

USES OF AN EMPLOYER NEW HIRE REPORTING AND CHILD SUPPORT REGISTRY

I. OPTIONS FOR USE

Establishment of Employer New Hire Reporting and a Child Support Registry would serve two primary functions. First, it would facilitate wage withholding, enabling the Child Support agency to receive immediate notice of new hires; second, it could serve as an additional locate source to the extent that such information is retained for subsequent matches with new cases in the child support registry. Depending on design, these purposes would be magnified to the extent that interstate cases are included. Options to capture interstate cases, explored in detail in other papers, include the creation of a National system and requirements for State broadcast.

Such a registry may also complement a variety of other activities, some of which are explored below. To the extent that a registry could serve additional functions, costs will be shared and economies of scale achieved resulting in increased efficiency.

Many of the secondary uses discussed below would be facilitated by the existence of a child support registry without regard to the employer reporting aspect. Since States beginning in 1995 will be required to have operational, statewide, automated CSE systems, these activities could, to a limited extent, be explored without further systems development.

A. Child Support Enforcement

Immediate Wage Withholding

The most effective way of collecting child support is through wage withholding -- deducting child support amounts from the earnings of the obligated parent. However, the lack of ready access to timely employment information delays implementation of

withholding and prevents child support from being collected at its source before an obligor moves into another job.

Due to job changes, the average duration of a wage withholding directive is less than six months in almost half the child support cases receiving AFDC and in 28 percent of non-AFDC cases. Further, the General Accounting Office reports that 25 percent of obligors terminate or change employment before the State child support agency can serve the wage withholding notice on the employer.

In response to this problem, a number of States have implemented or are considering implementation of a system of reporting new hires for purposes of immediate wage withholding and a number of legislative proposals mandating this approach have been advanced. Under such a system, an employer immediately provides information about each new hire to a single entity (depending on the system design, the entity could be the State Employment Security Agency, the State Child Support Agency or a National Registry). The new hire information is then matched against child support records to determine the existence of a child support debt (again, depending on design, this could be the State's caseload, a State Support Registry or a National Registry, with varying options for capturing interstate cases). If a match is made, the employer is notified to begin withholding immediately.

A variation on this is to include a self-disclosure element to the employer reporting tool. Under this scenario, the W-4 or other form would be adapted to ask the employee at the time of hire whether he or she has a child support obligation and to provide information about the obligation. When answered in the affirmative, the employer would begin to withhold immediately based upon the information provided. This allows for the quickest possible withholding when an obligor changes jobs.

Critics of this approach are concerned that without verification mistakes could be made, especially since obligors frequently don't know the amount of the obligation or the address of the payee. Others suggest that even if withholding were not initiated until verification is received, simply adapting the W-4

or other form to require disclosure under penalty of law, could potentially intimidate some delinquent obligors into acknowledging that they owe support.

Enforcement Uses Beyond Wage Withholding

In addition to wage withholding, an employer reporting system coupled with a registry of child support orders would also facilitate the use of several child support enforcement techniques where immediate verification of the presence or absence of a child support debt is essential. These techniques, recommended by the Commission on Interstate Child Support, include: suspension of occupational, professional or other licenses; suspension of drivers licenses and car registrations; intercept from lotteries and insurance and lawsuit settlements; and, collection from the proceeds obtained under criminal forfeiture laws.

The effectiveness of each of these techniques is dependent on a mechanism for immediate verification of the existence of a child support debt. A central registry, without an employer reporting function, would facilitate their use. In fact, the Commission on Interstate Child Support, in its recommendation on insurance payouts, appeared to envision a system where an insurer would call the State Child Support Agency to check on the existence of an arrearage prior to payout. While this type of interface is an option in implementing these techniques, it may not be the most efficient method of verification.

To avoid the possibility of diminishing the returns of these techniques given the burden which would be placed on licensing agents, lump-sum payors, and State staff, as well as potential lag time for verification under the above approach, the proactive mechanism for easy employer access under the new hiring reporting approach could also be extended to these entities. For example, insurance companies could be required to check the new hire/child support registry to determine the presence of unpaid child support prior to paying a settlement using the same mechanism they would use as an employer reporting new hire information. Since this aspect of the approach has not been examined or

tested, it could be presented as an option available to the licensing agent/payor or tested after a new-hire/child support registry is implemented. However, use of the STAWRS system would foreclose this approach.

While the effectiveness of each of these techniques in improving child support collections is not being explored here but rather in the context of enforcement reform, they warrant consideration in examining the full potential of a child support and employer reporting registry. This is especially true to the extent that these enforcement techniques could be used to reach assets of those absent parents who are not subject to wage withholding but who, nonetheless, are the subject of child support arrearages.

Child Support Locate

As previously indicated, employment information on non-custodial parents is currently not available until the month following the first quarter of earnings from the SESA. This delay in some instances, not only prevents wage withholding from occurring before the obligor moves to another job but also diminishes the usefulness of the information as a location source.

In order to facilitate location, employer reported new-hire information, including that which is not matched with an existing child support case, would be retained for a set period of time but probably not less than six-months (to coincide with the point at which the information would become available from SESA). As new cases come into the child support program, they would automatically be matched against the employer reported information.

If a State-based approach is selected, the location value would be lost for purposes of cases which enter the child support program subsequent to the initial broadcast unless each State is required to maintain a database of this information. Ultimately, a national employer reporting and child support registry would be optimal for location purposes.

Medical Support Enforcement

As indicated above, several States are considering the possibility of incorporating medical support information in their requirements for employer reporting. Similarly, one provision of the Administration's 1994 budget reconciliation legislation is the establishment of a Third Party Liability Clearinghouse to identify parties responsible for payment of health care items and services furnished to beneficiaries of certain Federal and federally assisted programs.

The Clearinghouse would maintain for each individual employed in the United States, information on the availability and enrollment of group health plans provided by the employer through an amended W-2 reporting form. Upon request, the Clearinghouse would make information available concerning employment and group health care coverage of individuals and their spouses to the Federal Parent Locator Service and State Child Support Enforcement Agencies (though such access is believed to have been omitted from the House version of the bill in subcommittee mark-up).

Employers would be required to provide, upon request, specific information concerning coverage of individuals to the Clearinghouse subject to a civil penalty not to exceed \$1,000 per request. The Clearinghouse is also required to evaluate methods for improving State requirements for medical support enforcement of dependent children.

While the Administration's bill provides for FPLS and State Child Support Enforcement agency access to such records, it may be more efficient to conduct routine matches between the Clearinghouse and a National Employer Reporting and Child Support Registry (to the extent that a National registry is pursued). Matches would be beneficial both in determining the availability of group health insurance before an order is obtained and in enforcing the health insurance provisions of child support orders.

B. Unemployment Compensation Fraud

Consideration could also be given to the benefits an Employer New Hire Reporting and Child Support Registry would have in detecting fraud committed by recipients of unemployment compensation insurance. Currently, States match unemployment insurance files against State employment security agency records to detect fraud. However, as indicated previously, the information maintained by SESAs is often 3 to 6 months old and thus fails to rapidly detect those receiving UI fraudulently, and misses the large number of employees who are employed for a limited duration or who change jobs frequently.

We discussed the possibilities of improving fraud detection by matching State records with an Employer Reporting and Child Support Registry with employees involved in unemployment compensation. They were uncertain as to whether such matches would really be beneficial. First, they generally don't believe that there is much fraud actually taking place in the program. Second, they believe the biggest offenders are probably working in the underground economy and would not be filing a W-4 reporting form (or are otherwise involved in illegal operations which would not be uncovered by these matches). They also questioned the cost effectiveness of such a match since those detected, who would otherwise be missed by the SESA match, would be assumed to be taking short-term, low-paying jobs.

However, they did acknowledge that if the associated costs were low enough, a data match of at least the records in large States may be worth pursuing. In the long run, it would seemingly be more cost-effective to detect instances of fraud sooner rather than later (as with the SESA match) and if such matches are publicized, they could potentially serve as a deterrent from future instances of fraud.

While it appears that an Employer Reporting and Child Support Registry may not be a worthwhile vehicle for a National program of unemployment fraud detection, the idea still appears to be worth pursuing. Since fraud detection is a State function, one

option would be to provide matches to only those States interested. Current State experience in facilitating fraud detection with State new hire reporting is limited and the reaction mixed. Hawaii originally designed its new hire reporting system for the express purpose of detecting unemployment compensation fraud. Virginia is looking into this use though they were disinterested when their legislation initially passed. Kansas and Oregon expressed no desire to use the information for this purpose and West Virginia, while interested in this use, has indicated that their system couldn't handle the volume of incoming information.

C. Benefits to Small Employers

If Option 1 of STAWRS is implemented, one of the services offered to employers would be to register fact of employment. This is a service by which the employer could indicate the hiring of an employee when verifying the employee's SSN. STAWRS would then customize employee-level wage and tax returns with SSN and name control of all on-board employees. It is believed that this is a feature that would be favored by small employers. It reduces the need for employers to fill out these return data fields and thus reduce the likelihood of bad error notices being sent to employers.

II. COSTS AND BENEFITS

Estimates of actual costs and financial benefits of various uses of an Employer Reporting and Child Support Enforcement Registry will be attempted after the various options for developing a registry are fleshed out and input from the data analyses and modeling group can be obtained. One significant variable is the extent to which interstate activity will be captured and the mechanism for doing so (national system vs. State broadcast).

The benefits of employer reporting have been best tested so far under the Washington Employer Reporting program created in 1990. During the first 18 months, over 12,000 employers submitted over 216,000 reports of new hires and rehires to the child support agency. Of these, 8 percent matched with open cases of obligors.

Of these matched cases, 87 percent of the obligors had made no support payments during the preceding year. Based on employer reports, collections were successful among 43 percent of those who were non-payers the previous years, averaging \$1,200 per parent. The Washington child support enforcement agency considers the program to be cost effective for the State. It reports that for every dollar spent on the program, \$22 was collected. While a report to the Washington legislature questioned these figures, even conservative estimates show a \$1 to \$4 collection/cost ratio.

Finally, to the extent that the STAWRS system is utilized, costs are, for now, indeterminable as they are not yet in a position to determine the cost sharing approach which would be advanced.

ALTERNATIVE NEW HIRE AND CENTRAL REGISTRY CONCEPTS

To assess the feasibility of providing a new hire reporting system to enhance child support enforcement, alternative new hire concepts were developed, and the strengths, weaknesses and technical architecture of each concept were analyzed. Each of these concepts has a different scope and functionality. The concepts range from legislating the status quo to establishment of two national directories which would continuously match the new hire database against a registry of all child support orders and locate requests.

All of the concepts discussed share some common assumptions regarding who reports, when, filing methods, and optional features of new hire reporting.

The following assumptions apply to all options for new hire reporting:

- All employers will be required to report new hires within a specified number of days of hiring, not just targeted employers.
- Employers will be offered a variety of access methods to file their new hire information.
- States would have the option of permitting non-IV-D cases to be a part of the child support case registry.
- States would have option of requiring self-disclosure of child support obligations at time of employment.

The options being considered for central registry and new hire reporting are:

1. State based option (State based Child Support Enforcement Registry broadcast to State-based Directory of New Hires)
2. Federal-State option (National Directory of New Hires which State CSE Systems can Match their child support cases against)
3. Federal-Federal option (National Directory of New Hires, National Registry of Child Support Cases)

OPTION I

STATE-BASED NEW HIRE DATABASES

CONCEPT

The State-based approach could be implemented the fastest, resulting in the least disruptions to existing processes and procedures, but it also would have limitations regarding scope and accuracy. The State-based approach builds upon the intra-state processes and procedures currently in place and the new hire legislation, being enacted by a number of States, which is primarily designed for intra-state processing. Employers would report all new hires to the SESA, in the same manner that they currently report wage information on a quarterly basis. The staff at the SESA agency would enter the new hire information into the existing SESA database. This basic new hire information could facilitate data entry of the quarterly wage information. In other words, data capture and data entry of new hire information is not a new function for SESA staff, but the immediate reporting of new hire information will require additional staff resources and funding for the new function.

For intra-state locate requests, the State CSE agencies could access this new hire data in the same manner they currently match SESA wage data with their locate requests. An expansion of the FPLS/SESA Cross-match Locator Service could be used for matching new hire information with interstate locate requests. However, for matching new hires with child support orders, it is unlikely that any of the SESA systems would be capable of accommodating daily matches of child support orders from 50 states and 4 territories. Nor would the 52 Child Support Enforcement (CSE) automated systems under development be capable of accommodating matches of the estimated 125,000 new hires a day. Even if the broadcast of child support orders was limited to just a few States, the volume and frequency of the necessary matches make this function impractical.

SCOPE AND FUNCTIONALITY OF OPTION I:

- At the time of hiring or within a specified timeframe, the employer would be required to submit new hire information to the SESA. The SESA would use its new or existing staff to enter data into machine readable format.
- The new hire data would be retained at the SESAs. Every SESA has a database in place and staff familiar with this function, to enter the new hire information into the database. Employers would utilize the same access methods currently used to transmit quarterly data to SESA's. The SESAs would be required to enter the new hire data in a timely manner.
- The SESAs would submit the new hire database to their own IV-D agency to match against existing orders for the purpose of income withholding.
- For intra-state locate, States would submit extracts of their child support locate requests to their own SESA: for interstate cases, the FPLS Cross match locator would only submit a State's cases to other "foreign" SESAs.
- For interstate locate, States would submit locate requests to the FPLS Cross-Match locator system. (The States are provided a variety of options for submitting the requests to the FPLS.) The FPLS would consolidate and process the requests to the 46 participating SESA's for matching purposes.
- The child support case data would be retained at the State level. Current Federal law and regulations require the development of Statewide automated systems by September 1995 that would result in child support case registries. All States are capable of submitting cases to the Cross-Match locator program, even if some States, like California, the data is submitted by several different counties and manual systems.

- When States are informed of a match by FPLS, they have the responsibility of verifying location and/or notifying the employer to institute withholding.

STRENGTHS AND WEAKNESSES OF OPTION I

Option I could be implemented quickly, using existing systems and processes. Of the 10 States that have already passed or are considering new hire legislation, 4 of these States already require reporting to the SESA's so that the data in these States is the most recent and most accurate data available.

Requiring employers to report new hire information to the SESA standardizes the process and avoids potential duplication since the new hire data serves as basic data for later quarterly wage reporting to the same agency. The submittal methods for employers, and the staff to conduct data entry and capture are already in place within each SESA. However, since this is a new function, it would require additional staff and funding resources to pay for the new functions. In addition, the majority of States who have implemented or are considering new hire reporting legislation favor making the IV-D agency the repository of new hire information because it has more of a stake in the accuracy and timeliness of the data.

There is no incentive for SESA to process in timely manner, so legislation would be required to ensure quick processing.

The use of scanning devices and other data capture technology by SESA is rare. The data entry is manual and results in delays in processing and frequent errors.

The quarterly reporting of wage information was designed for the UI registration process, not child support location or enforcement purposes. The low utilization of these wage records for UI results in varying quality and accuracy of the SESA data from State to State. Generally there is no editing or correction of errors.

The child support case registry would be retained in each State, avoiding the duplication of effort that would occur by establishing a national registry. Since States are not required to have statewide automated CSE systems until September 1995, some States do not currently have a registry of all child support cases and would have to consolidate the records from several different intra-State systems.

FPLS/SESA's Cross-Match locator system has already been developed and is operational. The number of cases that can be submitted and the frequency of matches was increased recently, and could be increased further to accommodate the new hire matches for locate purposes. The Cross-match Locator System needs to be expanded to permit States to submit larger number of cases and conduct more frequent matches. Since the current system matches about 200,000 records each month, the system would have to be significantly expanded to accommodate large caseload and more frequent matches.

It is unlikely that the majority of SESA facilities will have the ability to process extracts of the entire national child support caseload against their database on a daily basis. Therefore, the matching of new hires against all existing interstate child support orders for the purpose of immediate wage withholding is not a possible function under this model. SESA's should be able, however, to accommodate a match with their own State's registry of child support orders and this would account for the 70% of absent parents who remain in the State.

Under Option I, multi-State employers would need to be aware of the variety of States laws and regulations guiding submission of W-4 information. For example, every States has their own unique set of rules regarding unemployment insurance and wage reporting. In order to use the FPLS's Cross-Match Locator system for new hire matches, the existing cooperative agreements with SESA might have to be amended to permit processing of the large number of records on a more frequent basis. Agreement would have to be reached with the four (4) child support jurisdictions not currently participating in the Cross-Match locator program. There is no capability at this option for interstate matching of new hire data with interstate child support orders.

OPTION II
NATIONAL DIRECTORY OF NEW HIRES
AND
STATE REGISTRIES OF CHILD SUPPORT CASES

Concept:

A national database of new hires would be developed and maintained at ACF. Employers would report new hires directly to this database instead of to State Employment Security Agencies as in Option I. At the State's request, the new hires within that State may be extracted and sent to the IV-D agency for intra-State matching. States would continue to submit locate requests to the FPLS as in option I. The FPLS would match these cases directly against the new hire information in the national database instead of going to 54 separate SESAs. FPLS would still submit interstate locate requests to SESAs for match against quarterly wage information when needed. The new hire data contained in the National Directory can be matched against child support databases currently maintained at the ACF datacenter, the FPLS requests databases, the tax offset request database and the Project 1099 database.

SCOPE AND FUNCTIONALITY OF Option II:

- At the time of hire or within a specified timeframe, the employer accesses the national new hire database and enters information about the new hire, including name, Social Security Number, and date of birth.
- As new hires are entered, a match is done against SSA's EVS system to verify that the social security numbers given are correct and to correct any transpositions.

- If the State desires, an extract of that State's new hires can be extracted and sent to the IV-D agency for matching against it's child support case records.
- On a weekly basis, all locate requests coming through the FPLS are matched against the new hire database. Any matches are returned to the States either immediately or after other FPLS sources are checked, depending upon the State's request. In addition, cases for which no match is made, or for which wage information is requested, may be sent to the SESA to check against the quarterly wage data.
- On a weekly basis, the new hire data is also checked against existing databases of child support cases kept at ACF.
 - The first is an inactive database of cases in which there was a previous FPLS locate request. This database consists of cases submitted over the last five years, with over 4 million cases per year.
 - The second ACF database matched against the new hire database is the Tax Offset Database, which consists of over 3 million annual cases with arrearages.
 - The third is a database of cases submitted to Project 1099 for asset and location information.
- If a new hire matches up with a case from either of these ACF databases, the State which submitted the case for locate or tax offset is notified where the individual has a new job.

STRENGTHS AND WEAKNESSES OF OPTION II

Employers report new hires to only one place, easing the burden of reporting especially for multi-state employers.

SESA would not be in charge of updating the data, ACF would have control and could update it immediately.

The database would not be dependant on SESA data which, because of the low utilization of wage data for UI, emphasis is not placed on validating correctness of data submitted by States. ACF could verify the accuracy of SSN data with SSA through their EVS system.

Although we would continue periodic matching with SESA on the quarterly data, the overall volume of requests to SESAs would be less than in Option 1 because many matches will be made from the new hire data. The reduction in the number of cases submitted to FPLS/SESA Cross Match Locator Service will reduce the cost of broadcasting cases to the SESAs, which is expensive.

Although the national new hire database will take additional resources to create and maintain, it would be fairly easy to develop.

Both option 1 and option 2 would use the FPLS in the same manner. If option 1 was developed first, Option 2 would be relatively easy to accomplish. It is possible to implement Option 2 directly.

This option is more comprehensive than option 1, not only matching new hires against locate requests and limited broadcasts of orders, but also against three ACF registries of cases.

Option II does not match new hires against a comprehensive database of child support cases. A state won't automatically be aware of someone changing jobs unless it makes a locate request or he/she is in one of the interim registries.

Although not a great long-term solution, Option II can be accomplished fairly easily and cheaply while developing the child support registry for option 3. The development of a registry of child support orders is dependent upon the development of statewide, automated CSE systems.

OPTION III

NATIONAL DIRECTORY OF NEW HIRES AND CHILD SUPPORT CASE REGISTRY

CONCEPT

The third option of implementing a new hire child support project is the establishment of both a National Directory of New Hires and a National Registry of Child Support Cases. The National New Hire Directory is established in the same manner as set forth in Option II. These two directories can be co-located in the same database facility or housed separately. For the purposes of this option paper, we are assuming the new hire database is located at the IRS and the child support case registry is located at the ACF datacenter. This Federal-Federal approach would require the most resources and time to establish. But, because it would result in the widest and most frequent matching, it has the greatest potential for wage withholding and location of absent parents, and avoids duplication of effort by employers, State and Federal agencies.

