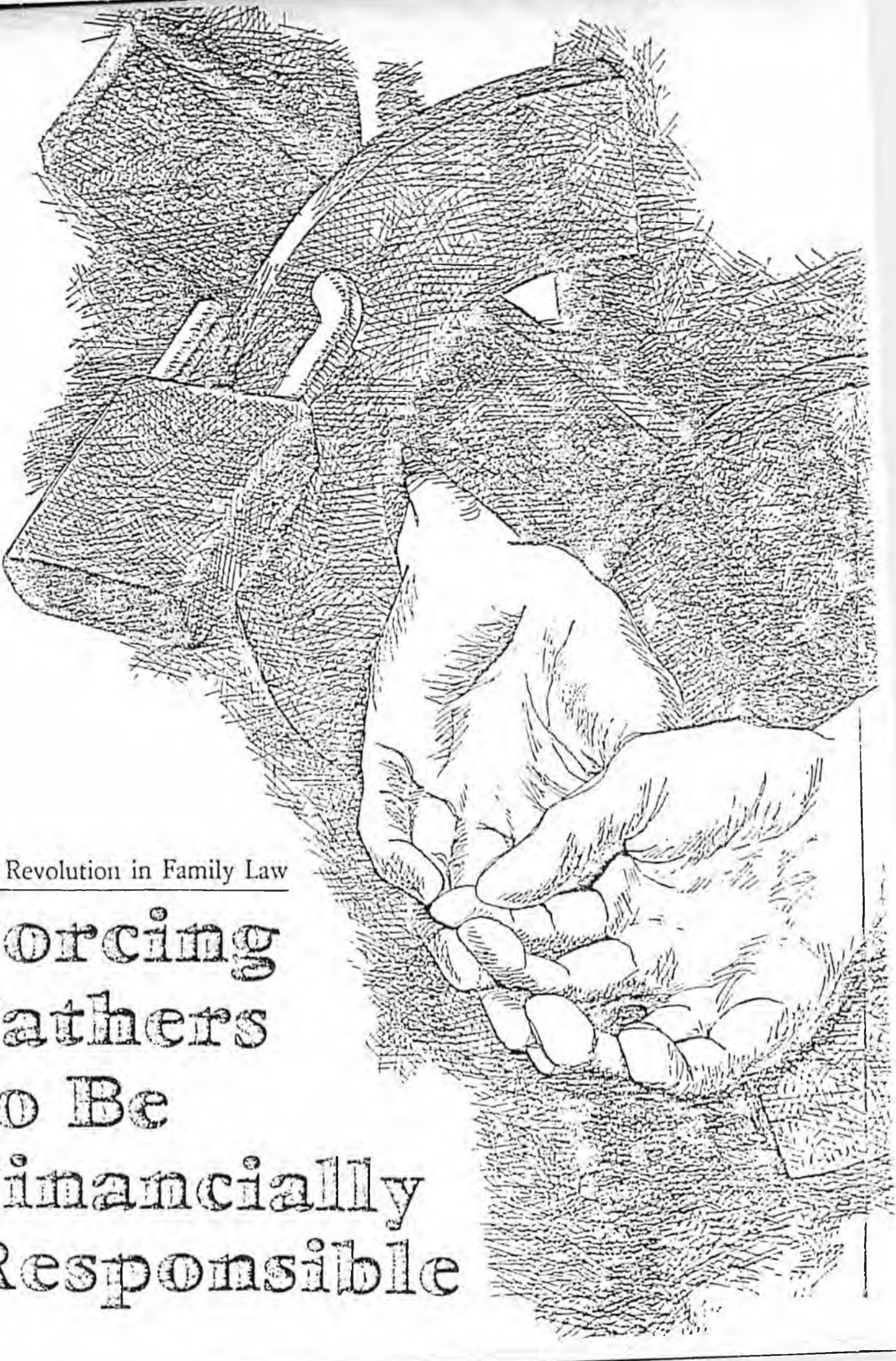
CASELOAD FY83 (1,964 closed cases only, open cases not included)