Employers or their payroll agency, at the time of hiring, would provide the information on new hires to a National directory. This immediate information would be in addition to the quarterly reporting of wage information to SESA that currently exists. If the Simplified Tax and Wage Reporting System (STAWRS) is implemented, then having the fact of employment reported to STAWRS at the time of hiring would reduce the reporting burden for employers and Federal and State Governments and would be the most cost effective alternative. If STAWRS is not implemented, then the National New Hire Directory could reside at the Administration for Children and Families' (ACF's) Datacenter. A variety of filing methods would be made available to the employer including paper submissions, touch tone telephone, point of sale devices, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions. The preferred method of filing would be an electronic submission.

Option III differs from other options in that it establishes a registry of all child support cases at the national level. Since

the detailed information regarding a child support case already exists in each State's statewide automated CSE system, the registry need only contain enough information to facilitate a match and "point" back to the interested State or States. States could program their statewide automated CSE systems to extract updates of their child support case records to keep the national registry updated.

The Registry would include information on cases with child support orders and cases without orders where State and Local Child Support Enforcement agencies are pursuing action (i.e. locate).

Since there are individuals with child support obligations in more than one State, States will be able to determine if another State is also enforcing a case against that person through the National Registry. If there is a match with more than one State, all States with matches will be notified.

The communications link between Child Support Enforcement agencies and the ACF National Registry will be through the Child Support Enforcement Network (CSENet) or a CSENet-like communication system.

SCOPE AND FUNCTIONALITY OF OPTION III:

- At the time of hire or within a specified timeframe, the employer accesses the national new hire database and enters information about the new hire, including name, Social Security Number, and date of birth.
- As new hires are entered, a match is done against SSA's EVS system to verify that the social security numbers given are correct and to correct any transpositions.
- On a weekly basis, all locate requests coming through from the FPLS are matched against the new hire database. Any matches are returned to the States either immediately or after other FPLS sources are checked, depending upon the

State's request. Cases for which no match is made may be sent to the various SESAs to check against quarterly wage data.

- Increased editing and correction of errors would be conducted on the new hire information.
- A registry of all IV-D cases, derived from detailed child support case information retained on State CSE systems, would be created at national level. The National Registry would have sufficient capacity to expand to include non-IV-D cases.
- States will be responsible for updating information on the National Registry of Child Support cases. Individual States computer systems can be programmed to automatically transmit updates when specific case changes occur.
- Data entry and capture conducted on the national level. The national facility would promote the use of electronic submissions by employers. Scanning and other means of data capture would be utilized by Federal staff.
- The National Directories will have sufficient capacity to accommodate frequent matches of large volumes of data. The limitation of broadcasting to only selected States will not be necessary.

STRENGTHS AND WEAKNESSES OF OPTION III

Option III provides the maximum ability to identify obligors with multiple support obligations and locate absent or alleged parents. It would result in greater uniformity and simplicity in interstate process.

It reduces burden on multi-State employers by providing a single, national point for reporting.

The use of National database facilities eliminates the burden on State IV-D and SESA systems, the majority of which are not be capable of processing the large number of records involved in new hires and expanded child support records. The number of case records or frequency of matches would not have to be limited under this scenario. Interstate case matching with new hire data could be accomplished under this option.

The data entry and capture burden for new hire data would be shifted from the staff of the 54 State SESA offices to the staff of the National New Hire Directory. Concentrating this effort at one national facility rather than 54 sites increases the use of electronic means of filing and use of scanning technology.

This option would require the establishment and maintenance of two national directories, thus requiring the most resources and time to establish. However, the wider scope and frequency of matches is likely to make Option III the most cost effective alternative over the long run.

The degree of editing and correction of data on the National New Hire Directory would be increased over what is currently done by SESAs. This would require additional staff resources but result in greater accuracy and usefulness of the data.

The National Registry of Child Support Cases would duplicate what exists on State IV-D systems and would require programming by State IV-D systems to update and purge child support case records.

INTERACTIVE ACCESS METHODS	COST CONSIDERATIONS	VOLUME CONSIDERATIONS	HARDWARE REQUIREMENTS
Touch Tone Telephone	Requires touch tone telephone or attached phone generator for rotary dial phone.	Low volume sites. Should not go through a PBX system. Prolonged connect times will increase average costs.	None, unless employer is using a rotary dial telephone. Then a tone generator is needed. (\$20-30.00)
Point of Sale Terminal	Connect time is minimized to about 10 seconds per query. Terminal is live at all times but generates no charges. Next to lowest start-up costs	Low to moderate volume sites. Requires manual entry of data. Should not go through a PBX system.	Point of Sale device costs vary (\$75.00 to \$300.00) More if printer required.
Synchronous Terminal	Requires PC and user-supplied modem or acoustic coupler.	Moderate volume sites. Unnecessary connect time will increase average transmission costs.	Serial Board (\$50- 150); Modem (\$100- 1,000) Communications Software (\$100- 150.00)
3270 Terminal	Requires installation and maintenance of a dedicated line.	Moderate volume sites. Unnecessary connect time will increase average transmission costs.	Depends on if using a 3270 terminal or PC with 3270 emulation (\$500- 1,500) Modem (\$100- 1,000)

BATCH ACCESS METHODS	COST CONSIDERATIONS	VOLUME CONSIDERATIONS	HARDWARE REQUIREMENTS
File Transfer	Requires a PC, modem, communications hardware and software.	Moderate to high volume sites. Modem line speeds 9600 BPS for higher volume sites.	PC, Modem (\$100-1,000) Serial communications \$100-150)
Remote Job Entry (RJE)	Requires a PC, modem, and 2780/3780 RJE hardware and software.	Same as file transfer.	Same as file transfer with additional cost of RJE.
Tape/Cartridge	Tape/cartridge costs plus mailing of tapes.	Cost effective for high volume sites only.	Assumes employer has data center.
Mainframe to Mainframe	Requires specialized software.	Cost effective for high volume sites only.	Assumes employer has data center mainframe.

IMMEDIATE W-4/EMPLOYER REPORTING OF NEW HIRES

As of June 22, 1993

STATE	LEGISLATIVE STATUS	REPORT TO/TIMEFRAME	METHOD OF TRANSMISSION	**ADDITIONAL INFORMATION REPORTED	ALL EMPLOYERS OR TARGETED EMPLOYERS	SELF-DISCLOSURE	PENALTY FOR EMPLOYERS
ALASKA	As a Grant Project in October 1991	IV-D Agency within 5 days of hire (Some report monthly.)	W-4, tape, other documentation, employer report, form developed for small businesses (most use computer generated form).	Wage, employee's address, date of birth, some medical support information	Targeted employers in 3 phases: 30 largest, industries with seasonal employees, and select employers by industry code.	Yes, but no written procedures	Yes
ARIZONA	Legislation failed to pass	IV-D Agency in 1-5 working days of hire	W-4, magnetic tape, other paper documentation	Wage, employee's address, date of birth, availability and type of medical coverage	All employers	Yes	No
ARKANSAS	Legislation failed to pass	Unknown	Possible electronic transfer	Not specified	All employers	Yes	No
CALIFORNIA	Enacted September 1992; effective April 1993. Implementation date April 1993.	SESA within 30 days of hire	W-4, other methods, creating new form	Employer's name, address, and account number; employee's name and social security number	Targeted employers: automotive services, construction, health & business services, building and special trade contractors, restaurants, lodging places, movies, engineering & management services, landscape services, wholesale trade.	No	Yes
COLORADO	Legislation failed to pass	IV-D Agency within 5 working days of hire	W-4, other means authorized by the State's IV-D Agency	Employee's address, date of birth; employer's name and address, employment security reference number or unified business identifier number	Targeted employers: mining, construction, manufacturing and services	No	No

IMMEDIATE W-4/EMPLOYER REPORTING OF NEW HIRES

As of June 22, 1993

STATE	LEGISLATIVE STATUS	REPORT TO/TIMEFRAME	METHOD OF TRANSMISSION	**ADDITIONAL INFORMATION REPORTED	ALL EMPLOYERS OR TARGETED EMPLOYERS	SELF-DISCLOSURE	PENALTY FOR EMPLOYERS
CONNECTICUT	Legislation failed to pass	IV-D Agency within 14 days of hire	W-4	Employee's address, other: whether or not a child support order is in effect, amount of order, to whom order is payable, name of children for whom medical insurance has been ordered	All employers	Yes	Yes
GEORGIA	Enacted; effective July 1993. Implementation date July 1993	IV-D Agency within 5 days of hire	W-4, other paper documentation	Employee's address and date of birth	Targeted employers: Employers doing business with seven or more employees.	No	Yes
HAWAII	Effective in 1976. Implementation date 1976.	SESA within 5 days of hire	Other paper documentation, (SESA form)	Wage, employee's address	All employers	No	Yes
IOWA	Proposed	SESA within 10 days of hire	W-4, magnetic tape	Employee's address and date of birth, employer's name and employer identification number, availability of health insurance	All employers	No	Yes
KANSAS	Proposed. If enacted, implementation date July 1993.	IV-D Agency within 10 days of hire	W-4, other paper documentation, telephone, any method authorized by IV-D Director.	Employee's address and date of birth	Targeted employers: agricultural services, mining, construction, transportation, retail, local government.	Not in W-4 bill. Income Withholding Act already provides a mechanism for voluntary deductions.	No
MAINE	Proposed	IV-D Agency within 7 days of hire	W-4, tape, or by other means as mutually agreed	Employee's address, social security number, and date of birth; employer's name, address, and employment security reference number or unified business identifier number	All employers	No	Yes

**NOTE: Additional information reported refers to any information in addition to the employee's name, social security number and date of employment.

IMMEDIATE W-4/EMPLOYER REPORTING OF NEW HIRES

As of June 22, 1993

STATE	LEGISLATIVE STATUS	REPORT TO/TIMEFRAME	METHOD OF TRANSMISSION	**ADDITIONAL INFORMATION REPORTED	ALL EMPLOYERS OR TARGETED EMPLOYERS	SELF-DISCLOSURE	PENALTY FOR EMPLOYERS
MASSACHUSETTS	Enacted; effective March 1993. Implementation date March 1993.	IV-D Agency within 14 days of hire	W-4 form	Employee's address	All employers	No	Yes
MICHIGAN	Legislation reintroduced	IV-D Agency (timeframe not specified)	Paper documentation, telephone (not W-4)	None	All employers	Yes	No
MINNESOTA	Enacted; effective in 1987	Self-disclosure to IV-D Agency (timeframe not specified)	Paper documentation, telephone	Wage	All employers	Yes, only method	No
MISSISSIPPI	Legislation failed to pass	IV-D Agency can request employment information on any non-supporting parent from any State agency, employer, or payor.		All information relative to the location, employment, income, and property of non-supporting parent	All employers		Yes
MISSOURI	Proposed (only addresses voluntary employee disclosure and subsequent employer withholding)						
OREGON	Legislation introduced. Passed the Senate May 28, 1993. Scheduled for House hearing June 22, 1993.						
UTAH	Legislation failed to pass	IV-D Agency within 10 business days of hire	Written or electronic notice	Other information deemed necessary to proceed with income withholding	Not addressed in failed statute	Will be prescribed in State's rules	Yes

**NOTE: Additional information reported refers to any information in addition to the employee's name, social security number and date of employment.

IMMEDIATE W-4/EMPLOYER REPORTING OF NEW HIRES

As of June 22, 1993

STATE	LEGISLATIVE STATUS	REPORT TO/TIMEFRAME	METHOD OF TRANSMISSION	**ADDITIONAL INFORMATION REPORTED	ALL EMPLOYERS OR TARGETED EMPLOYERS	SELF-DISCLOSURE	PENALTY FOR EMPLOYERS
VIRGINIA	Enacted; effective July 1993 (pending Governor's signature). Implementation date July 1993.	SESA within 35 days of hire (SESA must send to IV-D within 21 days of hire)	W-4, magnetic tape, other methods	Employee's address; employer identification number and address	All employers	Yes	Yes
WASHINGTON	Effective July 1990	IV-D Agency within 35 days of hire	All methods, fax, computer printouts	Employee's date of birth	Targeted employers: construction, manufacturers of heavy equipment, business services, health services.	No	Yes
WEST VIRGINIA	Enacted; effective March 1992. Implementation date January 1993.	IV-D Agency within 35 days of hire	All methods, fax, diskette	Employee's address, date hired, social security number; employer's Federal tax identification number, payroll office address	All employers	No	Yes

**NOTE: Additional information reported refers to any information in addition to the employee's name, social security number and date of employment.

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CENTRALIZED COLLECTIONS AND DISBURSEMENT

The purpose of this paper is to consider whether centralizing child support collections at the State level will facilitate the rapid transfer of needed child support collections to children.

Background

The child support collection and disbursement functions generally consist of the following activities: collecting child support payments; matching these payments to the correct cases; distributing payments in compliance with Federal law, and disbursing the child support collections.

Court and administrative orders to pay child support often include information about the method of payment. In IV-D cases, employers in wage withholding cases and obligated parents submit their payments either to the court where the order was issued or to the agency responsible for enforcement and collection activities.

Existing Problems in Collection and Disbursement

OCSE provides oversight through the audit process to ensure that State child support collections are used for their intended purposes. Efforts are directed at monitoring State cash collections, internal controls, and the proper accounting and handling of interest earned on child support collections.

Many States tend to fare poorly in IV-D program audits in the area of payment disbursement and processing. This is particularly true in States with county-operated Child Support Enforcement programs. Reasons vary for States' poor performance in the collection and disbursement of child support payments, but the primary factors appear to be: poor record-keeping of payment histories and balances; the lack of computer resources at local jurisdictions; complicated Federal requirements (i.e. compliance with Federal distribution priorities); and organizational structures that often fail to support the expeditious processing of payments through multiple county and State program components and their respective manual and automated payment systems. These problems cause delays in getting payments to custodial parents, with States or counties often holding onto the money for unreasonable lengths of time, despite Federal regulations that require expeditious payment to families.

When collections are handled locally, multiple sets of records may be maintained on any given case. This is particularly true in cases where there is more than one award. In addition to its being an inefficient use of resources, there is a basic problem inherent in this duplicity in record-keeping. That problem is that the duplicate, separately maintained records frequently disagree. If the records can not be reconciled, it is impossible to accurately calculate the amount of support owed and paid.

In auditing collection of payments, OCSE auditors have found that using fragmented, local systems to collect and disburse payments makes it difficult to maintain accurate records, and often results in disbursement errors. In addition, OCSE auditors have often found that potential interest income earned on collections is lost when collections are handled locally. This is because payments are frequently shuffled back and forth in the mail between local offices, deposited in different banks or held up in county courts.

On the other hand, centralizing collections enables a State to use the money more efficiently. If a State receives collections directly, it can immediately deposit the money and earn interest from day-one. This interest can then be used to offset program costs in AFDC cases, or paid to the family in non-AFDC cases.

In addition to the delays, decentralized collection and disbursement frequently creates internal control problems. Generally, auditors have found that when collection points are disbursed throughout a State and money dealings are not standardized, there are internal control weaknesses and collections are often not secured and accounted for properly. Local offices frequently lack proper internal accounting controls, such as separation of cash handling and accounting functions, either because they are unaware of the need for these controls or because they do not have sufficient staff to use them. While some States have taken action to improve efficiency with centralized collections, other States have done little to reduce the risk of collection loss.

When States centralize collections, control and security become easier. Although any collections system has potential weaknesses, there is greater control and accountability over collections when they are made to one central place. In addition, the concentration of the function allows proper controls to be used more efficiently.

Collection Points

Currently, the Federal Government's interest in the collection and disbursement of child support payments is limited to those payments made through the IV-D program. Six States - New York, Colorado, Iowa, Texas, Alaska and the District of Columbia - have

or are in the process of implementing wholly centralized collections processing centers for all of their Title IV-D receipts. Of those six, Alaska and the District of Columbia have, or will have, centralized collections as a matter of organizational expediency. The District of Columbia has only one office and Alaska only accepts payments at its central office due to unique geographic considerations.

These jurisdictions do not, however, necessarily plan to utilize centralized collections for non-IV-D cases. Iowa and Colorado have statutes that impose collection responsibility on clerks of the court for non-IV-D cases, although Colorado may amend its statute for non-IV-D cases after an analysis of the centralized collection process. Texas' income withholding statute specifies three options (court registry, child support collection office or the Attorney General's office) for non-IV-D cases, but mandates that all IV-D payments be made to the Attorney General's Office. New York and Alaska are silent regarding non-IV-D cases.

Beginning in January 1994, Federal law requires all new child support orders, both IV-D and non IV-D, to be subject to immediate income withholding. Effective collection and disbursement of child support becomes even more important as the program moves to universality and the caseload is doubled. OCSE's examination of State statutes which specify the entity or entities to which non-IV-D child support payment may be made reflects that:¹

- Thirty-five (35) States have some statutory authority designating the clerk of the court as an entity to which payments may (or in some cases, shall) be made. While some statutes expressly mandate that payments be made through the court, others are more permissive. Many specify alternative options, perhaps due to court or judicial district variances (e.g., Kansas specifies "court clerk or court trustee.").
- These States and Territories are: Alabama, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virgin Islands, Wisconsin, and Wyoming.
- Another four (4) States refer to a "county officer"

¹ State Statutes Addressing Entity to which Child Support Payments are Made. OCSE Policy Branch April 13, 1993.

(such as the New Jersey Probation Department or the Georgia Child Support Receiver). These are California, Georgia, New Jersey, and Ohio.

- Five States have statutes that designate a "county depository" or centralized "family support registry." These States are Colorado, Florida, Iowa, Vermont, and Washington. Vermont's statute embraces all orders, not just those in IV-D cases. Two of these States, Iowa and Colorado, also have provisions imposing the collection responsibility on clerks of the court for non-IV-D cases (therefore, these are listed above among the 35).
- Eleven States refer to the support enforcement agency as the entity to whom payments are to be made in IV-D cases, and are generally silent regarding non-IV-D cases. These States are: Alaska, Delaware, Hawaii, Maine, Maryland, Minnesota, Mississippi, New York, Utah, Virginia, and West Virginia. Texas specifies three options in their income withholding statute-- court registry, child support collection office, or attorney general, but mandates that payments go to the AG in IV-D cases.
- One State - New Hampshire- specifies that in cases where the obligee does not make application for IV-D services but wishes to utilize the services, available services are limited to "monitoring, collecting, and disbursing monies."
- New Jersey's law on applying for income withholding is noteworthy in that it addresses the probation department's role in recordkeeping to document, track, and monitor support payments and in administering withholding in cases in which the obligee has not established a IV-D case.
- In addition to "court clerks," States' laws also refer to alternatives such as "family division or support enforcement services unit" (CT), probation officer (ID), district attorney (NV), checking or savings account or directly to obligee's bank account (OR), and court registry (TX).
- Iowa's "collection services center" statute is particularly exemplary, from the standpoint of its explanation of payment processing and references to two "official entities" for disbursing support: the collection services center (IV-D cases) and clerks of the district court (non-IV-D cases).

- Washington State's statute setting forth legislative intent to establish a "central support registry" in the State to "improve recordkeeping" and "reduce the burden on employers" by "creating a single standardized process" for deducting support payments from wages, may be a useful model for other jurisdictions contemplating centralization of payment processing.

Matching payments to cases

Most IV-D child support payments are currently received in the form of a money order, personal check or certified cashier's check. To avoid the problem of personal checks with insufficient funds, some States require non-custodial parents to pay with cash or money order. A large number of obligors still pay child support in cash at the cashier window of a child support office or clerk of the court. Some States have begun accepting credit card payments, which can be taken over the phone. At least one county has experimented with Electronic Funds Transfer (EFT).

Regardless of the method of payment, there is a need to identify the payments and match them to the correct child support case record. Payment books and billing notices are the most common methods used to identify payments. Social Security Numbers, which are used as identification in many State child support systems, are not adequate identification if the absent parent is obligated by more than one support order. CSE statewide system certification requirement is that the system generate bills which provide for payment identification, such as return stubs or coupons.

States or counties currently have little incentive to distribute money that is hard to identify. Money from payments that cannot be identified to a particular case can be retained by States under State unclaimed property statutes. Simplifying the requirements and automating the distribution & disbursement process would help States disburse collections more accurately and in a more timely manner. It should be noted that OCSE policy requires that undistributed collections be treated as unclaimed property, reported as program income and deducted from State expenditure claims for Federal funding.

Distribution:

The distribution of child support collections is a complex process which is guided by regulations found at 45 CFR 302.32, 302.51, 302.52, 303.72, and 303.102. Except for amounts collected through the Federal and State income tax refund offset process, amounts collected are treated as payment of the support obligation for the month in which the support was collected.

Amounts in excess of the required support obligation for the current month are treated as a payment on the required support obligation for previous months (an arrearage). Because the distribution of previous months' payments are based on case type (i.e., AFDC, Non-AFDC, Foster care, non-AFDC Medicaid), case status must be accurate. Further, households receiving AFDC are entitled to a maximum \$50 pass-through payment if the non-custodial parent pays up to \$50 in current support.