Cases for Department of Education - 81  
Cases for Department of H&SS/CORRECTIONS - 41  
Cases for Department of H&SS/CHILDREN'S PROCEEDINGS - 545  
Cases for Department of H&SS/MENTAL - 239  
Cases for Department of H&SS/GUARDIANSHIPS - 66

Cases for Department of H&SS/OTHER - 126  
Cases for Department of Labor/ESD - 50  
Cases for Department of Labor/OSHA - 44  
Cases for Department of Labor/WG & HR - 121  
Cases for Department of Labor/WORKERS' COMP. - 38  
Cases for Department of Labor/OTHER - 13  
Cases for Department of Revenue/CHILD SUPPORT ENFORCEMENT - 600

OPEN CASELOAD AS OF NOVEMBER 1983 (1,373 cases)

Cases for Department of Education - 53  
Cases for Department of H&SS/CORRECTIONS - 35  
Cases for Department of H&SS/CHILDREN'S PROCEEDINGS - 359  
Cases for Department of H&SS/MENTAL - 34  
Cases for Department of H&SS/GUARDIANSHIPS - 61  
Cases for Department of H&SS/OTHER - 77  
Cases for Department of Labor/EDS - 35  
Cases for Department of Labor/OSHA - 49  
Cases for Department of Labor/WG & HR - 123  
Cases for Department of Labor/WORKERS' COMP. - 91  
Cases for Department of Labor/OTHER - 9  
Cases for Department of Revenue/CHILD SUPPORT ENFORCEMENT - 447



The Revolution in Family Law

**Forcing  
Fathers  
to Be  
Financially  
Responsible**

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# A Review of the Progress Made in Child Support, Paternity, Illegitimacy, and Child Welfare

BY HARRY D. KRAUSE

In 1974, child support enforcement lay in shambles. Inadequate laws were producing low returns at prohibitive expense. Studies of the subject, even those commissioned by the federal government, were met with apathy.

Aggravating the practical neglect was the spreading notion in the welfare community that the state, rather than absent fathers, should support abandoned children. The feeble attempts made to bring deserting fathers to accept responsibility were discounted by the argument that funds thus collected would not benefit the children, because collections would be offset against Aid to Families with Dependent Children (AFDC) entitlements.

In Congress, the Senate Finance Committee, chaired by Senator Long, had concerned itself with child support legislation since the early 1970s. On several occasions, the Senate had passed significant child support amendments which ultimately failed in the House.

Congress finally moved to strengthen enforcement of child support obligations across the nation in an effort to reduce the cost of AFDC programs significantly. Effective August 1, 1975, sweeping amendments changed the AFDC Title of the Social Security Act, and a new Child Support Title (IV-D) was added. A broad base of regulations was soon developed to implement the new legislation.

## INCREASED EFFICIENCY

Today, the federal child support enforcement legislation of 1975 is well on its way to success. Early critics are becoming convinced of its viability, and most now believe that the future will bring greatly increased efficiency and corresponding results. In 1974 the influential *Washington Post* characterized the proposed program as "an unwarranted intrusion of the federal government [into personal lives that] would yield little while costing a great deal. . . . [T]he benefits to be derived are minimal at

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*Harry D. Krause is Alumni Distinguished Professor of Law, University of Illinois. Portions of this article draw on his book, Child Support in America: The Legal Perspective (Michie, 1981) which provides full sources.*

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Harry Krause

# All children should stand on an equal footing and have

best. The dangers are incalculable." By March 1978, the *Washington Post* had been converted:

About 1 million parents who otherwise would pay nothing are now making payments. And the more than \$1 billion anticipated this fiscal year in child-support payments obtained for welfare mothers or other families where the father has disappeared or refused to support the children is equal to about 10 percent of the entire national cost of the Aid to Families with Dependent Children program.

Even under this federal initiative, state authority and state laws remain the primary vehicles for establishing paternity and child support collection. What is new is that the federal government has become an active stimulator, overseer, and financier of state collection systems: Each state enforcement agency—commonly known as a "IV-D Agency," reflecting its statutory location—must meet standards imposed by Health and Human Services' (HHS) Office of Child Support Enforcement (OCSE) or lose five percent of its federal AFDC funding. If, on the other hand, the enforcement program meets federal standards, the state receives 75 percent of the program's cost from HHS.