Amounts collected through tax offset may only be applied to arrears certified by the agency that performed the offset. Collections in AFDC and IV-E cases made through Federal and State income tax refund offset must first be applied to certified AFDC and Title IV-E foster care arrearages. In non-AFDC cases, State tax offset collections must be applied to certified arrearages in accordance with the State's non-AFDC distribution policy when both assigned and non-assigned arrears were certified. Amounts which are received through either tax offset process and exceed certified arrearages must be paid to the non-custodial parent, unless that individual agrees to have the excess amount applied to other arrearages.

Disbursement:

Once support payments have been accounted for and distributed in accordance with Federal and State regulations, those payments must be disbursed. Payments which go directly to a custodial parent are "transmitted" in a variety of ways, based on State and local policies. In some counties, the check from the non-custodial parent is countersigned by the IV-D agency or Clerk of the Court and mailed to the custodial parent. Other States will disburse cash payments over-the-counter, while still others issue a State or local check. Some transmit the payments using Electronic Funds Transfer (EFT), which amounts to a direct deposit into the custodial parent's bank account. Baltimore City has been piloting an Electronic Benefit Transfer (EBT) system where benefits, including the \$50 child support pass-through, are placed in electronic accounts for debiting using an ATM-like card. For AFDC households and Foster care children, collections are transmitted to the IV-A and Foster Care agencies respectively. Since AFDC and foster care payments have already been made to the custodial parents, these payments are accounted for and disbursed in accordance with IV-A and Foster care distribution policy. Pass-through payments may be made by either the IV-D or IV-A agency.

Automation

To stimulate the development of automated computer systems, Congress mandated, as part of the Family Support Act of 1988, that each State have an automated, Statewide computer system in

place no later than October 1, 1995. The systems are to be comprehensive, which means that the system must provide all functional program requirements. The requirement for automation was driven by a recognition that the myriad program and accounting activities that States needed to perform to operate the program in accordance with program requirements could only be accomplished with the aid of automation.

In the area of collections, each State's automated system must:

- Have the capacity to automatically bill all cases other than those with income withholding in effect;
- Automatically process all payments received;
- Support the acceptance of payments and transmission of interstate collections to other States using Electronic Funds Transfer (EFT) technology;
- Be uniform Statewide, accepting and maintaining all financial information and performing all relevant program calculations;
- Distribute collections in accordance with Federal and State regulations; and
- Generate notices to AFDC and former AFDC recipients regarding support collections received, and to the IV-A agency regarding collections received on behalf of AFDC recipients.

The automated systems must also be capable of generating reports regarding all collection activities, and maintaining an audit trail for receipts, distributions, and disbursements.

EFT

In an effort to improve the transmission of child support collections from employers to IV-D agencies and between State IV-D agencies, the regulations have mandated that each automated system be capable of receiving and disbursing funds using EFT technology. For employers, this means that they will be able to combine wage withholdings with other electronic payment transactions, such as direct deposit of employees' salaries. Employers who chose to transmit funds using EFT would build an Automated Clearing House (ACH) file or tape which would transmit the withholdings, accompanied by identifying information. The payment and identifying information would travel from the employer's bank, through the ACH using the Federal Reserve Banking system, to the IV-D agency's bank. The monies would be deposited on account at the IV-D agency's bank, and the

identifying information transmitted to the IV-D agency for accounting, distribution and disbursement. The use of EFT technology will eliminate the preparation and transmission of checks by employers, and the manual posting and deposit of checks by the IV-D agencies. Further, the speed of electronic transmissions should reduce "mailing time" to less than one day.

A pilot using EFT technology was conducted in Iowa and Nebraska during the early 1990s. It was successful, and OCSE has been moving ahead to encourage the use of EFT nationwide. The identifying information which would accompany the deposit (Electronic Data Interchange (EDI)), has been standardized in a format approved by the Banker's EDI Council. Payroll processing firms and payroll software developers are in the process of modifying their offering to include a CSE component.

Recordkeeping and Monitoring

For IV-D cases, monitoring of child support payments provides notice to the caseworker that action needs to be taken to enforce an existing support order. If collection monitoring is combined with new hire reporting by employers, caseworkers or automated systems can be alerted to changes in employment and expeditiously initiate a new wage withholding action. If the child support program is expanded to include non-IV-D cases, monitoring of child support payments takes on new importance. If child support payments are adequately monitored, enforcement action by the State can begin sooner than if the custodial parent had to obtain an attorney or proceed pro se to pursue traditional legal remedies.

While the argument has been made that keeping up to date records on petitioners and respondents is best accomplished through maintaining personal contact at the local level, the dramatically increasing caseload for child support combined with staff reductions and turnover is making personal contact with clients a thing of the past. In fact, States that have moved to centralized collection argue that consolidating the support collection staff at the State level permits county and local staff to be redirected to essential client services.

States that utilize local collection and disbursement, especially through the clerks of the court, have found duplication of effort in recordkeeping. The local clerks often have an "official" record for all child support payments as well as a separate record they keep for IV-D cases. The recordkeeping is often manual or maintained on a separate automated system. Auditors and Federal reviewers have found that the payment records often conflict or are out-of-synch.

Federal law dictates that States keep careful records of incoming and outgoing payments, and new Federal regulations require that

the child support enforcement agencies send a monthly notice to each AFDC recipient informing them of collections made in their case. While having a Statewide automated system may improve the recordkeeping in local agencies, it is unlikely to change many clerks of the court's practice of maintaining duplicate sets of records.

Centralized collections would facilitate the calculation of arrearages, because it would provide a single, complete and accurate record of payments. In contrast, the record of payments is often inaccurate when collection and disbursement is performed locally. There are a number of reasons for this inaccuracy. For example, collections from State and Federal Income Tax Refund offset are sent directly to the IV-D agencies. As a result, in States with localized collection and disbursement, the State IV-D agency's arrearage balance will be out-of-synch with arrearage balance kept by the local office (eg. clerk of the courts). In addition, auditors have found that many clerks of the court calculate arrearage balances only upon specific request before enforcement actions, which further contributes to the inaccurate payment records found in States with localized collection and disbursement.

Many States are utilizing an automated Voice Response Unit (VRU) to keep custodial parents apprised of the status of payments on their child support obligations. The information for these VRUs is obtained by daily extracting the latest collection data from the automated system. Providing accurate, up-to-date payment information would be simplified if payments were processed centrally.

State Centralized Collection

The States of New York and Colorado are good examples of county-based States that are moving to centralized collections to improve efficiency and reduce costs.

NEW YORK

In 1990, the State of New York enacted legislation requiring the Department of Social Services to undertake centralized collection and disbursement of child support payments on behalf of the 58 counties. The New York centralized collection project is currently in the first year of a three year contract in which a private contractor will act as the financial institution for performing collection and disbursement functions on behalf of the State's local districts.

Currently, procedures have been developed, implemented, and are being tested in eleven local social service districts for a period of six months. These eleven districts represent 25% of the State's total caseload. An independent evaluation will be

conducted concurrently with the pilot. If the results of the evaluation demonstrate that centralized collections and disbursement is cost-effective, the contract will continue with Statewide implementation taking place during the second year. If the results of the independent evaluation prove that centralization is not cost-effective, the contract will be terminated.

In 1988, these local Support Collection Units managed a total of 291,000 payment accounts which resulted in the processing of 5,300,000 individual payments totaling \$360.5 million. By 1994, there will be over eight million payments. Ten percent of the payments received by the local offices are walk-in payments, of which one-percent are cash payments.

According to the New York Advance Planning Document, one of the main reasons that New York was looking at centralized collections was that while major enhancements have been made to provide automated support in virtually every other area of case and fiscal management, front-end data entry of support payments has remained a labor intensive manual process which has not improved significantly since 1978.

Centralizing collection permits the utilization of state-of-the-art equipment to process payments into computer tape format, permitting automated posting and updating of existing computerized account records. The redesign of payment processing will: (1) minimize the backlogs that occur as volume increases; 2) allow for employing or redirecting staff to vital program areas such as establishment or enforcement; and 3) eliminate inconsistencies among local social services districts.

The original cost/benefit analysis estimated the current local Support Collection Units (SCU) at 900 employees costing \$30 million a year, the Statewide SCU at 425 employees costing \$16.9 million a year and \$12-14 million in costs for a contractor acting as fiscal agent. The estimate for local districts for support collection and disbursement functions was over \$10 million in calendar year 1988 and is increasing at a rate of 6% a year. That amount represents salaries, fringe, overhead costs, non-salary costs, training and system costs. After the contract was awarded for the pilot project, and the fiscal agent's rates were calculated, the operational cost savings of centralizing collections was anticipated to be \$20 million for the three year contract.

New York has undertaken efforts to accommodate the political situation in their counties. For example, although the child support payments are mailed to the same centralized address, each county is delineated by the extension digits on the nine digit zip code. This facilitates sorting by county. A different signature plate is developed for each county so that the check

mailed to the custodial parent reflects the particular county official's signature. This allows the counties to maintain their separate identities in child support enforcement.

To address client service, the centralized collection contract includes establishment of a voice response system to provide clients and respondents with the most recent collection and disbursement information, as well as information about child support services that are available. This service is available to clients on a 24-hour basis.

Colorado

After much debate and several previous defeats, the Colorado Legislature passed legislation to mandate a study to determine the feasibility of implementing a centralized payment registry to process child support payments statewide. In Colorado, approximately 25,000 IV-D child support payments are collected for AFDC and non-AFDC clients each month. According to the Colorado Advance Planning Document, these collections were over \$44 million in 1989. Fifty-five percent (55%) of the collected amount is disbursed to non-AFDC clients, while approximately 17,000 warrants are disbursed to non-AFDC clients each month. The determination of whether to proceed with conversion of non-IV-D cases will occur after installation and conversion of IV-D cases.

The Colorado centralized collection pilot began on July 1, 1993. Six counties comprising approximately 30% of the caseload have been transitioned with 55,000 redirect notices sent to obligors, obligees, courts, employers and other States. Statewide implementation is scheduled to begin August 1, 1993 and completed January 31, 1994.

Colorado currently has 63 judicial jurisdictions and county CSE units receiving and recording child support payments, transmitting support collections to the counties, forwarding non-IV-D support directly to obligees, maintaining official payment records and complying with State and Federal reporting requirements.

Fifty-three courts, processing approximately 20% of payments, utilize strictly manual techniques. The majority process payments using a pass-through system in which they record the payment on a ledger card, countersign the check and mail the payment to the recipient. A few courts deposit the payment in a bank and write a new check to either the County or the obligee. The remaining 10 district courts and the Denver Juvenile Court WHICH represent 80% of the child support payments, process payments through contracted banks. These banks collect, photocopy, and microfilm payments prior to entering the payment information onto a transaction tape which is processed by the

Judicial Department's automated Alimony and Support System (A&S).

The A&S system keeps a record of each payment receipted by court case number, but does not provide balancing features. The Contracted banks do not correct exceptions, unidentified payments or payments which must be split between multiple cases. Each year an estimated 21,000 payments must be returned to the court and worked manually in order to correct exceptions, split payments between current support and arrears, split payments between multiple payees, etc..

Under the current system, cash, money orders and certified checks are processed and distributed immediately, but personal checks for IV-D cases are held 8 days and personal checks for non-IV-D cases are held up to 21 days. Under the new centralized system, the fiscal agent is required to have a two day turn-around.

Colorado estimated that currently up to 50% of the State's child support and maintenance payments (the non-IV-D cases) are made directly from parent to parent. These may be transferred to the centralized collection registry if the IV-D processing proves successful.

Since payment information is currently stored in multiple manual and automated files in both the judicial and CSE systems in 63 jurisdictions, information may be stored in as many as 126 different files. Colorado estimates that workers spend over 78,000 hours per year performing duplicative activities as a result of localized collection and disbursement processing. Another 10,000 hours per year is spent traveling to the 54 manual court sites to copy needed information from manual ledger cards, compile the data and write the annual reports mandated by State and Federal reporting requirements. Colorado estimates that for an annual investment of \$1,690,000 they will receive annual benefits of \$7,107,000 (\$5,460,000-increased child support collections, \$1 million in cost avoidance and \$647,000 in welfare reductions) from centralizing collections.

Privatization

Many of the States opting for centralized collections are contracting with a fiscal agent to provide support collection and disbursement services. If a State acquires the services of a financial institution to perform certain functions (ie. collections) of its comprehensive system, enhanced FFP will be available to develop software for interfacing with the financial institution's system, keying in case data, and enhancing the State's comprehensive statewide IV-D system. However, service charges and/or equipment lease cost assessed by the financial institutions or the State will be matched at the regular

administrative rate only.

One of the benefits of privatizing the collection process is that private fiscal agents are able to allocate staff to meet the peak collection and disbursement cycles. As shown by the New York State feasibility study and cost/benefit analysis, a private fiscal agent can often perform the centralized collection and disbursement functions at a cost considerably lower than State agencies.

Considerations for Centralized collections

Pros of Centralization

Costs: Centralizing collections and disbursement can reduce administrative costs. Fewer collection support staff are required to maintain a centralized collection system than to maintain a collection and disbursement system in every local county clerk's office. Consolidation of collection support staff at a central location would free up local workers to concentrate on investigative and court activities. In addition, the centralized collection staff can become specialists. Reduced administrative and data processing costs will result from a single vs. a multiple bank reconciliation process.

More effective use of Automation: Centralized collections enable States to utilize state-of-the-art automation, such as check sorting machines, that would not be feasible or cost-effective in smaller jurisdictions. Centralized collections would simplify the acceptance of payments via computer tape from large employers and streamline the utilization of Electronic Funds Transfer technology to transmit payments from employers to State IV-D agencies.

Simplify withholding: Employers would prefer to send the child support payments withheld from employees' wages to one centralized location within the State rather than numerous local collection locations.

Universality: After January 1, 1994, all new child support orders will be subject to income withholding. In many States this will create duplicate collection and disbursement systems for IV-D and non-IV-D child support collections. Employers would prefer to send the withholding to one central location within the State.

Monitoring: Centralizing collections would facilitate recordkeeping and utilization of voice response units for client services. As a result, any disruption in payments would trigger enforcement activities.

Administration: Centralized collections would result in consolidation of files in cases where the petitioner and

respondent reside in different State counties/districts and in situations where the respondents have cases in more than one State county/district. This eliminates the need to transfer files from one jurisdiction to another as a respondent moves within the State. Consolidation of payment and disbursement eliminates handling of case payments at numerous locate sites with its inherent security problems.

Timeliness: Improved payment processing will result in reduced timeframes for handling, sorting, batching, posting, depositing and disbursing receipts.

CONS OF CENTRALIZATION

Political considerations: The clerks of court and local politicians who currently have their signatures on child support checks are likely to oppose centralizing the child support collection and disbursement process. However, New York's solution to this problem seems to be an acceptable compromise.

Costs: The initial start-up costs associated with the computer hardware, operating system and application software upgrades and enhancements would be substantial. Most States will have completed their financial component of their Statewide automated CSE system before centralized collection is required. Only six systems are currently based on centralized collections. A new requirement for centralized collections might require the replacement or modification of expensive "new" financial components of automated systems. Although centralization will consolidate and thus reduce the need for support collection staff, some increased administrative costs related to centralization may occur due to the increased cost of administrative and legal processing and maintenance of unidentified funds accounts.

In some States, the courts are the "official record holder" of the child support payment and effective automation would be needed to permit courts to "own" the child support data.

Service to Client: Public relations and correspondence problems. It is anticipated that large numbers of inquiries, both by mail and by phone would have to be handled by the State unit. Training and public relations effort will be essential to assist employers in converting to centralized collection process. Centralization may actually cause longer disbursement delays than currently occurs in those instances where the obligor's check is countersigned and immediately mailed to the Custodial Parent. Obligor's presently paying in and over the counter, will now have to incur the additional expense and effort of obtaining a money order.

Administration: Certain aspects of the child support enforcement program are likely to remain at the local level. Initial intake, respondent location and court appearances are local functions. Personal contact at local level facilitates keeping accurate, up-to-date records on petitioners and respondents. A Statewide system would be dependent upon the relationship between the Court and local child support office for receipt of copies of support orders. This can lead to serious delays in activating accounts. Should payments be received prior to receipt of any order, monies would have to be held in suspense accounts pending identification, and large amounts could accrue before the data regarding the order is received at the centralized collection site.

Concern for safe and timely receipt of payments: Centralizing the receipt of payments involves the handling of large volumes of mail with increased possibility for loss of payments.

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UNIVERSAL CHILD SUPPORT SERVICES

EXECUTIVE SUMMARY

Child Support Enforcement services are provided automatically to recipients of AFDC, Medicaid and in some cases Foster Care assistance. All other single parent families must seek services on their own, either through application to the State Child Support Enforcement agency or through a private attorney. However, most parents owed child support can't afford to hire an attorney which often requires paying a large retainer up front, and according to some researchers, many others will not seek assistance, public or private because of fear of retribution from the noncustodial parent and because of the stigma created by the coupling of welfare and child support issues.

The Child Support Enforcement Amendments of 1984 began a move to recognize the support needs of private cases by mandating certain State laws to cover all cases of child support. This expanded focus was continued by the child support guideline and immediate wage withholding provisions of the Family Support Act of 1988 and would be further brought to bear by enactment of the Administration's 1994 proposal for in-hospital paternity establishment. Under the proposal, States would be required to establish in-hospital paternity establishment programs aimed at securing the voluntary establishment of paternity of all children.

A number of States have attempted to be even more responsive to the needs of the non-IV-D population by establishing uniform systems, rather than the traditional dual approach, for monitoring the support rights of all children. Current law however is clear that Federal funding is not available for child support cases unless families not otherwise eligible for such services make application and pay, or the State pays on their behalf, an application fee. States have responded to this requirement in two ways -- by requiring routine application for IV-D services in all cases of separation and divorce or by allocating the costs of such services between IV-D and non-IV-D so that appropriate Federal reimbursement is made.

While the Nation is clearly headed in the direction of establishing

a universal system for child support enforcement, many believe that with the majority of children destined to spend some part of their life in a single parent family, routine payment of child support should be inescapable like payment of taxes, without placing the burden on the custodial parent to take action. (The Child Support Enforcement program provides services to about half of all women potentially eligible to receive support from a parent not living in the home.) However, taking the current environment a step further and requiring all parents to participate in a public child support program and all States to operate a universal program raises a number of critical issues:

- o Federal right to intervene -- government intrusion
- o Institutional capacity of the system
- o Costs vs. benefits
- o Equity of services
- o Stigmatizing effect associated with public child support

Each of these issues is explored in the paper. In addition, the paper presents several options which could be pursued to extend the reach of the current child support program. Each could be pursued in conjunction with more uniform rules for providing services, as covered in the discussion of equity of services. The options include:

- o Status quo - opt-in approach with more aggressive outreach (could also be transitional approach)
- o Mandated universal participation
- o Universal services with opt-out provisions based on one or a combination of the following:
 - good cause
 - alternative arrangement
 - limited to existing cases with clear evidence of routine compliance

A hybrid approach could also be developed under which select program functions would be mandated (such as collection) with opt-out or opt-in rights provided for remaining program functions. Pros and cons follow each option.

UNIVERSAL CHILD SUPPORT SERVICES

I. BACKGROUND

Each year a million children go through divorce or separation and almost as many are born out of wedlock. Parents of these children have less time, attention, and money to devote to their well-being. Children in single parent families are six times as likely to be poor as children in two parent families and are likely to stay poor longer. The single most important factor leading to the poverty of these children has been the widespread withdrawal of financial support and involvement by fathers.

The financial insecurity faced by these children can be devastating. A study conducted by the National Child Support Assurance Consortium found that children faced by the abdication of one parent lost the chance for a safe and healthy childhood. Mothers interviewed reported that in the first year after the father left their children went hungry, lost access to regular health check-ups and did not see a doctor when they were ill. Children lacked appropriate clothing and couldn't participate in regular school activities due to a lack of funds. A large number lost their regular child care because of cost and a substantial number were in turn left unsupervised while their mother went to work. More than half of these families faced a severe housing crises. Within the first year, almost received AFDC and slightly over half received Food Stamps.

While public policy cannot address the emotional and behavioral effects changes in family structure have on children, it can lessen the consequences by insuring that their parents take responsibility for meeting their financial needs.

The advent of Government involvement in child support was driven by growing welfare rolls directly attributable to lack of parental support. Enacted in 1975, title IV-D of the Social Security Act created a federal-state program for the location of noncustodial parents, establishment of paternity and support, and enforcement and collection of support. Families with children receiving AFDC, Medicaid and in some instances foster care assistance are mandated

by statute to receive assistance in obtaining child support.

However, the problem of non-support crosses gender and income levels. Even single parents living above the poverty line are likely to experience persistent economic insecurity. These custodial parents have essentially two choices if they have an enforcement problem. They can either hire their own attorney or apply for services at the state Child Support office. Most women owed child support however can't afford to hire an attorney which often requires putting a large retainer up front and according to some researchers many others will not seek assistance, private or public, because of fear of retribution from the noncustodial parent and because of the stigma created by the coupling of welfare and child support issues. In addition, requiring parents to seek services, public or private, is alleged to set up animosity between the parents and has a tendency to alienate children from non-supportive parents.