In summary, the amendments impose on state AFDC programs the additional function of acting as intake agencies for child support enforcement programs and require them to collect data. Specific new rules include the following: state AFDC agencies must use the Social Security numbers of all its applicants as identification; the AFDC agency must notify the state child support enforcement agency whenever it grants benefits to deserted children and must open its records to support enforcement officials; applicants must assign their right to uncollected child support to the state and must agree to cooperate in locating the absent parent, establishing paternity, obtaining a support judgment if none is outstanding, and securing payments.

Limited exceptions are authorized to the duty to cooperate, but not to the assignment requirement. In case of an applicant's unjustified failure to cooperate, AFDC benefits are withheld from the applicant, but not from the child or children.

## PARENT LOCATOR SERVICE

Each state IV-D agency maintains a state parent locator service equipped to search state and local records for information regarding the whereabouts of an absent parent. The agency may also call on the sophisticated, computerized federal parent locator service based in Washington with access to social security and IRS records or other federal data resources.

Once the absent or alleged parent is located, the state (if necessary and possible) establishes paternity, obtains support judgement, and enforces the obligations through either in-state or interstate proceedings with access to the federal courts as a last resort. All states are bound to cooperate with the enforcement efforts of absent parents.

In *extremis*, HHS may request the Internal Revenue Service to collect outstanding judgments as though they were a tax liability. Finally, anyone with support rights against a federal employee or beneficiary may garnish the absent parent's federal money under a statutory waiver of sovereign immunity.

After collection, the state disburses child support payments, keeping detailed records and reporting to OCSE. To encourage local participation in child support enforcement, a portion of the proceeds is turned over to the collecting unit of local government.

The program also is available to non-AFDC parents who pay an application fee and agree to pay the cost of collection from payments obtained for them.

Experience is developing rapidly and favorably. The federal parent locator service was initiated in late March 1975. In its very first year, the new service was able to find addresses for almost 90 percent of the names with which the states sought help.

During fiscal year 1977, child support enforcement programs yielded IV-D agencies a total of \$818 million, composed of \$409.5 million for AFDC recipients plus \$408.5 million for non-AFDC claimants. The stated cost in 1977 amounted to \$258.8 million for an average return of \$3.16 for each dollar spent. An additional estimated \$21.3 million in support payments went directly to AFDC families and thereby reduced AFDC assistance payments. The fiscal 1977 program located 341,111 persons, established paternity in 68,263 cases, and established support obligations in 183,073 cases.

More recent figures show continuing acceleration. In fiscal year 1980, 642,000 absent parents were located, support obligations were established in more than 373,000 cases, paternity was ascertained in more than 144,000 cases, and more than \$1.5 billion were collected, including \$874 million in non-AFDC collections.

So far, OCSE has been lenient in allowing the states time to gear up for the program. Federal audits of state programs ultimately will pinpoint problems and help provide solutions, by assistance and by the threat of federal sanctions. Interestingly, two of the more controversial remedies have not seen much use: as of late 1979, federal court enforcement had not yet been tried and IRS collection had been used sparingly.

If a verdict regarding the support enforcement program may be attempted at this stage, the overall impression is good—even excellent. Enormous progress has been made toward alleviating a serious social problem.

However, this verdict is conditional. The accomplishments should be seen as the first stage of the program. The initial period of successfully putting the basic program into place, prodding reluctant states to cooperate, and improving the mechanics of collecting support at the national, state, and local levels, is over.

The time has come for a qualitative leap forward. A good program must now become better—not necessarily

## equal legal claims for their father's support

that reflect more of the underlying social values sought. (See Krause, "Child Support Enforcement: Legislative Tasks for the Early 1980s," Winter 1981 *Family Law Quarterly*, Vol. 15, p. 349.)

A cynic may hypothesize that state child support laws, both in terms of substance and enforcement procedures, have been permitted to survive in their present state of disarray, unevenness, and consequent unfairness only because they have *not* been enforced with any degree of regularity. Indeed, the seeming irresponsibility of American fathers may at least partly be explained in terms of unrealistic obligations being imposed and unrealistic laws for enforcement.

The federal initiative that now causes the sudden activation of these laws carries a corresponding responsibility on the federal authorities to assure that the states develop more sensible, more uniform, and more predictable support laws. So far, OCSE has failed to provide leadership regarding this crucial point.

### DEFINING STANDARDS

With all reasonable respect for state sovereignty regarding family law, current federal law provides adequate room for OCSE to play an important role in defining standards for acceptable state law on these questions. If OCSE believes that this goal requires more specific federal legislation, it should work toward that. At the very minimum, in the context of OCSE-sponsored support enforcement, federal standards ultimately must assure less arbitrary and diverse conceptions of the "needs of the child" and the "father's ability to pay." The standard should also encourage more productive methods of support enforcement, such as wage deduction to avoid default, rather than jail—and loss of job—after default.

From the standpoint of sound policy, it should be an important goal of federal involvement to assure that state enforcement efforts will not reach the point of increasing, rather than reducing, social disorganization. Aside from reasonable enforcement methods, this involves manageable, live-and-let-live, levels of support. The extent of the child support obligation, however, remains largely undefined.

Section 15(e) of the Uniform Parentage Act summarizes the factors commonly used by the courts to determine obligation as follows:

- (1) the needs of the child;
- (2) the standard of living and circumstances of the parents;
- (3) the relative financial means of the parents;
- (4) the earning ability of the parents;
- (5) the need and capacity of the child for education, including higher education;
- (6) the age of the child;
- (7) the financial resources and the earning ability of the child;
- (8) the responsibility of the parents for the support of others; and

(9) the value of the custodial parent's services.

The Uniform Marriage and Divorce Act contains a similar listing. It appears, however, that courts do not adhere consistently to these common sense factors which seek to put some ground under their otherwise unbridled discretion. Principled methods of defining a child support formula—fairly weighing the child's need against the father's ability to pay—are needed.

### ADDITIONAL QUESTIONS

The national picture thus remains one of great diversity, divergence, and confusion. The most basic questions remain unanswered: just what *are* necessities, how should the child's *need* be defined once necessities are taken care of, what is the father's *ability to pay*, especially if he chooses not to work or is underemployed? The bottom line is that a father must retain enough to live on after making support payments. But how much is enough? At the welfare level, token awards such as \$10 per week have been the rule, although the new federal involvement may change this custom.

Support orders, as well as child support obligations agreed on in separation agreements, generally remain modifiable to respond to a significant change in circumstances. But, as in the case of setting the initial award, statutory or judicial guidelines defining a *significant change in circumstances* generally are lacking. Once again, judicial discretion reigns nearly supreme.

In an effort to reduce the uncertainty—which often leads to unwarranted harassment of the supporting parent by the custodial parent and wasteful use of court facilities—the Uniform Marriage and Divorce Act requires "a showing of changed circumstances so substantial and continuing as to make the terms [previously set] unconscionable." Whether this language will produce significantly greater certainty remains to be seen. As a legal term of art, the word *unconscionable* has had a long and checkered history.

More questions arise when the father remarries. Traditionally, courts have ruled that the father's prior child support obligations take absolute precedence over the needs of his new family. More recently, however, some courts have considered the interests of both families and have attempted a fair apportionment. This approach seems more realistic.

Arguably, the balance of social interest (though not necessarily individual equity) might even weigh in favor of the father's current family because that family might flounder if earlier obligations were enforced beyond the father's means, with the possible result of two families drawing welfare payments rather than one. Whatever the policy, current equal protection reasoning makes it difficult to defend blanket discrimination in favor of or against the children of one or the other marriage or, for that matter, nonmarital children. All children should stand on an equal footing and have equal legal claims for their father's support.