The remainder of this paper will focus on who is receiving or failing to receive child support services and whether the government can and should develop an equitable approach to protecting the support rights of all children.

II. CURRENT DIRECTION

Who is receiving services - public and private?

Public

All families receiving Aid to Families with Dependent Children (AFDC) payments due to the absence of a parent from the home are required to cooperate in the establishment of paternity and the collection of child support and to assign their rights to such support to the State. To reimburse the State and Federal costs of assistance payments the State retains all but the first \$50 of current monthly support paid on behalf of such families.

Since 1987, applicants and recipients of Medicaid have been similarly required to cooperate in the establishment of paternity and in the collection of medical support as a condition of

eligibility. Medical support payments collected on behalf of these families are directed to the State Medicaid agency to reimburse the costs of medical assistance but any child support collected on their behalf is paid directly to the family (if they are not AFDC eligible). These cooperation rules were later relaxed to exclude pregnant women and women with newborns of less than two months old. This action was taken because of concern that women would not obtain essential prenatal and early infant care if forced to cooperate with child support agencies.

State child support agencies are also required to provide child support services for children on whose behalf the State is making foster care maintenance payments. However, because of the unique and sensitive situation of these children State action has been slow.

Similar to the concerns prompting the relaxation of the requirement for Medicaid cooperation, past proposals before Congress to extend the requirement for cooperation as a condition of Food Stamp benefits have met with substantial opposition from advocacy groups. These groups were concerned that the nutritional needs of pregnant women and children would suffer in cases where custodial parents chose to do without Food Stamp benefits rather than cooperate with the Child Support agency. The Food and Nutrition Services of the Department of Agriculture has however undertaken a study to evaluate options for increasing the use of child support enforcement services among food stamp households. Their report should be released during the summer.

In addition to the mandated participation of families receiving public assistance, any other family may obtain services from the state Child Support agency by making application and paying an application fee. States may also charge fees for services and recover costs not otherwise covered by such fees.

In FY 1991, IV-D services were being provided on behalf of over 6 million AFDC and Foster care cases and on behalf of over 5 million non-AFDC cases which includes Medicaid cases not eligible for AFDC but nonetheless required to cooperate as a condition of eligibility.

Private

All remaining single parent families rely on the willingness of the noncustodial parent to pay the support for which they are responsible or seek private assistance in obtaining support.

Pursuing child support through private avenues can be expensive. There are attorney's fees, court filing costs and possibly genetic tests costs to pay which alone could be as much as several hundred dollars. Once an order is entered, it needs to be enforced. Unless the father voluntarily pays, enforcement entails additional lawyer's fees and court costs. For a mother whose income is already near poverty and is reluctant to seek IV-D services, these costs can be an insurmountable barrier to obtaining support for children.

Based on the National Child Support Assurance Consortium study mentioned earlier, mothers first try to support their children on their own. Primarily, they rely on their earnings, joining the labor force for the first time or taking a second or third job. They report that in many cases, "the children literally lost both parents - one who walked out on them and another who was so busy trying to keep them housed, fed and clothed that she had little time for parenting."

Private attorneys have traditionally been hired by obligees to collect support but more recently some individuals have turned to private collection agencies. These agencies typically charge fees of 25 percent to 40 percent of the collection and tend to work only the most profitable of cases.

Census data estimates that about \$11.2 billion of \$16.3 owed in child support was received in 1989.

Penetration

The Child Support Enforcement program provides services to about half (47 percent) of all women potentially eligible to receive child support from a parent not living in the home. Mandatory IV-

D clients account for about 28 percent of all families potentially eligible for child support and non-mandatory IV-D cases account for about 19 percent. Of women without awards, there are about 1.6 million mandatory users, 400,000 voluntary users and about two million non-users of IV-D services.

There are few differences between non-mandatory families who have voluntarily sought IV-D services and those families who have not sought services. The marital status, race, number of children, age, education, and employment status of mothers are very similar. What distinguishes public non-mandatory and private cases (non-users) is the extent to which child support is paid. For voluntary users of IV-D services, 34 percent receive all of the support due while 39 percent receive none of the amount due. Sixty-six percent of the non-users receive all child support due, while eighteen percent receive none of the support due.

Finally, there is a substantial difference in income between mandatory users, voluntary users and non-users. The mean family income for mandatory users it is \$6,700, for voluntary users it is \$17,500 and of non-users is \$23,500

While all these families could clearly benefit from receipt of child support, the families currently receiving IV-D services, especially those without support orders, are significantly less well off financially and thus more in need of such services than those currently outside the IV-D system.

Move toward universal services

The Child Support Enforcement Amendments of 1984 began a move to recognize the support needs of private support cases by mandating certain State laws to cover all cases of child support. Since then the non-AFDC component of the child support program has expanded markedly and the level of services provided has improved considerably. This is especially true in areas such as the Southeast where little attention was previously given to these cases.

However this expanded focus was most dramatically brought to bear

by the child support guideline and immediate wage withholding provisions of the Family Support Act of 1988.

Beginning in 1990 States were required to use one set of guidelines to address support amounts in all new or modified support orders, both public and private, with limited exceptions. This provision is expected to insure that equitable levels of support are established without regard to the intervention of the State Child Support agency.

Perhaps more dramatic to the concept of universal services is the Family Support Act requirement which beginning in 1994 requires immediate income withholding for all new private orders. While this provision will go a long way to insuring that private cases have access to the most valuable enforcement mechanism already available to public cases, it will not extend coverage to private cases with older orders or where the non-custodial parent's income is not reachable through wage withholding.

The Administration's 1994 proposal for in-hospital paternity establishment also takes a big step forward in removing the distinction between public and private support cases. Under the proposal, States will be required to establish in-hospital paternity establishment programs aimed at securing the voluntary establishment of paternity of all children. Recognizing that often public assistance is not needed or sought until sometime after the birth of a child, the proposal was not limited to current public support cases but rather is directed at all out of wedlock births in the State.

While these families will not receive State intervention in establishing and securing support unless the family decides to make application for child support services or subsequently becomes eligible for Federal assistance which mandates the receipt of such services, the provision will be beneficial in eliminating current delays associated with paternity establishment, and in turn, expedite the establishment of the order and collection of support at the point IV-D services are sought.

States which extend services to all

Federal regulations are clear that Federal funding is not available for child support cases unless families not otherwise eligible for such services make application and pay, or the State pays on their behalf, an application fee. While some have questioned its efficacy, this requirement is clearly articulated in statute and has also been viewed as protecting the rights of parents and Federal interests. In the absence of such an application, parents may not be aware of the benefits and consequences of receiving such services, including in some cases liability for the cost to the State of providing services. In cases where the parent is receiving support regularly, the other parent simply may not want support enforcement agency involvement since it would be unnecessary and might even create tension between the parents.

With respect to the Federal government, concerns were that States would refinance support enforcement administrative costs related to non-IV-D cases at Federal expense, without necessarily enhancing or even directly affecting services provided to families. In addition, there was concern that the inclusion of these cases would qualify some States for larger incentive payments under the IV-D program, payments that are entirely Federally-financed, through a simple transfer of already ongoing child support collections to the State child support program. Several years ago, the Congressional Budget Office estimated that a legislative amendment would increase Federal costs \$155 million per year.

States have responded to this requirement in two ways. Some States require routine application for IV-D services in all cases of separation and divorce. While additional federal funding may attribute to this action in some cases, States have clearly expressed the desire to provide a uniform system, rather than the traditional dual approach, for monitoring the support rights of all children. The response of other States has been to provide universal services but to allocate the costs of such services between IV-D and non-IV-D so that appropriate Federal reimbursement is made.

Washington for example attempted to have all support orders treated as IV-D cases so they could be handled routinely through their central clearinghouse. The federal rules requiring a written application for IV-D services for each case stalled this effort until State procedures could be changed.

Currently, Michigan, Wisconsin, Pennsylvania, New Jersey, and Ohio provide some form of universal services. In Michigan, the entire IV-D and non-IV-D caseload is the responsibility of the Friends of the Court, local circuit court based agencies under cooperative agreement with IV-D. Cost allocation between IV-D and non-IV-D activities is done at the local agency level by time studies and total costs are adjusted by the percent of time spent on non-IV-D activities.

Wisconsin's form of universal services, implemented in 1987, was established partly as an outgrowth of the Wisconsin Child Support Initiative contained in the Child Support Enforcement Amendments of 1984. The core of the State's child support statutes do not distinguish between IV-D and non-IV-D requirements. All support orders contain an assignment of support to the court issuing the order, and establish immediate withholding (with no opt-out allowed for good cause or alternative arrangements). If the obligor subsequently becomes delinquent, the custodial parent must apply for IV-D services if he/she wants the State to take other enforcement actions.

In Pennsylvania, the State has been collecting child support on behalf of all custodial parents since the 1930s. With the advent of title IV-D in 1974, the State transferred workers who had been working for State courts into the newly formed Bureau of Child Support in the Department of Public Welfare. Today, all counties have cooperative agreements with the State establishing the local court of common pleas as the IV-D agency. Since Pennsylvania uses a court based system, and all petitions to establish paternity or establish child support contain language requesting IV-D services, all cases in the State are within the IV-D system. The courts, in turn, contract with the local District Attorney (or private attorneys in some small counties) to provide legal services, although custodial parents may use their own attorneys if they

wish. All support is collected by the courts through wage withholding or direct pay to the clerk of the court. The only possible way a child support case could be outside the IV-D system is for the parties to reach a private arrangement without using the court system.

While not providing universal services per se, a number of States have designated in statute a single registry or dual registries for processing all child support payments. The Social Security Act provides that States may develop procedures for the payment of support on behalf of non-IV-D families through the IV-D agency. Under New Jersey statute every award for alimony, maintenance or child support payments must be made through the probation department unless the court orders otherwise. In Ohio, both IV-D and non-IV-D obligors must make payments through the clerk of the court. Thus, in many States a mandate for universal services may mean little more than joining two separate State operations. Attached to this paper is a listing of State statutes addressing the entity to which child support payments are made.

However, pursuit of a universal approach has not been trouble-free in all States. Iowa recently decided to have all support (IV-D and non-IV-D) collected by the IV-D agency, but ran into problems with their legislature because of complaints from noncustodial parents over inaccuracies in arrearage computations. The State now requires that all non-IV-D support payments be made through local clerks of the court.

Illinois developed another approach toward some semblance of universality which involves outreach to non-IV-D cases with respect to review and modification of orders. For parents who choose not to apply for IV-D services, the Illinois Task Force on Child Support published a "do-it-yourself" package for modifying child support awards. Using this material, both custodial and non-custodial parent in Cook County can petition for modification and represent themselves in court. After a publicity campaign, requests for the self-help package came into the task force at the rate of 90 a month.

These actions suggest that States have not been completely

unresponsive to the needs of the non-IV-D population.

III. DISCUSSION

Underlying philosophy of the program

In a January 21, 1992, Wall Street Journal article on universal wage withholding, an attorney representing a noncustodial parent distraught over a withholding order stated that "His employer has a staid traditional culture and a wage withholding garnishment for child support was not the image he wanted to portray among co-workers." Another attorney in the same article stated concern that the more universal requirement casts conscientious parents in the same category as the dead beat.

Clearly, the message we have sent with respect to child support needs to be changed. With the majority of children destined to spend some part of their life in a single parent family, routine payment of child support should be viewed as the norm. However, questions of universality raise questions of parental choice and unwarranted government intrusion. A recent article on changing family structure questioned what the expectations should be when the interests of adults and children conflict?

Federal intervention

As indicated by the above, the nation is, to at least a limited extent, headed in the direction of establishing a universal system for child support enforcement. Taking the current environment a step further and requiring all parents to participate in a public child support program and all States to operate a universal program however would undoubtedly be controversial. To some people this looks too much like big government intruding on the rights of the individual.

In review and adjustment demonstration projects all States reported the largest single reason for terminating non-AFDC review was the lack of authorization. (Note, this information should be viewed as anecdotal given the low percentage of respondents). The most prevalent reasons for lack of authorization included an

unwillingness to go to court or otherwise get involved in legal action, a desire to avoid involvement with the other parent and concerns that custody or visitation would be raised. These concerns, expressed by parents who sought government services, would undoubtedly resonate from those who have not asked the government to intervene on their behalf.

Colorado's experience may however be more relevant in considering approaches to universality. Under its demonstration project, rather than trying to force participation they developed a policy of aggressively trying to get people to participate. Their much lower rate of terminations evidences the potential benefits of this approach.

Counter to arguments against unsought government intervention, are the arguments of others that since the child support is really for the children, their interests and not necessarily those of the parent should prevail. Children should not be held hostage to ongoing disputes and grievances of the parents. Their well-being dictates that their economic security be given a priority.

Under this view, payment should be inescapable like payment of taxes. It should be done automatically whenever a payment is late or missed, without the mother having the burden of taking action. Some argue that because of the unequal power structure between men and women that women often go without support for fear of retribution from the noncustodial parent in the form of threats and abuse. The burden for child support enforcement should be removed from the custodial parent.

Some fear of government intrusion is thought to be just a fear of doing things differently and initial public and political resistance should be expected. In fact, parents in states that already require all payments through a registry do not report this concern and in fact most parents are said to prefer not having to exchange the support personally. Additionally, Attorneys and other involved in the legal system see it as more efficient and accurate because a record of payments is established.

Government intervention in protecting the economic security of its citizens is certainly not innovative. As Mary Jo Bane notes in Overview: Social Policy, President Franklin D. Roosevelt and the New Deal first defined the social policy mission of the Federal Government: to provide economic security to people unable to support themselves. Most notable among the steps taken by the Federal government to protect its citizens is the Social Security System. The program is a universal public system for ensuring economic security which has been largely successful in eradicating poverty among the elderly. Payment of social security taxes, which undoubtedly raised ire among citizens in its infancy, are now routine. Few now question so-called government intrusion in this area.

The same routinization of child support may be in order to address changing family structure and most notably the significant increases in the number of single parent families. Mandating universal services would certainly send the message that social policy will continue to protect the rights of those unable to protect themselves -- in this case, children.

Institutional capacity of the system

The IV-D agencies presently have some 37,000 full time staff and a caseload of 13 million cases, but they successfully handle only one-half or less of all cases. By most estimates, caseloads would double under a universal system.

As indicated above under the discussion of program penetration, the current IV-D system may be viewed as adequately targeting those families who have the greatest need for child support assistance. Families with awards who receive mandatory services are substantially poorer than other families with awards. Any decision to extend child support services to current nonusers must consider whether such action would reduce the capacity of the publicly funded child support system to provide services to families most in need.

Minnesota conducted a pilot study including all wage withholding orders in the IV-D system from August 1987 to July 1989 and found

the inclusion of non-IV-D cases had an adverse impact on the regular child support program's caseload, administrative costs, staffing and AFDC collections. Caseload increased 33 percent and staffing by 14 percent. Non-AFDC collections increased 80 percent but AFDC collection increased only 16 percent. This compares to non-pilot counties where AFDC collection increases averaged 23 percent. The State was very concerned about the attention which was diverted from AFDC cases.

Certainly before adding additional cases to the current system, fundamental changes to improve performance outcome would be necessary. Currently the program collects support in only 12 percent of AFDC cases and 28 percent of non-AFDC cases. With these type of results, parents already apprehensive to the idea of becoming part of a public system would undoubtedly remain unconvinced of the benefits.

Because of the significant number of cases entering the system should universality become a reality, consideration must be given to transition. Should a decision be made for a universal system, it may be sensible to establish an interim approach where aggressive action is taken to include existing cases now outside the IV-D system, but where only new cases would be required to be included. This would prevent the system from being overburdened, allow parents with existing cases the opportunity to come to accept the universal approach and provide time for program enhancements (both those from the Family Support Act and others adopted under the current welfare reform endeavor) to work.

In addition, many believe that the current financial structure would need to be changed. Many advocates and custodial parents report that state agencies target AFDC cases and give second-class treatment to non-AFDC cases because the incentives are minimal for their cases. States on the other hand argue that they do not have sufficient staffing and resources to adequately provide services to their current caseloads and to keep up with the myriad of legislative mandates imposed on the program. These issues will be explored in a separate paper.

It is also worth noting that the Commission on Interstate Child Support Enforcement expressed concerns about overburdening the current system by mandating additional participation. While recognizing that a two tier system in which only some cases have remedies available to establish and enforce support obligations is not equitable, they recommend that all laws enacted by the Congress apply to all child support cases and that private attorneys have access to the various mechanisms for location and support enforcement. However, this would do nothing to alleviate the costs of obtaining private counsel and would still put the onus on the custodial parent to seek help.

Decoupling from welfare

Equity of Services

One issue associated with universal services is the question of whether the issue of child support should be decoupled from welfare. This is perhaps addressed best by a 1988 Nebraska ruling on the State's Referee Act which found that the Act's applicability to only IV-D cases amounts to an unreasonable classification inasmuch as it distinguishes between children whose custodial parents are receiving AFDC benefits and other children; amounting to a denial of equal protection of obligors based upon whether their children receive Federal assistance. The justices found that it is no answer to say that the same services are available to non-IV-D cases on payment of a fee (however small). In that case, a custodial parent not receiving AFDC must pay additional money to receive a service available automatically to those receiving AFDC.

Universal inclusion of all cases in the child support systems will not entirely eliminate program fragmentation or pave the way for attitudinal changes until all cases are treated equitably and fairly. While the Child Support Enforcement Amendments of 1984 went a long way in insuring that equal services were available to all cases many differences in treatment still remain. These differences most notably involve distribution of support payments, review and adjustment of support orders, medical support enforcement services, conditions for submittal for Federal income tax refund offset and treatment of collections for incentives

purposes.

Under the current rules for distributing support collections in the child support program, non-AFDC families receive all current and past-due support collected on their behalf except to the extent that they previously received AFDC and arrearages remain owing to the State. In this case, States have the option of retaining past-due amounts collected to apply to unreimbursed assistance payments or paying the amount first to the family to cover past-due support. As indicated previously, amounts collected on behalf of AFDC families are retained to reimburse the State and Federal government for the cost of assistance payments, with the exception of the first \$50 of current monthly support collected.

While a separate paper will address whether distribution rules should be changed, the current distribution scheme is overly complex and results in extraordinarily high State costs. Some also believe it acts as a disincentive for AFDC custodial parents to cooperate in the enforcement of support since they do not receive the actual support paid on behalf of their children, but rather a \$50 check from the State. Finally, it provides a disincentive for noncustodial parents to pay support since in their mind the State and not the children receive their payments. Several demonstration projects are currently underway to study the effects of these distribution requirements on child support compliance. However, with respect to at least one state, indications are that direct payment to the family has no net effect on child support compliance.

With respect to review and adjustment requirements, the statute clearly provides for unequal treatment of AFDC and non-AFDC cases. AFDC cases must be reviewed and adjusted automatically while in non-AFDC cases parents have to request a review thus putting the burden on the custodial parent, or the noncustodial parent to initiate the process. Given the unwillingness of parents to agree to such reviews evidenced by the review and adjustment demonstration projects, this voluntary approach will not insure that all support orders remain equitable over time.

Medical support enforcement, also addressed in detail in a separate paper, provides for inequitable treatment of AFDC and non-AFDC cases. In AFDC cases and non-AFDC Medicaid cases, States must pursue actions to include health insurance in the support order and enforcement actions of such provisions. However, non-AFDC cases must request that such services be provided on their behalf. This difference allows non-welfare families to choose whether they want to risk a reduction in their cash support because of inclusion of health insurance coverage but does not allow welfare families this same consideration. This explanation could also be presented in the reverse: welfare families are automatically afforded medical support protection to the extent possible but such considerations on behalf of non-welfare families is given secondary consideration.

The rules for submitting cases for Federal income tax refund offset also vary between AFDC and non-AFDC cases, with non-AFDC cases being provided unequal access to this enforcement technique in two ways. First, in non-AFDC cases the arrearage necessary to qualify for tax offset (\$500) is more than three times then that for AFDC cases (\$150). Second, past-due amounts sought in non-AFDC cases must be on behalf of a minor child while there is no such limitation with respect to AFDC cases.

Clearly the intent of these separate rules was not to treat non-AFDC cases with lesser attention but to avoid over-burdening the current system and at least with respect to Medical support enforcement and review and adjustment requirements, to insure that the desires of the family were protected. (As alluded to above, concerns have been expressed that inclusion of health insurance in a support order would reduce cash support available. To the extent that families are not dependent on medical assistance, it was believed in their best interest to provide a choice in receiving such services). However, as long as different classes of cases are treated differently, States will continue to operate dual systems of enforcement and clear decoupling from welfare cannot happen.

Finally, an issue of importance to both advocates and the States is the unequal treatment of collections in determining incentive payments available to States. Under the current process, incentives available for non-AFDC case activities are capped at 115

percent of the amount of their AFDC incentive payments. Most if not all States have reached this cap and thus receive no financial inducement to work on non-AFDC cases once this cap is reached nor, as some have complained, to actively seek to collect sufficient levels of support to remove families from AFDC. While this incentive cap was placed in recognition that support orders and collection amounts are larger for non-AFDC families, if we are to truly decouple the issue of child support from welfare and send the message that the government is interested in protecting the support rights of all children above all else, it may make sense to institute an incentive structure which applies equally to all cases.

Destigmatizing Effect

Destigmatization is another issue intrinsic to the concept of universality. Developing a system that embraces all cases and establishes uniform rules may have a limited effect in changing the perception that child support enforcement is a welfare issue, unless these changes are made in conjunction with a changed message - that society's, as well as government's foremost interest is protection of the child.

Such a change could invoke at least gradual society intolerance to parental abandonment and in turn reduce noncustodial parent resistance to compliance and increase the cooperation of custodial parents.

To a large extent this issue, if combined with an approach of equity of universal service delivery, can be simply one of semantics and presentation. Under Vermont's welfare reform waiver package for instance, the experimental program is entitled Vermont for Kids.

IV. OPTIONS

Following are several options which could be pursued to extend the reach of the current child support program. Universal paternity establishment has not been included here because it is being presented in a separate paper. These options focus on all other

IV-D services. Each could be pursued in conjunction with more uniform rules for providing services as discussed under the topic of decoupling above.

In addition, a hybrid of these options could be developed. Selected program functions (like collection and distribution) could be mandated for all cases with opt out rights provided for the remaining functions.

Status quo - opt-in approach with more aggressive outreach and accessible services

As indicated by the Colorado review and modification demonstration project, an opt-in approach can largely result in universality if the right message is sent.

This can also be viewed as a transitional step to universality with new cases subject to universal inclusion and existing cases subject to treatment under this approach.

Pros and cons

PROS

- o Colorado's demonstration project appeared to indicate that this can, if packaged properly, result in near universal participation.
- o Aggressive outreach could destigmatize services if properly packaged.
- o Serious programs of outreach could attract a substantial number of families currently outside the system. The study conducted by the Child Support Assurance Consortium found that over one-quarter of the respondents did not know that there was a state child support system designed to help them.

CON

- o May have very limited effect. Requirement for aggressive

outreach may be largely ignored by States with program which are already over burdened.

Mandated universal participation

All child support would be collected and monitored through the same system removing the distinction between IV-D and non-IV-D cases. A state could do this by requiring that all those with child support orders apply for IV-D services. This would allow all cases to be monitored by a single program with the staff to assist in collection. If payments are late are missed they could automatically generate reminder notices and enforcement action. The government then becomes the primary initiator of enforcement action. This could completely lift the burden off the custodial parent so they do not have to initiate action. The state would then have one uniform system for collections in all cases rather than the current dual system.

This could be more easily accomplished by eliminating the Federal requirement that non-AFDC families must apply for services or allow States to require application by operation of State law, so that the program were available to all. This would give states the incentive to unify collection services so that all cases are treated more universally. As the system becomes more universal, efficiency is enhanced if all cases are treated the same.

Pros and Cons

PROS

- o High volume processing and economies of scale could ensure a more efficient system.
- o The same uniform system would protect working class, middle class and upper class families.
- o Would heightened predictability of services
- o Would destigmatize child support

- o Opposition can be overcome through education and growing public experience

CONS

- o Parties privacy violated - people want government to help only when they need it -- not up to government to decide what is best for people
- o Unnecessarily involves parties who have no difficulty with child support
- o Acquiring millions of cases in the system could require a decade of transition; huge task to register let alone serve
- o Exacerbates current problems associated with lack of staffing/funding
- o May increase program involvement in custody and visitation issues -- parents concerned about these issues who currently avoid services would be involved
- o Initial consolidation costs as well as ongoing operational
- o If provisions are not included for good-cause opt-out could threaten the safety of some families. The National Child Support Assurance Consortium found that of the mothers interviewed who had not sought a support order, fear of domestic violence was a contributing factor for 31 percent of those who had been married and 10 percent of those who had not.

Opt-out provided - various options

All cases would be included in the same system unless they expressly opted not to receive such services. Specific rules for opting out should probably be included to lessen the ability of noncustodial parents to coerce this action. Among the possibilities for opt-out are:

1. good cause - much like that used in the AFDC and Medicaid program - though the efficacy of this approach has been seriously questioned.
2. alternative arrangement - like that provided under the requirements for immediate wage withholding - under this option the parents would be required to provide to the universal agency its reasoning for opting-out. For example, the parents may agree that a lump sum of child support will be paid in advance so that the noncustodial parent can use the money toward a down-payment on a home or to pay tuition for private education rather than receive monthly cash payments. The extent to which this would have to be proven or monitored also needs consideration.
3. existing cases only provided opt-out - and then, only where there is clear evidence that the terms and conditions of the support order have been routinely complied with. (Could also be used as transitional approach to option 2).

Pros and Cons

PROS

- o May provide for a system which excludes only the most exceptional cases
- o Requiring specific action on the part of the parent may send message that participation is an expectation
- o Would protect families with good cause reasons for not participating
- o If third opt-out selected, universality would eventually occur and proposal may receive less opposition
- o Children's best interest protected

CONS

- o Allowing people to opt out would only make the system work less efficiently.
- o It also means that AFDC cases are continued to be treated differently, resulting in a dual system that remains fragmented.
- o No matter what precautions are put in place, there will undoubtedly be cases where people opt out because of fear of the obligor caused by either direct or indirect pressure.
- o Opt-out provisions can often be used by domineering parents to escape their obligations. They can become a bargaining chip in settlement negotiations, and once agreed to the parent can put pressure on the other parent not to revert to the legal enforcement action. The custodial parent is then back to the old trap of doing nothing rather than rocking the boat or facing retaliation.

Costs and Benefits

More analyses for this topic is needed. We will look at data from CPS, administrative data and experience in States like Michigan, Wisconsin, Pennsylvania and Ohio to determine the extent to which universal services improve collections or merely delude performance.

Actual costs and collection potential will be provided in later iterations after the issues have been fleshed out and the data analyses and modeling group input is obtained.

Costs

One concern in extending services to all is concern about possible delays in receiving payment since payments would no longer pass from one parent to another. This concern can essentially be alleviated if the government entity has sufficient staff, resources and a dependable automated system. (This may not easily be assured, however, given the current Federal fiscal crisis.) With more and more wage withholding, most payments will not pass

directly and with electronic fund transfer there should conceivably be no extra delay.

Benefits

To Employers - Currently when wage withholding is included in orders for child support not registered and paid through a government entity, the employer has to send payments in non-IV-D cases to each custodial parent. This means employers must bear the burden of dealing with parent inquiries, tracking custodial parent addresses, etc. One employer in the Wall Street Journal article referenced earlier reported that he has to write 6,000 child support checks each pay period.

In 1994, when the requirement for immediate wage withholding goes into effect this burden may be somewhat alleviated because States will be required to designate an entity to carry-out withholding. However, since they are under no requirement to establish a single agency and because the IV-D process and withholding for existing orders will still involve separate payors, some employer burden will remain. The employer will still need to cut individual checks for each case and send them to different sources -- some to the clerk of the courts, some to IV-D, etc. A system of universal services would allow employers to pay one central source regardless of the ultimate payee.

To Families - By most estimates, a truly uniform and universal child support system could theoretically collect up to an additional \$25 - \$30 billion from non-custodial parents.

A record of payment would be maintained under a universal approach -- this is immensely important to non-IV-D cases where often the lack of records or poor records of past payment is often an impediment to enforcement action and calculation of an arrearage.

Further, under a unified universal system all cases are treated fairly and the burden is not placed on the custodial parent to seek out service which they may be reluctant to do out of fear or concerns of not wanting to adversely impact the relationship between the children and their noncustodial parent.

To the Government - Fragmentation leads to both inefficiency in collecting support and unequal treatment. Multiplicity of levels and branches of government involved in establishment, review and adjustment and enforcement would be reduced and replaced with a unified approach so all families are treated similarly.

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**STATE STATUTES ADDRESSING ENTITY TO WHICH
CHILD SUPPORT PAYMENTS ARE MADE**

SUMMARY ANALYSIS

Our examination of State statutes which specify the entity or entities to which child support payments may or shall be made reflects that:

- Thirty-five (35) States have some statutory authority designating the clerk of the court as an entity to which payments may (or in some cases, shall) be made. Some statutes expressly mandate that payments be made through the court; others are more permissive. Many specify alternative options, perhaps due to court or judicial district variances (e.g., KS specifies "court clerk or court trustee.").

These States are: Alabama, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virgin Islands, Wisconsin, and Wyoming.
- Another four (4) States refer to a "county officer" (such as the New Jersey Probation Departments or the Georgia Child Support Receiver). These are California, Georgia, New Jersey, and Ohio.
- Five States have statutes that designate a "county depository" or centralized "family support registry." These States are Colorado, Florida, Iowa, Vermont, and Washington. Vermont's statute embraces all orders, not just those in IV-D cases. Two of these States, Iowa and Colorado, also have provisions imposing the collection responsibility on court clerks for non-IV-D cases (therefore, these are listed above among the 35).
- Eleven States refer to the support enforcement agency as the entity to whom payments are to be made in IV-D cases, and are generally silent regarding non-IV-D cases. These States are: Alaska, Delaware, Hawaii, Maine, Maryland, Minnesota, Mississippi, New York, Utah, Virginia, and West Virginia. Texas specifies three options in their income withholding statute-- court registry, child support collection office, or attorney general, but mandates that payments go to the AG in IV-D cases.

- One State, New Hampshire, specifies that in cases where the obligee does not make application for IV-D services but wishes to utilize the services, the services are limited to "monitoring, collecting, and disbursing moneys."
- New Jersey's law on applying for income withholding is noteworthy in that it addresses the probation department's role in recordkeeping to document, track, and monitoring support payments & administering withholding in cases in which the obligee has not established a IV-D case.
- In addition to "court clerks," States' laws also refer to alternatives as "family division or support enforcement services unit" (CT), probation officer (ID), district attorney (NV), checking or savings account or directly to obligee's bank account (OR), court registry (TX).
- Iowa's "collection services center" statute (excerpt included in chart) is particularly exemplary, from the standpoint of its explanation of payment processing & references to two "official entities" for disbursing support: the collection services center (IV-D cases) and clerks of the district court (non-IV-D cases).
- Washington State's statute setting forth legislative intent to establish a "central support registry" in the State to "improve recordkeeping" and "reduce the burden on employers" by "creating a single standardized process" for deducting support payments from wages may be a useful model for other jurisdictions contemplating centralization of payment processing.

STATES WITH LAWS REFERRING TO SOME RESPONSIBILITY OF COURT CLERKS

The 35 States which our research reflects have some statutory authority regarding payment of support, or withheld wages, to court clerks are:

Alabama	Arizona	Arkansas	Colorado
Connecticut	District of Columbia		Guam
Idaho	Illinois	Indiana	Iowa
Kansas	Kentucky	Louisiana	Massachusetts
Michigan	Missouri	Montana	Nebraska
Nevada	New Mexico	No Carolina	North Dakota
Oklahoma	Oregon	Pennsylvania	Puerto Rico
Rhode Island	So Carolina	South Dakota	Tennessee
Texas	Virgin Isl	Wisconsin	Wyoming

STATES WITH LAWS DESIGNATING A COUNTY OFFICE

The 4 States with statutes which refer to a county office or official are:

California	Georgia	New Jersey	Ohio
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STATE WITH LAWS REFERENCING SUPPORT REGISTRY/CENTRAL DEPOSITORY

The 5 States with specific laws denoting that payments be made to a central registry or depository are:

Colorado*	Florida	Iowa*	Vermont	Washington
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*Also have statutes referring to court clerks

STATES WITH STATUTES ADDRESSING PAYMENTS IN IV-D CASES

The following 12 States have statutes that refer to making of payments through the child support enforcement agency:

Alaska	Delaware	Hawaii	Maine
Maryland	Minnesota	Mississippi	New Hampshire
New York	Utah	Virginia	West Virginia

Researched & compiled by
OCSE Policy Branch
4-13-93

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- AL §30-3-60 Clerk of the court . . . clerical duties in regard to domestic relations matters, support and nonsupport cases, including the receipt and disbursement of support payments.
- §30-3-61 . . . directing any employer of the obligor to withhold and pay over to the clerk of court or the department of human resources, . . .
- AK §25.27.062 An income withholding order must direct the obligor . . . and pay the money to the agency.
- §25.27.080 (a) A court order requiring payment of child support shall be modified to order payments be made to the agency upon application.
- §25.27.103 Payments to agency. An obligor may make child support payments to the agency.
- AR §9-14-215 (c) A circuit or chancery court clerk may collect from the noncustodial parent a fee of \$10.00 for completion of income withholding forms for a custodial parent. A notice of this fee shall be sent to the noncustodial parent along with the notice (concerning withholding). After 30 days upon nonpayment of the fee by the NCP, the clerk may notify the payor [employer] who shall withhold the fee and remit such to the clerk [LAW ADDED IN 1991].
- §9-14-218 (a)(3) Beginning January 1, 1994, all support orders issued or modified shall include a provision of immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding, or a written agreement of the parties incorporated in the order setting forth an alternative agreement. (4) In all non-Title IV-D cases brought prior to January 1, 1994, the support order may include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement. The judge of each division shall determine if all support orders shall be subject to the provisions of this section and shall enter a standing order setting forth the treatment of non-Title IV-D cases in that division prior to January 1, 1994.

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- AZ §12-2457** **The clerk of the superior court shall receive and disburse all monies applicable to support and maintenance, including alimony.**
- CA CivCode §4702** **Payment to county officer designated by court; Fees and expenses...the court shall direct that the payments of support shall be made to the county officer designated by the court for that purpose..."**
- CO §26-13-114** **Family Support Registry..."the implementation of a central family support registry for the collection, receipt, and disbursement of payments with respect to child support obligations for children whose custodians are receiving child support enforcement services from...IV-D cases)."**
- §14-10-17** **"...the court may at any time order that maintenance or support payments be made to the clerk of the court, as trustee, for remittance to the person entitled to receive the payments."**
- CT §46-215(c)** **"The court or a family support magistrate may direct all orders of support to be made through the family division or support enforcement services unit, and where the state of Connecticut has an interest, direct payments to the commissioner of administrative services..."**
- DE §513** **"...the Court may: (1) Order the defendant to pay a certain sum periodically into the Division of Child Support Enforcement or directly to a dependent, his guardian, custodian or trustee, for his support...(8)...mail or otherwise deliver the said deduction to the Division of Child Support Enforcement or the obligee as directed..."**
- DC §30-514** **"If, because of the failure of a payee to give notice under this section, the Court is unable, for a 3-month period, to deliver payments owed pursuant to the withholding order, the Court shall return each undeliverable payment to the obligor and inform the holder to cease the withholding."**

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- FL §61.13 "(c)(2)..payments of child support shall be made through the depository in the county where the court is located."
- §61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments;
- GA §19-11-6 "...Amounts collected by the department shall be distributed and deposited by the department in conformity with law."
- §15-15-4 Duties of child support receiver. It shall be the duty of the child support receiver to: (1) Collect all child support payments and such other payment of support as are established by judicial order..."
- §19-6-33 (e)(1)deduct from the obligor's income...and pay that amount to the obligee or to a child support receiver, the IV-D agency, or other designee, as appropriate. NOTE: GA "income deduction order" statute specifies the general use of income deduction, and adds references to requirements that apply "if the obligee is receiving IV-D services."
- GU CSE Unit Agreement
§2 The Clerk of the Superior Court of Guam, via Ct. Financial Management System, agrees to receive child support payments made to the court pursuant to court orders of support for any child/ren deserted or abandoned by his/her parents; to include child support collections received through Government of Guam Payroll Deduction Plan.
- §3 The Clerk of the Superior Court of Guam, via Financial Management System, agrees to transfer all child support collections received to the Financial Management Office, Department of Public Health and Social Services, for deposit to the Department of Public Health and Social Services account.

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- §6** The Clerk of the Superior Court of Guam, via Financial Management System, agrees to provide copies of the certification of court ledgers for non-payment of child support; maintain records on the number of documents being requested by the Child Support Enforcement Unit and bill the Child Support Enforcement Unit on a monthly basis for the documents provided.
- HI §571-52** the assignment (of amounts of future income) shall be to the clerk of the court where the order is entered if for the support or maintenance of a spouse or former spouse, or to the child support enforcement agency [department of the attorney general] if for the support, maintenance, or education of a child or if child support and spouse support are contained in the same order.
- ID §8-704** "...the court may order either parent or both parents to assign such sum as the court may determine to be equitable to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive such payment..."
- IN §31-1-11.5-13** "Payment of support order. -- (a) Upon entering an order for support, the court shall require that the support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment."
- §31-2-2.1.** Support payments for dependents -- Order for payment to clerk of court.
- IL §750 5/507** Payment of maintenance or support to court...the court may order at any time that maintenance or support payments be made to the clerk of court as trustee for remittance to the person entitled to receive the payments."

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IA §252B.13A 1. The department shall establish within the unit a **collection services center** for the receipt and disbursement of support payments as defined in section 598.1 required pursuant to an order for which the unit is providing enforcement services under this chapter. For purposes of this section, support payments do not include attorney fees or court costs. 2. The center shall develop an automated system to provide support payment records from the center to the clerks of the district court and the clerks of the district court are authorized to receive this information.

§252B.14 All support payments required pursuant to orders entered under this chapter and chapter 234, 252A, 252C, 598, 675, or any other chapter shall be directed and processed as follows: 1. If the child support recovery unit is providing enforcement services for a support order, support payments made pursuant to the order shall be directed to and processed as follows: a. Payments made through income withholding, wage assignment, unemployment insurance offset, or tax offset shall be directed to and disbursed by the **collection services center**. b. Payments made through electronic transfer of funds, including but not limited to use of an automated teller machine, a telephone initiated bank account withdrawal, or an automatic bank account withdrawal shall be directed to and disbursed by the **collection services center**. c. Payments made through any other method shall be directed to the clerk of the district court in the county in which the order for support is filed and shall be disbursed by the collection services center. 2. If the child support recovery unit is not providing enforcement services for a support order, support payments made pursuant to the order shall be directed to and disbursed by the clerk of the district court in the county in which the order for support is filed.

252B.15 1. If the child support recovery unit is providing enforcement services for a support order, the collection services center is the official entity responsible for disbursing the support payments made pursuant to the order. 2. The collection services center shall notify the clerk of the district county of any order for

**STATE STATUTES ADDRESSING ENTITY TO WHICH
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which the child support recovery unit is providing enforcement services. The clerk of the district court shall forward any support payment made pursuant to the order, along with any support payment information, to the collection services center. The collection services center shall process and disburse the payment in accordance with federal requirements. 3. If the child support recovery unit is not providing enforcement services for a support order, the clerk of the district court in the county in which the order for support is filed is the official entity responsible for disbursing of support payments made pursuant to the order. 4. If the unit's child support enforcement services center relating to a support order are terminated but the support obligation remains accrued or accruing, the support payment receipt and disbursement responsibilities relating to the order shall be transferred from the collection services center to the appropriate clerk of the district court.

- KS §23-4,108 The payor shall pay the amount withheld to the income withholding agency, or otherwise to the clerk of court or court trustee as directed by the order of withholding.
- KY §205.750 "Payments to be made to domestic relations clerk, court designee or cabinet.--(1) Child support payments made pursuant to a court order shall be made through a domestic relations clerk of the county or other person or agency designated by the court to receive payment..."
- LA R.S. §46:236.3 The total amount withheld, including the
(c)(9) dates withheld shall be forwarded within ten days to the person ordered to receive the support or to the department or its representative as provided in the order.

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CHILD SUPPORT PAYMENTS ARE MADE**

- LA R.S. §46:236.2(A) The department may, by a written motion together with a written certification from the department that support enforcement services are being furnished to the individual or caretaker of any individual receiving support benefits, obtain an order to require any person under an order to support such individual or caretaker to make such support payments payable to the department.
- (B) Any interested party may by a written motion, together with a written certification from the department (1) that the department is not presently furnishing and does not contemplate furnishing AFDC for or on behalf of an individual and (2) that no services are being rendered by the department on behalf of the individual, obtain from the court which rendered the order to support such individual an amended order to require that support payments be made payable to the individual or caretaker instead of the department.

LA R.S. §46:236.5
(b) 1) Any court with jurisdiction to establish paternity or to establish or enforce support obligation may implement an expedited process for the establishment or enforcement thereof in accordance with the provisions of Subsection C of this Section. Such a court may collect and distribute support obligations and may, by court order or rule, assess and collect a fee of not more than five percent of all existing and future support obligations to fund the administrative costs of a system for expedited process.