(Continued on next page)

Too many important issues remain and cannot be discussed in the limited space available here. But many questions remain: Should the father's support be reduced if his former wife remarries and his children receive some support from the mother's new husband? What is the extent of the father's freedom to change his occupation or professional status for one less lucrative or to quit work altogether? Should arrears continue to accrue even when the father loses his employment involuntarily? What should be the role of support judgments with automatic adjustment clauses? Should child support orders be self-reducing or self-terminating when, for instance, the father takes over custody, some or all children reach majority or are emancipated, or social security benefits apply to the children? Should a support-delinquent father's arrears be credited with voluntary payments made to or on behalf of his children, especially during visitation or vacations? Should the parental support

obligation end at the parent's death or should a liquidated support obligation be enforced against the parent's estate? "

Ultimately, we must confront the question of where the proper dividing line is between parents' and society's responsibility for the cost of raising a child—whether the child support obligation should be maintained at traditional levels or whether social mechanisms should carry a greater part of the "freight" than they now do. In the United States, we accept as a matter of course that the state will provide education for our children, even for those of illegal aliens. But in many other Western countries, the state also assumes the burdens of health care, higher education, and even an allowance for each child, which reduces the private obligation for child support. In those states, however, that obligation, no matter how reduced, is enforced without question. We may not be ready for such a system here, but we must start thinking.

## The Changing View of Child Support

BY MARYGOLD S. MELLI

A generation ago the American public seemed to accept the notion that the duty to support a child rested on the custodial parent. Only minimal effort was exerted to enforce child support orders.

One study in the 1960s found that 62 percent of the parents ordered to pay support failed to comply fully in the first year and 42 percent did not make even a single payment. Legal action to enforce collection, however, was taken in only 19 percent of the cases. Ten years later, 79 percent of the fathers were not paying, and legal action to collect was taken in only one percent of the cases. (K. Eckhardt, "Deviance, Visibility, and Legal Action: The Duty to Support," *Social Problems*, Vol. 15, p. 470, 1968.)

In the 1970s, we began to take a second look at these policies of nonenforcement. The women's movement led to recognition that placing support on the custodial parent meant women, who are overwhelmingly the custodial parents, had the burden of child support although their earning ability was much less than that of the absent fathers. (L. Weitzman, "Legal Regulation of Marriage: Tradition and Change," *California Law Review*, Vol. 62, p. 1169, 1974.)

When the mother was unable to meet the burden of support herself, she was forced to face the stigma of public assistance. But contrary to public belief, mothers on welfare contribute more to the support of their children than absent fathers. In Wisconsin, for example, the state director of economic assistance programs pointed out recently that the mothers receiving Aid to

Families of Dependent Children (AFDC) who worked contributed \$83.2 million per year to the support of their children while all the fathers of these children contributed only \$28 million per year. See Day, J., dissenting, *Edwards v. Edwards*, 93 N.W.2d 160 (1980).

In addition to women recognizing the unequal burden placed on them by the policy of nonenforcement, the taxpayers began to realize they were not being fairly treated either. As the number of single-parent families grew dramatically from nine percent of the population in 1960 to 20 percent in the 1980s, the costs of the AFDC program escalated. A congressional study summarized the situation: "The problem of welfare in the United States is, to a considerable extent, a problem of the nonsupport of children by their absent parents." See Staff of Senate Committee on Finance, 94th Cong., 1st Sess., *Child Support Data and Materials* (Comm. Print 1975).

By 1982, the problem of child support had gone from being a low visibility problem of the 1950s to a major social issue. Both the federal government and the states took steps to help solve the problem through legislation and the courts (See Krause, "Forcing Fathers to be Financially Responsible," p. 13.) But given the crisis dimensions of nonsupport, major legislative reform is clearly called for.

### NEW SUPPORT SYSTEM

The child support system of the future may be radically different from today's. Traditionally, child support has been collected under a system that consisted of, first, the establishment of an amount of child support in an individualized judicial hearing and, second, collection of that amount.

Marygold S. Mellis is a professor of law at the University of Wisconsin, Madison, Wisconsin.