ME 19§777 Support and alimony orders issued or modified by the courts in this State must have a provision for withholding of income...the department (of human services) is designated as the agency responsible for adopting and administering procedures to receive, document, track, and monitor all support payments collected pursuant to this section. The department may promulgate a fee for use of these services.

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**MD Family Law
§10-204(c)**

The accused individual shall make the payments to the person who has custody of the minor child, through the appropriate support enforcement agency; or if there is an agreement with respect to support of the child, to the recipient designated in the agreement.

§10-127

Send the deducted amount directly to the support enforcement agency or the recipient, as specified in the order.

MA 208§36A

In any case in which an obligor is under court order to pay alimony or support and maintenance or child support in an action or judgment for divorce . . . or in an action or judgment for separate support. . . the court. . . may enter an order of trustee process against the disposable earnings. . . the trustee shall transmit. . . to the clerk of the court, or to the family service office of the court or any other party designated by the court, the amount ordered by the court to be trusteeed.

119A§4

The IV-D agency shall establish accounting systems to record child support payments received by it on behalf of obligees pursuant to wage assignments in effect for child support obligors.

MI §25-164(9)

The order (of income withholding) shall direct sources of income to withhold from income due the payer and to pay to the office of the friend of the court for the judicial circuit in which the order was entered an amount sufficient to meet the payments ordered for support and service fees, and to defray arrearages in payments and service fees due at the time the order of income withholding takes effect.

MN §518.551

The court shall direct that all payments ordered for maintenance and support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, or has applied for child support and maintenance collection service.

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- MS §43-19-39** Court orders of support in all cases brought under the provisions of sections 43-19-31 to 43-19-53 shall specify that the payment of support, attorney fees, if any, or costs of court shall be directed by the absent parent to the child support unit of the state department of public welfare
- §93-11-109** ...the clerk or the obligee's attorney shall serve notice of delinquency and order of withholding on the payor [employer]
- §93-11-111** The payor shall pay the amounts withheld to the department of public welfare.
- MO §454.495** . . . the court shall order all support payments to be made to the circuit clerk as trustee for the division or other person entitled to receive such payments under the order.
- MT §40-6-117** ...the court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer any of them for the benefit of the child under the supervision of the court.
- §40-5-205** . . . then any support money paid by the person or persons responsible for support as a result of any action shall be paid through the support enforcement and collections unit of the department of revenue.
- NC §50-13.4** (d) Payment for the support of a minor child shall be ordered to be paid to the person having custody of the child or any other proper person, agency, organization or institution, or to the court, for the benefit of such child.
- NE § 42-369(1)** All orders or judgments for temporary or permanent support payments, alimony, or modification of the same shall direct the payment of such sums to be made commencing on the first day of each month to the clerk of the district court for the use of the persons for whom the same have been awarded.

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NV §425.410 Whenever, as a result of any assignment or action, support money is paid by the responsible parent, such payment shall be made through the division upon written notice by the division to the responsible parent, or to the clerk of the court or district attorney if appropriate, that the child for whom....

NH §458-B:3 III. In cases where the obligee does not make application for IV-D services, but wishes to utilize the division's services, the division's role in enforcing support is limited to monitoring, collecting, and disbursing moneys under this section.

NH §458-B:6 IV. That the employer must send the withheld amount to the state or other payee at the same time the obligor is paid.

NJ §2A:17-56.13 In every award for alimony, maintenance or child support payments the judgment or order shall provide that payments be made through the probation department of the county in which the obligor resides, unless the court, for good cause shown, otherwise orders.

§2A:17-56.14

An obligee who has not established a IV-D case through the probation department shall file an affidavit when applying for the income withholding, stating that the payments not made for support have accrued arrearages in an amount equal to the amount of support payable for 14 days. The probation department shall administer the withholding in accordance with procedures specified for keeping adequate records to document, track, and monitor support payments or establish or permit the establishment of alternative procedures for the collection and distribution of amounts withheld by an entity other than a designated public agency. Alimony, maintenance or child support payments not presently made through the probation department shall be so made upon application of either party unless the other party upon application to the court shows good cause to the contrary.

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- NM §40-11-17 (B) The court may order support payments to be made to the mother; the clerk of the court; or a person, corporation, or agency designated to collect and administer such funds for the benefit of the child, upon such terms as the court deems appropriate.
- ND ROC8.2(e) Payments to clerk. The interim order must provide that all support payments be paid to and through the clerk of the district court. Payments must be in a manner acceptable to the clerk unless otherwise ordered by the court.
- §1409-09.23 Procedures must be developed for the clerks of court to promptly distribute amounts withheld pursuant to an income withholding order and to promptly refund erroneously withheld amounts.
- §1409-09.241. Except as provided in subsection 2, each judgment or order which requires the payment of child support, issued or modified on or after January 1, 1990, subjects the income of the obligor to income withholding, regardless of whether the obligor's support payments are delinquent.
- NY §440 (1)(a) Any support order made by the court in any proceeding under the provisions of article three-A of the domestic relations law, pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or under the provisions of articles four, five or five-A of this act (i) shall direct that payments of child support or combined child and spousal support collected on behalf of persons in receipt of services pursuant to section one hundred eleven-g of the social services law, or on behalf of persons in receipt of public assistance be made to the support collection unit designated by the appropriate social services district, which shall receive and disburse funds so paid.
- OH §2301.36 . . . the court shall require that support payments be made to the child support enforcement agency of the county as trustee for remittance to the person entitled to receive payments . . .

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CHILD SUPPORT PAYMENTS ARE MADE**

- OK 43§135 If a judicial order, judgment or decree directs that the payment of child support, alimony, temporary support or any similar type of payment be made through the office of the court clerk, then it shall be the duty of the court to transmit such payments to the payee . . .
- OR §25.020 . . . the obligor shall make payment thereof to the Department of Human Resources when the obligee is receiving general or public assistance or IV-D services.
- §25.030 Support orders in respect of obligees not subject to ORS 25.020 may provide for payment under the order: (a) To the clerk of court . . . (b) To a checking or savings account . . ., or (c) Directly to the obligee by deposit into the obligee's bank account. Also provides for fees to be paid by obligor to clerk for maintaining collection, accounting and disbursement services.
- §25.040 When support payments payable to clerk of court . . . the person ordered to pay the money shall make payment thereof to the clerk of the court . . .
- PA 23Pa.C.S.A. §3704 When so ordered by the court, all payments of child and spousal support, alimony or alimony pendente lite shall be made to the domestic relations section of the court which issued the order or the domestic relations section of the court at the residence of the party entitled to receive the award.
- PR 25T.8§523 At any time the obligor is in arrears for the equivalent of one (1) month or more in the payment of support and there does not exist an order in his file in the court for the withholding of part of his income at the source, the clerk of the court will automatically certify to the judge the total amount of the debt and he will immediately issue the corresponding order to withhold the obligor's income at the source...the clerk shall promptly remit said order (to withhold income at the source) to the employer or disburser....In cases where the obligor changes employer or there is a new disburser, the clerk of the court shall proceed (to remit . . .order to the employer immediately after being notified of the change.

**STATE STATUTES ADDRESSING ENTITY TO WHICH
CHILD SUPPORT PAYMENTS ARE MADE**

RI §15-5-24 Each judgment containing support provisions and each order for support issued by the family court of this state shall include an order directing the obligor to assign the income...to the clerk of the family court.

SC §20-7-1315(B)(4) Where the obligor makes payments directly to the obligee pursuant to an order for support and where income withholding procedures take effect, the provisions to pay directly are superseded by the withholding process and the obligor and the payor on behalf of the obligor must during the period of withholding pay this support through the court.

§20-7-1315(C)(1) When a delinquency occurs, the clerk of court shall prepare, file and serve on the obligor a verified notice of delinquency. In cases where the obligor makes payments pursuant to an order for support directly to the obligee and the obligee seeks income withholding, the notice of delinquency must be verified by the obligee and then served on the obligor by the clerk of court as with any other notice of delinquency.

§20-7-1315(E)(5)
The payor shall promptly pay the amount withheld to the clerk of court, in accordance with the notice to withhold and in accordance with any subsequent notification received from the clerk of court concerning withholding.

§20-7-1315(E)(6)
Upon the records of the clerk of court reflecting the satisfaction of an arrearage, the clerk of court shall service upon the payor by regular mail a notice of reduction of withholding.

§20-7-1315(G)(5)
Any clerk of court which collects, receives, or disburses payment pursuant to an order for support or a notice to withhold shall maintain complete, accurate, and clear records of all payments and their disbursements.

**STATE STATUTES ADDRESSING ENTITY TO WHICH
CHILD SUPPORT PAYMENTS ARE MADE**

- SD §25-7A-34** The payor shall transmit the amount withheld to the department in accordance with the order for withholding within five days after the date the obligor is paid or his property withheld and in accordance with any subsequent notification received from the department redirecting payment.
- §25-7A-44** The department may apportion withheld amounts among multiple support orders giving priority to current support, and shall maintain complete and accurate records of all payments and disbursements. A certified copy of payment records maintained by the department or clerk of courts shall, without further proof, be admitted into evidence in any legal proceedings under this chapter.
- TN §36-5-101(a) (4)** The order or decree of the court may provide that the payments for the support of such child or children shall be paid either to the clerk of the court or directly to the spouse or to the person awarded the custody of the child or children. The court shall order that all support payments of Title IV-D cases shall be paid to the clerk of the court.
- TN §36-5-501(a) (1)**
- When any order for the support of minor children is entered in a court, whether setting support, modifying support or enforcing previously ordered support, the court may order an immediate assignment to the clerk of the court, of the party's wages, salaries, commissions, pensions, annuities and other income due and to be due as the court may find necessary to comply with the order of support, including, in the court's discretion, an amount reasonably sufficient to satisfy an accumulated arrearage.
- TX §14.43(c)** The court shall order that income withheld for child support be paid through and promptly distributed by a court registry, a child support collection office, or the attorney general, unless the court finds that there is good cause to require payments to be made to another person or office.

**STATE STATUTES ADDRESSING ENTITY TO WHICH
CHILD SUPPORT PAYMENTS ARE MADE**

- UT §62A-11-403 When a child support order is issued or modified in this state after July 1, 1985, it shall authorize the withholding of income...and that all withheld income shall be submitted to the office (of Recovery Services).
- VA §20-79.3(12) That, except as provided in subdivision 16, employers shall remit payments on each regular pay date of the obligor directly to the payee if requested in writing by the payee, provided the employer has not received notice that the payee is receiving child support services as defined in §63.1-250 through the Division of Child Support Enforcement.
- §20-79.3(16) That the employer is to remit individual payments to the Department of Social Services for disbursement to the payee when directed to do so by the Department of Social Services of any court having competent jurisdiction.
- VI 16§358(2) An employer who receives a notice or order of income withholding shall...send this withheld amount to the Paternity and Child Support Division or such other entity or person as it may designate.
- VT 33§4103(a) The office of child support shall establish a registry for the following purposes: processing child support collections and disbursements, maintaining records necessary for the receipt and disbursement of child support...(b)...All orders for child support not subject to wage withholding made or modified on or after July 1, 1990 shall require that payment be made through the registry unless the parties have agreed that the obligor will pay the obligee directly.

**STATE STATUTES ADDRESSING ENTITY TO WHICH
CHILD SUPPORT PAYMENTS ARE MADE**

WA §26.23.010 (eff.1-1-88) It is the intent of the legislature to create a central Washington state support registry to improve the recordkeeping of support obligations and payments, thereby providing protection for both parties and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.

It is also the intent of the legislature that child support payments be made through mandatory wage assignment or payroll deduction if the responsible parent becomes delinquent in making support payments under a court or administrative order for support.

To that end, it is the intent of the legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state.

WI §767.265(1) Each order for child support...for maintenance payments...for family support...for costs...for support by a spouse...or for maintenance payments, each court-approved stipulation for child support...and each order for child or spousal support...constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits...lottery prizes that are payable in installments and other money due or to be due in the future to the clerk of the court where the action is filed.

WV §48A-2-13 All support payments owed to an obligee who is an applicant for or recipient of the services of the [Child Advocate] office shall be paid to the office. Any other obligee owed a duty of support under the terms of a support order entered by a court of competent jurisdiction may request that the support payments be made to the office. In such case, the office shall proceed to receive and disburse such support payments to or on behalf of the obligee as provided by law.

WY §20-6-214 The clerk (of court) shall maintain records showing receipt and disbursement of all funds received...promptly distribute all funds received to the appropriate person or agency...

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ADMINISTRATIVE PROCESS

EXECUTIVE SUMMARY

Over the last ten years, large court backlogs resulting from overburdened court systems have caused the Federal and State governments to seek alternative forums for addressing child support cases, such as administrative processes or the use of more limited administrative procedures for handling certain functions or case processing activities.

An administrative process for purposes of child support is a statutory system granting authority, traditionally vested in the courts, to an executive agency. The continuum of such processes extends from limited application (such as the use of certain administrative procedures with judicial action otherwise necessary) to a more comprehensive application (adjudication, determination, establishment and enforcement with a full range of administrative remedies), depending on the authority granted under State statute.

Administrative process systems provide the child support agency the ability to more effectively control case processing. The process allows States to streamline procedures, consolidate case management, provide more consistent treatment of cases and, at the same time, reduce court dockets. States, however, often choose to limit the use of administrative process to address particular problems in concert with an otherwise adequate judicial approach. Utilization of key administrative procedures can significantly reduce court involvement in child support enforcement and make a substantial contribution to a more streamlined and effective child support program.

About one-third of the States have administrative process statutes that allow for the establishment and/or enforcement of child support orders outside the court structure. While some of these states use administrative process for all IV-D cases, others use them only in certain cases and/or in selected jurisdictions.

While there is no hard data on the level of improvement produced by adoption of an administrative process, states which have such systems maintain that the number of support orders established and the amount of child support collected increases. They contend that the speed of establishment, the uniformity of handling and the control over the process provide significant benefits. For example, Oregon's Child Support Updating Project found that it was significantly less costly to modify orders by administrative process (\$496 per case) than by judicial process (\$770 per case).

This paper defines what is meant by an administrative process and procedures and explores the move toward extricating child support matters from the courts, and issues which would be raised under a Federal mandate. These include the benefits to be derived, legal challenges, universal application, transitional considerations, and the role of the courts and political environment.

Finally, two options are provided for moving the child support program away from the courts:

- o Require all States to adopt a complete administrative process for child support
- o Require States to adopt a core set of administrative procedures, including:
 - subpoena/discovery power
 - administrative garnishment
 - administrative liens
 - administrative seizure and sale
 - administrative order to withhold and deliver

While both of these options speak to a State mandate, another approach which may be more politically acceptable is to encourage States to embrace one option or the other by providing enhanced Federal funding for associated costs.

ADMINISTRATIVE PROCESS

I. BACKGROUND

Over the last ten years, large court backlogs resulting from overburdened court systems have caused the Federal and State governments to seek alternative forums for addressing child support cases, such as administrative processes. However, as discussed below, few States have actually implemented what can be considered true administrative process systems. Rather, many have retained their judicial-based systems but have instituted more limited administrative procedures for handling certain functions or case processing activities.

The Child Support Enforcement Amendments of 1984 provided the first Federal response to the growing barrier to collecting child support caused by overburdened court systems by requiring States to have and use expedited processes to establish and enforce support orders. Under the requirements, States could use administrative or quasi-judicial processes for handling their support cases or submit evidence to the Secretary that their current judicial process provided expedited handling by meeting case processing time frames set out in regulation.

While the expectation was that under this requirement child support cases would be handled under a simpler and more efficient process than the traditional legal system provides, problems in case processing and adjudication remain. Several witnesses testified to the Commission on Interstate Child Support that the delays and expense of court hearings have been detrimental to obtaining support. The testimony suggested that many parents wait for hours to have their case heard with dozens scheduled for a morning or afternoon session, to which all parents must report at the start of the session. The Commission's report indicated that a judge's unfamiliarity with a case that was heard earlier by another judge often added time and may have added inconsistency to the resolution of factual disputes.

Similarly, a study conducted by the National Child Support

Assurance Consortium found that, among the mothers who pursued support through the State Child Support Enforcement agency, long waits to obtain an order were common. Even after a support order was obtained, it took a substantial amount of time to receive even one payment. Of these families, over one-quarter waited more than one year to receive a single payment and a similar number never received regular support. These mothers provided a substantial amount of information to the IV-D agency, including the father's name in all cases, and his home address, work address and social security number in the majority of cases. While these delays cannot be fully attributed to the State's method for establishing and enforcing support orders, certainly it was contributory.

This paper will define what is meant by an administrative process and procedures and explore the move toward extricating child support matters from the courts, and issues which would be raised under a Federal mandate. Use of administrative processes for establishing paternity is only touched on briefly here as it has been closely examined in a separate paper.

It is important to note that this paper does not attempt to explore the use of quasi-judicial or dedicated court systems for child support cases or to compare the benefits of a model judicial or quasi-judicial system vs. an administrative process system. Rather, the intent is to speak to the benefits of a pure administrative process and alternatively the benefits of employing model administrative procedures in an otherwise judicial environment.

II. What Is An Administrative Process

An administrative process for purposes of child support is a statutory system granting authority, traditionally vested in the courts, to an executive agency to determine, through adjudication, child support orders, and to establish and enforce child support orders. The continuum of such processes extends from limited application (such as the use of certain administrative enforcement remedies with judicial action otherwise necessary, addressed in section III) to a more

comprehensive application (adjudication, determination, establishment and enforcement with a full range of administrative remedies), depending on the authority granted under State statute.

In a true administrative process decisions are made at the lowest possible level, with appeals to hearing officers or administrative law judges. All actions, with the exception of final appeals, take place within a child support agency.

Following is a discussion of the authority and procedures used under an administrative process system. As indicated above, authority under State statute may be (and generally is) more limited.

Authority

An administrative process must have a legislative base providing an executive agency the right to: ;

- bring action

- secure wages and asset information including administration subpoena power to compel witnesses

- enforce judicial orders administratively

- use post-judgment remedies like wage assignment, garnishment, and attachment and execution of property

- promulgate rules and regulations

Functions

Paternity Establishment

Paternity establishment under administrative process systems is generally limited to cases where paternity is uncontested. The agency may be authorized to establish paternity after providing

notice to all parties in uncontested cases, in cases where the alleged father has acknowledged paternity in writing and in cases where the alleged father and mother marry after the child's birth.

Support Order Establishment

Under an administrative process to establish support liability, the executive agency is granted by statute the right to establish enforceable orders in cases where no prior order exists. The only limitation is that the executive agency may not modify a court-ordered child support amount.

Guidelines have been particularly helpful in facilitating administrative process systems. Uniform requirements like guidelines allow front line workers to exercise authority otherwise left to attorneys and judges.

Typically, notice is provided to the noncustodial parent and the response dictates the next action. If the notice is ignored, an administrative default order is established and enforcement action taken. If a response is made, the parent can discuss the case with the agency and either a consent agreement can be reached or a hearing can be requested.

Under such a hearing, the support worker will often represent the agency. A hearing officer, or administrative law judge, who must be considered an impartial examiner of the facts, will make the decision. The hearing officer represents no one and may be employed by the umbrella agency where the child support agency rests (usually the Department of Social Services) or another agency like the Assistant Attorney General's office.

Under an administrative process, a hearing of record is created which includes documentary evidence and a recording of the proceeding. A tape recorder replaces the traditional court reporter. Procedures for admitting evidence are simpler. There are usually no codified rules of evidence and admissibility standards are not as stringent as the courts. Forms of hearsay such as unauthenticated letters, retold phone conversations between the caseworker and the obligee or statements by persons

not present at the hearing may be acceptable. The key criteria is relevancy.

Depending on State statute (and in some cases State constitution) the order may be advisory only or adopted by the State court as its own. Appeal rights range from administrative to, ultimately, judicial appeal and can involve a new trial as a matter of right, (de novo), to appeal alleging error (judicial review of the record).

Use of administrative support establishment eliminates delays and provides consistency of orders over a wide range of cases. Since courts are not involved and there may be less attorney involvement, costs are reduced and the proceedings less adversarial. In addition, since rules are relaxed, innovative techniques can be used to facilitate the process. In Washington and Alaska, the administrative process provides for conducting hearings via teleconference which has proven to be very helpful in remote areas.

Modification

Administrative process agencies have authority to modify existing orders following the same requirements for establishing orders. However, most current administrative process statutes do not authorize administrative agencies to modify existing judicial orders. (Georgia's statute allows for this, but it has never been tested, and recently Iowa and Missouri are reported to have enacted statutes authorizing administrative review of judicial orders). Once a court obtains jurisdiction over child support matters, its jurisdiction continues. This limitation would clearly raise transitional issues in considering a mandate for an administrative process.