## ILLEGITIMACY

Despite declining birth rates, the problem of illegitimacy remains a national crisis. More than 6 million *minor* children born out of wedlock live in the United States today. There not only has been an increase in the absolute number of births out of wedlock, but by 1977 the rate had reached more than 15.5 percent of total births. In many urban areas, illegitimacy has exceeded 50 percent for years and continues to rise.

In addition to the terrible personal problems, even tragedies, that affect the mother and illegitimate child, the public welfare dimensions of illegitimacy have become alarming. Between 1961 and 1973, the percentage of nonmarital children in the total AFDC load increased from 24.2 to 32.7 percent, and there was a 292 percent increase in nonmarital children receiving AFDC.

Yet that is not the whole story. According to common custom (and, indeed, law), married mothers continue to

report any births as legitimate even if their husbands left them long ago. And that suggests that the official figures on out-of-wedlock births probably are significantly understated, both in absolute terms and in the text of welfare statistics.

The time has come to adapt our law and legal practices to the increasing incidence and acceptability of non-marital relationships, while recognizing that a child's right to and need of a *legal* relationship with the father remains unchanged.

Fortunately, our institutions have responded. Since 1968, the U.S. Supreme Court has applied the Equal Protection Clause to a long series of illegitimacy cases. Today, in nearly all substantive areas of the law, the non-marital child is entitled to legal equality with the child of married parents. Common law and statutes disadvantageous to nonmarital children have been declared unconstitutional, and nearly all remaining discriminatory

ing the legal machinery for the enforcement of judicial orders.

A proposal introduced into Congress by Senator Wallop (S. 2437) and another one under preliminary consideration in Wisconsin would replace the present system with a new one consisting of a child support benefit payable on behalf of all children with legally liable absent parents and a child support tax payable by absent parents and collected by a procedure similar to the income tax withholding system.

The new child support tax would replace the present case by case determination of support, noted for its uncertainties and inequities, with a predetermined percentage of income of the absent parent to be paid in child support. This amount (adjusted for the number of children to be supported) would be assessed against the supporter's wages before they are paid.

Under the Wallop bill, any child with one or more absent parents liable for his or her support may apply for a child support benefit. This benefit would be paid only up to the amount of tax collected from the absent parent.

The Wisconsin proposal is more radical. It recognizes that the goals of the child support system are twofold: (1) to provide adequate support for children who live with only one parent, and (2) to require absent parents to share in the cost of supporting their children.

It also recognizes that efficient collection from absent parents is not the complete answer to achievement of adequate child support. Many absent parents have acquired support obligations to new families. If they support the children with whom they now live, they are often not financially able to provide adequate support for the children of a prior relationship.

Therefore, the Wisconsin proposal provides a child support benefit available to all children who have an absent living parent who is legally liable for their support.

This means that children with a deceased parent are

not included: They are usually eligible for Social Security payments provided by the deceased parent's work-related Social Security tax.

Children of unmarried parents are also not eligible unless paternity has been established. If paternity is not established, they will be eligible—as they are now—for an income-tested benefit under Aid to Families of Dependent Children.

All eligible children would receive the minimum benefit regardless of the amount paid by the absent parent and regardless of the income of the custodial parent. Differences between the basic benefit and what the absent parent pays would be provided out of general revenues. This, of course, is the source of current welfare benefits.

The objective is to replace the present welfare program with the opportunity for a nonwelfare benefit that, when combined with at least part-time work, will be superior to welfare. To avoid public subsidies to families with no need, custodial parents who earn above a certain amount will be subject to a special surtax on income over a certain amount if the absent parent pays less in tax than the minimum benefit.

If the absent parent pays more in taxes than the minimum benefit, the additional amounts will go to the children of that parent. Therefore, for those children whose absent parent can provide adequate support, the Wisconsin proposal would provide equity and certainty on the amount of support and efficiency in the collection. For children whose absent parents can provide less than minimal support, the plan proposes a rational, efficient means of apportioning the support of these children among the custodial parent, the absent parent, and the public.

In the past quarter of a century, the problems of child support have remained unchanged and unsolved. What has changed is the public's perception of the problems. The latter part of the twentieth century may see some major reform of the child support system. □