Administrative Enforcement Remedies

An administrative process gives the agency authority to perform all enforcement functions except the use of contempt proceedings. These remedies, which do not require the active involvement of the courts and limit the involvement of attorneys, can also be

adopted by States which are otherwise judicially-based, as explored in more detail below. They include:

- o Administrative liens - Encumbers property so that it can't be sold or mortgaged;
- o Seizure and sale - Allows administrative agencies to seize, advertise and sell property. Where property is not subject to physical seizure, the title is sought; and
- o Order to withhold and deliver - Garnishment of wages, bank accounts and accounts receivable.

States may have provisions specifically providing for administrative enforcement of judicial orders to allow the agency to enforce prior judicial orders through administrative remedies and judicial enforcement of administrative orders, allowing administrative orders to be filed with the court, thus producing an enforceable order of the court--allowing for administrative remedies as well as contempt of court.

II. USE OF ADMINISTRATIVE PROCEDURES IN AN OTHERWISE JUDICIAL ENVIRONMENT

States often choose to limit the use of administrative process to address particular problems with an otherwise adequate judicial approach. While such an approach is embraced by the administrative process continuum discussed earlier, we have chosen to discuss such practices independently to provide a clearer understanding of the options provided later in this paper. As used here, we distinguish between the two ends of the continuum by referring to more limited administrative processes as administrative procedures. Like administrative processes, administrative procedures are authorities granted to the IV-D agency typically by statute which are traditionally vested in the courts.

As provided below, the use of key administrative procedures can significantly reduce court involvement in child support enforcement and make a substantial contribution to a more

streamlined and effective child support program.

The U.S. Commission on Interstate Child Support recommended greater use of administrative procedures. Specifically the Commission's report provided, "While realizing the important role of the court in establishment and enforcement of child support obligations, states are encouraged to simplify the IV-D child support process and make it more accessible by utilizing administrative procedures where possible. An important consideration would be the reduction in the workload of the court and reserving use of the court for those functions where a judicial officer is required."

The report further provided that it did not find enough evidence or research to mandate a particular system. "Both judicially based and administrative process systems can use administrative procedures to expedite cases. This is especially true when the court official is used only to review and sign enforcement requests. Examples of such procedures include the use of income withholding to enforce child support orders, administrative subpoena powers, and orders to withhold and deliver that can be implemented without the need for court involvement."

Administrative Subpoena/Discovery Powers

Administrative subpoena or discovery powers authorize the child support agency to issue subpoenas in order to gain access to information relevant to a case being enforced administratively. Administrative subpoena power to gain information and records is clearly necessary for a more efficient program. Several states have enacted statutes which require noncustodial parents and other persons to submit financial statements and other information to the agency upon request. The review and adjustment demonstration cross-site report concluded that the availability and utilization of administrative discovery powers were helpful in both conducting a review and obtaining a modification.

These demonstration projects found that administrative discovery powers available to child support agencies are an important

factor affecting the availability of independent wage or income information on obligors and, therefore, the ability to conduct a review of an order. The State issued employer subpoenas in all cases with obligor employer information available. Illinois reported that the overall response rate from employers was very high (80 percent). In addition to providing current information on obligor's location and income, the use of the employer subpoena reportedly reduced delays in filing petitions for modification, since the response to the subpoena was admissible in court and the legal representatives did not have to wait to obtain other evidence of income and allowable deductions. States which lacked such powers had lower response rates, and the project staff in those cases did not necessarily obtain the information needed.

The cross-site report also included in its finding that the actual length of time required for completion of a review appeared to be most affected by the source of information and the level of difficulty in obtaining that information. Further, they found that the length of time required to obtain a modification does not appear to be affected by the modification process itself. An expedited court-based process can be shorter than a stipulation process (though the stipulation process was thought to be shorter than an un-expedited judicial process).

Administrative Enforcement Remedies

Administrative enforcement remedies are defined as powers granted to a State agency which allow for the attachment and execution outside the judicial system of a responsible parent's assets. In addition to using administrative enforcement remedies to enforce administrative orders as provided above, a number of states use them to enforce court based support orders, after giving appropriate notice.

Administrative remedies differ from judicial remedies in that they are imposed by the agency in lieu of the courts. Existing administrative process statutes have established a number of administrative enforcement remedies. Statutes vary concerning the procedures the agency must complete in order to affect the

non-complying parent's property. Following are specific remedies:

Administrative garnishment - The most common administrative enforcement remedy, an order to withhold and deliver, is used to seize property (usually money) belonging to a noncustodial parent that is in the possession of a third party (e.g., employer, insurance company, bank, credit union). The order is issued by an agency official and usually served by certified mail on the person or officer of the company in possession of the noncustodial parent's property. Typically the order will recite identifying information about the noncustodial parent, the amount to be withheld, the amount and types of property exempt from withholding, the procedure for delivering the property to the agency or court clerk, and information describing the withholder's liability for failure to comply.

Administrative liens - The statute may prescribe a procedure for recording a lien against a non-complying noncustodial parent's real and personal property. The lien usually is accomplished by filing a document with the court clerk or county recorder of deeds in the county in which the property is located, similar to the State's procedure for creating judgment liens. The lien encumbers property so that, if the noncustodial parent attempts to mortgage or sell the property, a title search will reveal the lien. In practice, the noncustodial parent or purchaser of the property will pay off the support arrearage in order to remove the encumbrance on the title and release the lien, so that the property will not be subject to seizure and sale by the agency or the support obligee.

An official from the Massachusetts Department of Revenue, recently testifying at a child support enforcement oversight hearing held by the Human Resources Subcommittee of the Committee on Ways and Means, argued on behalf of the expanded use of administrative procedures. With respect to the use of administrative liens he stated that because past-due support has the status of a court judgement, it makes no sense to go back to court to obtain a lien. Doing so when a judgement already exists wastes the resources of the court and the child support agency

and causes unnecessary delays. He suggested instead that Congress could require the use of administrative liens that would be valid throughout the Country. He believes that once such a system of administrative liens is available, collection of arrears in interstate cases will be revolutionized.

Seizure and sale of property - This procedure is similar to seizure and sale (or levy and execution) under a State's civil law mechanisms for collecting judgment debts. In administrative seizure and sale, the child support enforcement agency, rather than the court, authorizes and carries out the seizure of property and advertises and holds the sale. The sale proceeds, less the costs of seizing the property and holding the sale, are applied to reduce or satisfy the support arrearage.

One especially noteworthy use of these administrative remedies has been undertaken in Massachusetts. A single notice is sent to obligors owing \$500 or more informing them of administrative enforcement measures including liens, levy and seizure, income assignment, Federal and State tax refund intercept, referral to a collection agency and reporting to a consumer credit bureau. After a second bill is sent with the opportunity to dispute the debt amount, assets are identified through automated interface with IV-D and tax records and quick action can be taken to seize assets.

The State has had very promising results from this practice. Collections from workers' compensation liens have quadrupled -- running at a rate of \$1.5 million annually. Collections from unemployment compensation benefits have increased by \$10 million per year. The speed of mass production wage withholding or levies increases collections about \$11 million per year and a bank levy strategy, when fully implemented, is expected to yield \$5 million annually.

Though more limited, a Texas child support lien law permits liens to be attached to property of delinquent obligors without obtaining a court issued judgment. The law instead authorizes IV-D or anyone else enforcing the order on behalf of a child support claim to submit a child support lien notice to a county

clerk where the obligor's property is located or the obligor resides. The clerk is required to enter the lien in the county's judgment records and the property cannot be sold or transferred until the lien is extinguished.

III. CURRENT ENVIRONMENT

Expedited Processes

As previously indicated, the Child Support Enforcement Amendments of 1984 require all States to use an expedited process system for establishing and enforcing support orders because of long delays and severe backlogs of the courts. Expedited processes are defined in Federal regulation as those that include administrative or expedited quasi-judicial processes in which the presiding officer is not a judge, which increase the effectiveness of the establishment and enforcement process and which meet the following time frames for case disposition: 90% of cases in three months, 98% in six months and 100% in a year.

States may obtain an exemption from these requirements if their existing judicial systems meet some general requirements and the case disposition time frames included in regulation. Currently, 22 States have exemptions from the requirement for expedited processes. These exemptions cover one or more political subdivisions or judicial districts of the State. Only 2 States, Arkansas and Kansas, are operating under Statewide exemptions.

However, child support program audits have found that even where an exemption was not granted, or requested, expedited processes were not always used. Seven States have been cited as failing to substantially comply with the requirement for an expedited process for establishing and enforcing support orders.

State Advances Toward an Administrative Process

About one-third of the States have administrative process statutes that allow for the establishment and/or enforcement of child support orders outside the court structure. While some of these states use administrative process for all IV-D cases,

others use them only in certain cases and/or in selected jurisdictions. Attached is an analysis of State use of administrative processes and procedures.

Only five States, Missouri, Oregon, Washington, Virginia and Montana have systems which can be considered pure administrative process systems. Oregon is currently attempting to pass legislation to expand their administrative process to include paternity establishment authority.

Other States however are moving toward an administrative process. Massachusetts, California, Michigan, Maryland and New York traditionally use the courts or quasi-judicial processes to enforce support obligations but are beginning to use, or are exploring the use of administrative alternatives to avoid costly or lengthy litigation.

As indicated earlier, Massachusetts' IV-D agency, located in the State's Department of Revenue, is using administrative enforcement techniques as an effective method of collecting child support arrears.

California is pilot-testing the use of the State Franchise Tax Board to collect delinquent child support as it would delinquent personal income tax liabilities. The District Attorneys from six pilot counties will refer child support arrearages to the FTB for collection. The FTB will handle the arrearage as it would a delinquent personal tax liability and may use the full array of administrative methods of collections available to it. The FTB will mail demand for payment notices to delinquent obligors. There will be a repetitive processing of cases through automated levy programs, including vacation trust funds, wage data, financial institutions, dividends and miscellaneous 1099 information. Manual intervention will occur in selected cases, including research and analysis of Department of Motor Vehicles, real property, and credit report information, and involuntary actions taken, such as warrants and vehicle seizures. The project will run between January 1, 1993 and December 31, 1995, with an evaluation due by January 1, 1996.

Michigan hopes to begin using the broad collections powers granted to the Department of Treasury in pursuing AFDC fraud cases, to collect child support arrears in AFDC cases. The ability to use DOT authority is currently under review by State attorneys and operational procedures with the DOT are under development. Michigan hopes to implement this initiative in the fall of 1993.

Proposed legislation is currently before the New York legislature that would authorize the IV-D agency to enforce child support orders through administrative seizure of property, with due process protection for affected parties. The specific administrative procedures authorized in the bill that relate to parental financial resources include administrative seizure of property in delinquent cases, to streamline access to those resources.

Minnesota has recently implemented an administrative process in select counties in response to their failure to pass a child support audit of their expedited process system. They found that the system provided significant improvement with decreased case processing time, increased collections and decreased complaints from custodial parents.

Other States are moving toward administrative systems for modification. Montana has recently adopted an administrative review process conducted by hearing officers. The hearing officer can issue orders compelling parties to submit financial information, they can issue subpoenas and they can hold hearings by telephone conference. Anyone who has a support order filed with the State registry can request such a review.

Other Countries

The United States is not alone in its quest for uniformity and consistency in child support matters. Australia and the United Kingdom have recently undergone transformations to improve their child support programs through use of administrative processes.

Australia implemented an administrative system for assessment of

child support payments in 1987. Child support is set administratively by the Registrar and is reconciled at the end of the year. Appeals are made to the courts. If it is determined that the parent is not eligible for government financed assistance, the custodial parent must seek a court order/agreement or private arrangement within 3 months.

In Great Britain, the number of single parent families grew from 600,000 in 1971 to over a million in 1986. Divorce and separation were the major cause but out of wedlock births doubled over this same period of time. There was considerable inconsistency in maintenance awards as a proportion of noncustodial parent net income and seventy percent of noncustodial parents were not making regular payments.

In response, an administrative system has been phased-in over a period of time. The new Agency will take on responsibility to assess and review child maintenance claims. At the end of the transition period, the court will no longer have responsibility for assessing new claims for maintenance awards. However, courts will continue to have jurisdiction over related matters which arise when parents separate or divorce (custody, visitation, contested paternity, property settlements, spousal support) and may retain responsibility for adjusting the formula.

Since both of these programs are relatively new, no hard data is available as to their effectiveness. Both speak to what can be viewed as a non-existent approach to child support enforcement prior to these changes, so comparisons would probably be meaningless for our purposes. However, close examination of their procedures may be helpful were a Federal approach pursued in this Country.

IV. DISCUSSION ISSUES

A number of issues need to be addressed when consideration is given to granting the IV-D agency greater authority such as the use of some level of an administrative process system. These include the benefits to be derived, legal challenges, universal application, transitional considerations, and the role of the

courts and political environment.

These issues, while provided in the broadest context, are applicable in varying degrees to both pure administrative process systems and more limited administrative authorities.

Benefits of administrative processes and procedures

Administrative process systems provide the child support agency the ability to more effectively control case processing. The process allows States to streamline procedures, consolidate case management, provide more consistent treatment of cases and at the same time, reduce court dockets. As indicated by Massachusetts administrative enforcement experience, significant gains can be achieved by adopting even a limited administrative enforcement strategy.

Judicial systems can be extremely slow and cumbersome in establishing and enforcing support orders. In a judicial system, proceedings can be delayed through continuances and discovery requests. These delays are avoided under an administrative process, where the scope of issues raised and motions made can be limited.

While there is no hard data on the level of improvement produced by adoption of an administrative process, states which have such systems maintain that the number of support orders established and the amount of child support collected increases. Further, they contend that the speed of establishment, uniformity of handling and control over the process provide significant benefits.

An indirect benefit of an administrative process is the less formal system and surroundings involved. The judicial process, even when efficient, is often viewed as intimidating because of its formality. This was evidenced to some extent by the review and demonstration projects which found large numbers of non-AFDC cases where authorization could not be obtained. Among the primary reasons for not authorizing review and adjustment was an unwillingness to go to court (24 percent) and a desire to avoid

legal action (17 percent). This suggests the need for a more "user friendly" system. Use of administrative processes may have made a difference to these individuals by alleviating fears associated with going to court.

In addition, administrative process is thought to be beneficial in motivating front line workers. With more direct access to effective enforcement tools, their role changes from collection agent to enforcer. The front line worker has more authority (e.g., can sign off on forms that need to be signed by attorneys or judges), and more control over their cases from beginning to end which is thought to provide greater job satisfaction.

Legal challenges

Two questions often arise in considering the adoption and use of an administration process. The first involves the extent to which States can legislatively delegate traditionally judicial areas to the executive branch. While the Worker's Compensation program has set a precedent, State constitutions have in some States restricted such actions and several States have faced challenges based on the question of separation of powers.

One notable case occurred in Nebraska in 1988 in Drennen vs. Drennen. The Nebraska Supreme Court found the State's Referee Act to be unconstitutional in that it "deprives the district court of its original jurisdiction on each designated area (in this case findings of contempt) and violates State constitution's guarantee of access to the court as original trier of facts."

The court also found that the Referee Act denied equal protection of the law by arbitrarily denying child support payors in IV-D cases the same access to the courts as other payors. This may make a case for extending any requirement for administrative process to embrace all cases of child support in the State, not just those vested under title IV-D authority.

Conversely, a Iowa Supreme Court ruling may pose the most prudent judicial reaction to administrative process challenges. The Court found in a case challenging administrative withholding, "In

cases where activities of coordinate branches of government run shoulder-to-shoulder, as they do in child support cases, we must view the concept of separation of powers with a certain amount of pragmatism and cooperation. In those cases, it is permissible, often even desirable, to view the constitutional allocation of authority with an eye toward a common goal....The facts of the present case mirror the concern expressed in these [child support] cases that the court system, acting alone, has not been effective in obtaining compliance with child support."

However, in commenting on the Downey-Hyde proposal for Child Support Assurance, the Illinois Department of Public Aid expressed concerns that a requirement for an administrative process would represent a violation of constitutional separation of powers. The State was especially concerned about the effect on cases where initial action had been taken by the court and subsequent action was attempted by an administrative agency. Illinois stated that they would oppose any requirement which would "violate the established constitutional separation of the duties of the judicial and executive branches or require changes in State constitution." However, it should be noted that Illinois recently enacted an administrative process law which provides hearing officers the authority to adjudicate initial child support orders, modify non-judicial orders and establish paternity. The State is phasing in the law beginning with two locations in Cook County. However, administrative process will not be implemented in some smaller counties where it is considered unnecessary because of small caseloads.

The second question which often arises is due process protection - whether an administrative process can protect the due process rights of all parties. This question, unlike the first, can be clearly addressed in state statute and agency procedures, though legal challenges have been raised. However, caution should be exercised in drafting statute and procedures. Several court decisions have held that appellate courts should increase the intensity of their review of administrative decisions where the agency has acted as investigator, prosecutor and judge. To address such concerns, it has been recommended that "an agency must establish a hearing process which earns the respect of the

judiciary and the noncustodial parent population by delivering even-handed justice."

Universal application

While many States have speeded up child support establishment and enforcement actions through adoption of some degree of administrative process, the process can still be cumbersome, especially for non-IV-D cases which are not necessarily embraced by the State under these requirements. If universal services are provided (as addressed in a separate paper) this problem would be largely eliminated.

However, in the absence of a universal system, some consideration should be given to the discriminatory nature of a dual State approach. Non-IV-D families may view this practice as putting their needs secondary, i.e., demanding efficiency only on behalf of IV-D cases. Of course, the reverse argument could be made as well. IV-D parties could view use of an administrative process as providing "second-rate" legal action since their access to the courts is severely limited. A third way to view this, however, is as an improvement to all cases. IV-D cases are handled quicker under an administrative process system, thus freeing court time to provide better services to non-IV-D cases.

However, as indicated in the Nebraska Supreme Court ruling cited above, application of an administrative process to IV-D cases only may undermine the authority of the system and may subject it to successful legal challenge.

Transitional considerations

Transition to an administrative process may also raise legal issues associated with case jurisdiction. Unless States are required to enact statutes which explicitly provide administrative authority to modify court orders, a dual system will remain until these cases age out of the system. In addition, even if a specific mandate is included in Federal law, State constitutions may require conformity changes.

A mandated administrative process would also require significant resources to ensure that an appropriate response was provided. While needs for additional staff would most likely be limited since experience shows that current front-line workers are capable of becoming agency representatives, developing rules, procedures, training, and data processing modifications would take time and additional resources.

Mandating the use of specific administrative procedures may limit the above cited legal issues but would still require the development of rules, procedures and data processing modifications and would continue to necessitate appropriate training of staff.

Role of courts and political environment

Courts are always the source of final decision on a case through appeal, whether the trial-level adjudication was done by an administrative officer, master, referee or judge. Most courts today are overburdened and would benefit from having their caseloads reduced. Under an administrative process system, the court's role could be reserved primarily for divorces and legal separations which often involve complex custody and property issues (although States which have administrative processes generally also direct contested paternity cases to the courts). Also, criminal contempt proceedings could still be handled by the courts, although these are usually needed only in the most flagrant cases.

Advocates of administrative process suggest that the best role for the courts in the child support system is to hear appeals. However, courts, clerks, lawyers and administrators often have vested interests in preserving their turf and are powerful and effective lobbyists against change. Elements of the judicial system will likely be opposed to the perceived usurpation of their domain if a requirement is imposed for administrative processes.

This was clearly evidenced when the requirements for expedited processes were first implemented. Many courts argued strongly

against the requirement that the hearing officer not be a judge of the courts.

Vermont originally had an administrative system which worked well. Because of political pressure, however, the State instituted a Family Court system. However, some efficiencies were retained since this is a quasi-judicial process.

In West Virginia, a circuit judge sought injunction against a law which authorized an administrative process to handle most domestic relations matters of the State. The Supreme Court of Appeals voided enactment of the administrative process because the law unconstitutionally divested circuit court judges of their authority. Legislation was then enacted requiring judicial ratification of administrative orders.

However, judicial support for administrative child support programs may be on the upswing, after eight years of experience with the expedited process requirements of the Child Support Enforcement Amendments of 1984. Judges are much more supportive of the requirements now than they were when the requirements were first proposed and mandated.

The Georgetown University's Program on Science, Law and Compensation conducted a survey of 40 "judges, court administrators, legal scholars, writers and prominent practitioners with accumulated judicial branch experience" and found that almost all agree that the courts' effectiveness was being squeezed. Included in their recommendations was the concept that the judicial community begin a process of analyzing every class of dispute before the bench and determine in which forum cases should be resolved. Clearly, this signals the judicial community's willingness to seek alternatives to judicial adjudication to lessen the burden of the court.

V. OPTIONS

Following are two options for moving the child support program away from the courts. While both of these options speak to a State mandate, another approach which may be more politically

acceptable is to encourage States to embrace one option or the other by providing enhanced Federal funding for associated costs.

Because of the significant benefits expected to be produced under either approach, the Federal government could provide 100 percent funding for the costs associated with an administrative process or specific administrative procedures. Reduced administrative expenditures resulting from greater program efficiency and increased collections could significantly offset the additional costs to the Federal government.

1. Require all States to adopt a complete administrative process for child support - Courts would remain responsible for divorce settlements, but paternity, child support collection and modification would be done by administrative procedures including an administrative process under an administrative agency.

PROS and CONS

PROS

- o Case processing is cheaper when removed from the court;
- o Streamlined processing leads to greater efficiency because services are less fragmented;
- o Scientific advancement in genetic testing has taken much of the guesswork out of paternity establishment;
- o Administrative process coupled with more uniform requirements (like guidelines) allows front line workers to exercise authority otherwise left to attorneys and judges;
- o All parties involved have expertise in child support. Typically, judges and lawyers are like general practitioners ... in smaller courts, judges hear cases involving wide variety of issues; in larger courts they tend to specialize but assignments are rotated;

- o Legal services agencies believe that parties involved in the action would rather appear in an administrative forum than in a judicial one. In pro se actions, the administrative forum tends to be more "user friendly" and not as intimidating as the judicial forum. Also, rules of evidence are more relaxed;
- o Administrative process systems are generally more informal than courts. In court based hearings, people feel "weight" of court environment. Even in Family Court, Magistrates wear robes, sit on the bench and conduct hearings in the court room. While IV-D non-attorney staff may present cases and do filings, more and more magistrates ask staff to perform like lawyers;
- o The Child Support Agency has more control over an administrative process. It doesn't have to rely on actions of other agencies and can control personnel, budget, dockets, etc.;
- o It could update cases efficiently -- inexpensively and quickly;
- o It could produce fair results by treating all cases equitably;
- o A great deal of efficiency should be gained as all except the most complex child support matters would be dealt with by one agency rather than the extremely fragmented system that we now have;
- o It will eliminate current problems in interstate cases of responding States giving less weight to administrative orders; and
- o It allows States to respond to audit findings. Currently, the IV-D agency has no control over audit findings related to court deficiencies.

CONS

- o Other States don't always treat administrative orders like judicial orders. More weight is given to orders issued by the courts. They may revert to the URESA model because they are uncomfortable using an administrative order as the basis for an enforcement action;
- o Rules between judicial and administrative orders are still confusing. Though this has improved, legislation like the Soldiers and Sailors Relief Act which provides time off for appearances at judicial proceedings but not corollary action for administrative proceedings, still serve as a barrier;
- o Court-based systems provide uniformity for IV-D and Non-IV-D cases;
- o A significant number of cases may be subject to challenge which could produce longer delays than direct action of the courts;
- o It may require change in State constitutions;
- o It may result in political opposition, especially in States with strong, effective judicial and quasi-judicial systems;
- o Courts may remain overburdened if judicial ratification/registration of orders is provided;
- o Quasi-judicial process can be workable for deciding more complex issues, like contested paternity, which require more judicial safeguards and subjective decision-making; and
- o Discovery in administrative cases may be limited while in quasi-judicial cases or judicial cases discovery may include the right to use interrogatories, depositions,

admission of fact and production of documents.

2. Require States to adopt a core set of administrative procedures, including:

- administrative subpoena/discovery powers;
- administrative liens;
- administrative seizure and sale; and
- administrative order to withhold and deliver (garnishment).

PROS

- o While the Commission on Interstate Child Support Enforcement did not recommend a particular system for establishing and enforcing support orders they did address the need for administrative procedures. They recommend that States simplify the child support process and make it more accessible by utilizing administrative procedures where possible. The examples they cite include income withholding, administrative subpoena powers, and orders to withhold and deliver that can be implemented without the need for court involvement;
- o Enforcement actions that are administratively imposed, with challenges and appeals limited to very narrow circumstances, allow volumes of cases to be handled efficiently;
- o Less political opposition;
- o It retains State flexibility;
- o It will allow efficient court-based systems to continue without disruption;
- o Administrative procedures allow front line workers to exercise authority otherwise left to attorneys;

- o It allows States to respond to audit findings; currently the IV-D agency has no control over audit findings related to court deficiencies;
- o Streamlined processing leads to greater efficiency because services are less fragmented; and
- o It aids in eliminating barriers caused by court backlogs. Administrative procedures keep most enforcement actions out of the courts.

CONS

- o It may provide more limited improvement and benefits; and
- o With respect to administrative enforcement remedies, opposition may come from employers, banks and title insurance companies.

VI. COSTS

While there is general agreement by program officials that the use of administrative processes are less costly than judicial processes, there is no hard data readily available to substantiate this claim. The dramatic changes undertaken by the Child Support Enforcement program over the last 10 years have made it very difficult to specifically attribute cost savings or collection increases solely to the introduction of an administrative process.

In fact, a draft report prepared by the Maryland Judicial Conference (June 1993) found that while States have had administrative process systems in place for an extended period of time, no statistics are yet available to show the benefits of changing from a judicial system to an administrative system. The report provides, "...all of the states which have instituted such a system maintain that the number of orders established and amount of support collected have increased using an

Administrative process."

While again not providing specific numbers, the results of a comparative study of administrative and judicial procedures conducted by the University of Southern California Center for Health Services Research showed that "administrative procedures are superior to court-oriented procedures for the establishment of child support obligations."

However, Oregon's Child Support Updating process may shed some light on the potential administrative cost savings associated with an administrative process. Oregon's Child Support Updating Project found that it was significantly less costly to modify orders by administrative process (\$496 per case) than by judicial process (\$770 per case). This finding was attributed to the simpler and more uniform procedures used in the administrative process, lack of required attorney involvement, faster progression, and absence of travel and waiting time, since administrative hearings were conducted statewide by telephone conference.

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STATE PROFILE ADMINISTRATIVE PROCESS

It is difficult to categorize the States in any other than broad categories as to their usage of administrative processes and procedures due to variations among them as to what constitutes administrative process. There are other variables, such as differences in remedies available at particular points in the process, universality of application, and differences even among jurisdictions within county administered States as to availability and/or usage.

The following States utilize administrative processes or procedures as described:

Alaska - Administrative Hearing Officers establish paternity (including ordering blood tests) establish child support orders, review and modify non-judicial orders and take enforcement actions.

Colorado - Child support caseworkers establish paternity in uncontested cases, issue default child support orders based on State guidelines and issue temporary child support orders. They modify child support orders established under administrative process and enforce orders for child support and medical support through wage assignment, garnishment, etc.

Georgia - The State has a provision for Administrative Hearing Officers to establish child support orders administratively.

Hawaii - Administrative Officers handle all establishment and enforcement matters except paternity and contempt/failure to support cases, which are handled judicially. Administrative orders are filed with Clerk of the Court without judicial signoff.

Illinois - A new State law provides for Hearing Officers who can adjudicate paternity and establish initial child support orders, modify non-judicial orders and take enforcement actions.

Implementation is being phased in starting with two locations in Cook County. Some smaller counties, with small caseloads, won't get the process because it's not needed.

Iowa - Administrative Hearing Officers can establish child support orders. A judge must sign a paternity order. However, they can initiate blood tests. After performing review and adjustment, they can administratively modify orders, including child support orders originally completed by the courts in dissolution cases. A judge signs off on the modified order to certify due process has been served and not to review or agree on the contents of the order. The hearing officers can also initiate seek work orders.

Kentucky - The State has a provision for Administrative Hearing Officers to establish child support orders administratively.

Maine - Administrative Hearing Officers enter child support orders, voluntary paternity acknowledgements, order blood tests and take enforcement actions except in cases of contempt.

Missouri - If there is no child support order, a Notice of Finding of Financial Responsibility is sent to the noncustodial parent. If there is no response, an Administrative Hearing Officer can issue an administrative default order. If the noncustodial parent responds, he can request an administrative or judicial hearing. If there is an order, the Hearing Officer can duplicate it and add arrearage amounts to it. Hearing Officers can establish paternity if there's consent. In a recently passed law, effective January 1, 1994, review and adjustment will be done administratively for all orders, including judicial orders. The adjusted order will be sent for judicial review. If there is no judicial response in 45 days, the adjusted order becomes effective.

Montana - An Administrative Law Judge handles all child support establishment and enforcement functions, including establishment of paternity.

Oklahoma - Hearing Officers can establish, enforce and review and

adjust orders. There are two Hearing Officers for the State, serving the four counties which comprise slightly less than half the total caseload.

Oregon - Administrative Hearing Officers handle child support order establishment, review and modification of non-judicial orders, paternity establishment (including ordering blood tests) and enforcement.

Utah - Administrative Law Judges handle all child support establishment and enforcement functions with the exception of paternity establishment.

Virgin Islands - Administrative Hearing Officers handle uncontested paternity establishment, establishment of child support orders and modification of non-judicial orders.

Virginia - All child support establishment and enforcement functions, including establishment of paternity, are carried out under the State's administrative process.

Washington - Administrative Hearing Officers handle order establishment, review and modification of non-judicial orders, and enforcement. A small percentage of paternities are established administratively through in-hospital declarations.

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CENTRALIZING CHILD SUPPORT WITHIN STATE GOVERNMENT

EXECUTIVE SUMMARY

Currently, the organizational structure of the Child Support Enforcement (title IV-D) program in many States is very fragmented. Various State and local agencies provide child support services or perform functions without the benefit of central direction and control. The various agencies have different priorities, level of commitment and funding, skills and abilities including their knowledge of all aspects of the program and how they interrelate, and systems and procedures for processing and tracking child support actions and coordinating with other components. As a result, the quantity, timeliness, and cost of case work in many jurisdictions is seriously deficient.

The purpose of this paper is to identify and explore the issues associated with requiring States to develop a centralized child support operation. The options and advantages and disadvantages for each issue are discussed but no conclusions are given.

The issues included in this paper as being among the more important aspects of centralization include: (1) the extent to which centralized operations should be alike among States, (2) where within State government the central State child support agency should be located, and (3) the extent to which child support services are centralized at the State level. No attempt was made to develop specific models for centralizing operations since any number of options and permutations could be proposed if the issues identified in this paper are not first decided.

For a program like child support there are many obvious benefits for centralizing the program at the State level. The first of these is that program planning, budgeting, and obtaining legislative support can be accomplished by one State agency rather than being dependent on the competing interests which may exist locally. Significant economies of scale are also possible. For example, in a decentralized operation, each local jurisdiction usually collects and distributes child support payments. If this function was performed centrally, the work could be done with fewer staff thereby freeing staff time for other functions such as paternity establishment. Allocation of resources to areas having the greatest need is also much easier in a centralized environment because the State agency would control all child support activities. This flexibility and control of resources in turn increases the potential for better and more consistent results throughout the State.

Communication, which is critical to successful operations, is also simplified in a central operation. This is true not only for staff communication but also for systems communication and interface. Many systems are used in a decentralized child support environment for such objectives as: case management and tracking; hiring, training, and evaluating staff;

procuring equipment and contractual support; communicating with other agencies involved in child support related functions; etc. If these systems can be combined and made uniform throughout the State, communication should improve and the cost of their operation should decline, again through economies of scale.

- The primary disadvantage to centralization is that the child support program has a long history of many services being performed at the local level. Consequently, units of local government are likely to resist the centralization of all child support functions at the State level. In addition, the States will incur transitional costs and need some lead time to restructure the systems used in operating the program.

CENTRALIZING CHILD SUPPORT WITHIN STATE GOVERNMENT

PROBLEM

The organizational structure of the title IV-D program in many States is very fragmented. Various State and local agencies provide child support services or perform functions without the benefit of central direction and control other than that provided by Federal regulations. The various agencies have different priorities, level of commitment and funding, skills and abilities including their knowledge of all aspects of the program and how they interrelate, and systems and procedures for processing and tracking child support actions and coordinating with other components.

This type of decentralized system is highly dependent on close coordination and communication which is difficult to achieve, and typically incurs additional expense due to the need to duplicate and verify work and the inability to capture economies of scale. As a result, the quantity, timeliness, and cost of case work in many jurisdictions is seriously deficient.

Requiring States to centralize child support operations should, if successfully planned and implemented, eliminate many of the present day deficiencies. For purpose of this paper, the term "centralization" means the establishment or designation of a State level agency which has supervisory, programmatic, and budgetary control of State child support resources and operations, including the allocation and organization of resources in a manner which minimizes the number of staff and locations needed for program effectiveness.

For a program like child support there are many obvious benefits for centralizing the program at the State level. The first of these is that program planning, budgeting, and obtaining legislative support can be accomplished by one State agency rather than being dependent on the competing interests which may exist locally. Significant economies of scale are also possible. For example, in a decentralized operation, each local jurisdiction usually collects and distributes child support payments. If this function was performed centrally, the work could be done with fewer staff thereby freeing staff time for other functions such as paternity establishment. Allocation of resources to areas having the greatest need is also much easier in a centralized environment because the State agency would control all child support activities. Economies of scale and wise allocation of resources are vital to the child support program which typically features large caseloads and minimal staff resources. This flexibility and control of resources in turn increases the potential for better and more consistent results throughout the State.

Communication, which is critical to successful operations, is also simplified in a central operation. This is true not only for staff communication but also for systems communication and interface. Many systems are used in a decentralized child support environment for such objectives as: case management and tracking; hiring, training, and evaluating staff; procuring equipment and contractual support; communicating with other agencies involved in child support related functions; etc. If these systems can be combined and made uniform throughout the State, communication should improve and the cost of their operation should decline, again through economies of scale.

Because of the need to process a high volume of cases in a uniform and consistent manner with minimum resources, centralization of the program at the State level warrants serious consideration. The primary disadvantage is that the child support program has a long history of many services being performed at the local level. Consequently, units of local government are likely to resist the centralization of all child support functions at the State level. In addition, the States will incur transitional costs and need some lead time to restructure the systems used in operating the program.

BACKGROUND

Federal law and regulations give the States maximum flexibility regarding the organizational structure of the title IV-D program as indicated in Attachment A. The IV-D program is located within the agency which administers the IV-A program in 47 States, the office of Attorney General in 4 States, and the revenue agency in 3 States.

In at least 44 States, the State IV-D agency has delegated child support function(s) to agencies and officials such as the Attorney General, county IV-D agencies, District Attorneys, County Attorneys, Family Courts, Friend of the Court, Court Trustees, and Clerks of the Court. In at least 32 States, County or District Attorney(s) or equivalent official(s) provide child support services under cooperative agreement. Cooperative agreements also exist with the State Attorney General in at least 11 States; and the Court, Court Trustee, or Friend of the Court, in at least 22 States. The Clerk of Court or county depository receives IV-D child support collections in at least 36 States under a cooperative agreement, or as required by State law. The State IV-D agency is responsible but generally does not have adequate authority to ensure that child support functions performed by these agencies are carried out in an efficient and effective manner in accordance with the IV-D State plan.

OBJECTIVE

The purpose of this paper is to identify and explore the issues associated with requiring States to develop a centralized child support operation. The options and advantages and disadvantages for each issue are discussed but no conclusions are given. Also, no attempt was made to develop specific models for centralizing operations since any number of options and permutations could be proposed if the issues identified in this paper are not first decided.

The issues included in this paper as being among the more important aspects of centralization include: (1) the extent to which centralized operations should be alike among States, (2) where within State government the central State child support agency should be located, and (3) the extent to which child support services are centralized at the State level. We have summarized the issues and related options in the matrices below. The manner in which staff is assigned to work on cases, such as individually or in a team, also impacts centralization from the standpoint of achieving economies of scales and eliminating duplication. However, the relationship of this issue to centralization is not as direct as the other issues and was, therefore, not considered in this paper.

CENTRALIZATION -- ISSUES AND RELATED OPTIONS

ISSUE 1 -- UNIFORMITY OF OPERATIONS AMONG STATES

	Uniform Approach for State Operations	Limited Selection for State Operations	Free Choice for State Operations
Option 1	X		
Option 2		X	
Option 3			X

ISSUE 2 -- PLACEMENT IN STATE GOVERNMENT

	Agency that Administers the AFDC Program	State Revenue or Tax Agency	State Attorney General or Legal Agency	Separate State Agency
Option 1	X			
Option 2		X		
Option 3			X	
Option 4				X

ISSUE 3 -- DELIVERY OF CHILD SUPPORT SERVICES

	All Functions Performed at Locations Throughout the State Except Some Distribution	All Functions Performed at Locations Throughout the State Except Correction and Distribution	All Functions Performed at One Location
Options 1	X		
Options 2		X	
Options 3			X

UNIFORMITY OF OPERATIONS AMONG STATES

Currently, State child support enforcement programs vary extensively from county administered involving multiple locations and units of local governments to State administration from one office. If States were required to centralize, a primary question to decide is to what extent should State centralized operations be alike? The options range from total uniformity among all States, limited selection of a centralized structure based on some methodology to narrow the choices, to free choice in selecting a centralized structure. Each is explained in more detail below along with its advantages and disadvantages.

1. **UNIFORM APPROACH** - All State Child Support Enforcement programs are configured the same, both in terms of program organizational structure and the procedures followed to administer child support. The agency that houses the program including its name, the unit within this agency which delivers the services, and the basic procedures which this unit follows to provide services are alike among all States. There may be some difference in organizational structure concerning whether or not to have and the number of field offices needed for States with large geographical areas or populations.

Advantages:

- Best practices institutionalized nationwide.
- Opportunities to simplify program, and monitor compliance maximized.
- Inefficient and ineffective organizational structures being followed in current system eliminated.
- After start-up costs are financed, least costly to operate due to economies of scale, elimination of duplication, and more effective automation.
- Communication between States significantly enhanced due to the use of the same systems.

- The costs of planning, implementing, operating, and enhancing statewide automated systems greatly reduced; interface and sharing of data greatly enhanced.
- Accountability significantly improved because of the comparability between programs and the data they provide.
- Significant economies of scale possible not only from the elimination of inefficient methods but also through the establishment of cooperative relationships among the States for such functions as training, forms development and design, computer functions, development of personnel standards, etc.
- Easier to evaluate the impact of and to implement changes to program, either administrative or legislative.

Disadvantages:

- The likelihood of passage remote due to State and local political resistance to such a major change.
- Transition time to fully accomplish will take several years and potentially could be hampered by State and local staff reluctance to change.
- Significant infrastructure and investment dismantled and lost.
- Start-up cost very high.
- Questionable practicability due to extreme State and local differences.
- Future program innovation more difficult to achieve in an environment where uniformity is regulated and differences are discouraged.

2. **LIMITED SELECTION** - This approach assumes that it is desirable to have State programs organized as much alike as possible but that extreme State differences preclude a uniform approach. Therefore, States are given some limited choice in deciding how to centralize their child support operations. The methodology for limiting choices could be by the use of criteria, by specifying models, or a combination of the two. If criteria is used, States could centralize in any manner they wish provided that each criterion for centralizing is met. An example of a criterion might be that collection and distribution must be automated and performed at a central State location. If specific models are used, a State would select from among a list of pre-approved models. The models might include configurations for small states where a single office would suffice, a regional office setup for States with sparse population and large geographical area, county or local office setup for States with dense populations, etc. No attempt was made in this paper to identify the criteria or specify models.

Advantages:

- Many of the same benefits as the uniform approach, although perhaps not to the same extent.
- Resistance to change lessened because States can exercise choice.

Disadvantages:

- Essentially the same as the uniform approach, but less severe due to the opportunity of choice.
- Increased need for regulation and control at the Federal level due to program variability.

3. **FREE CHOICE** - States have unlimited authority to centralize operations and select operating procedures which conform to the rules and regulations established for the program. The only difference between this and the current environment is that States would be required to implement a program which meets the goals of centralization.

Advantages:

- Several States already centralized.
- Of the three, easiest to sell to State politicians.
- Least lead time required to fully implement.
- Least costly of the three methods to start up and implement but not to operate.
- Most adaptable of the three methods in accounting for State differences and allowing change to meet changing conditions in the State.
- More opportunities to innovate because the restrictions on program format are fewer.

Disadvantages:

- Effectiveness of structures in administering child support and achieving results will vary much like the current system.
- Economies of scale more difficult to achieve in a variable setting, thus increasing program operating costs.
- Automated systems must be customized to the structures selected, thus increasing cost and the chance of failure and decreasing the interface capability among systems.
- Future program changes more difficult to assess and make and more costly to implement due to program variability.
- Resistance from local politicians likely to be greater under this option because of perceptions of State interference in local affairs.

PLACEMENT IN STATE GOVERNMENT

This category explores where the central child support agency should be housed in State government. The primary options are the welfare agency, tax or revenue department, Attorney General or legal department, and separate State agency.

1. AGENCY THAT ADMINISTERS THE AFDC PROGRAM

Advantages:

- The 'traditional' location of the child support enforcement agency thus more politically acceptable.
- Simplified communication, both automated and human, on AFDC, Medicaid and other Social Security Act programs.
- Availability of personnel who are committed and trained to provide "service".
- Involves the least amount of change and cost to implement because most States are already configured this way.

Disadvantages:

- Non-welfare customers often reluctant to use service due to negative perception of public welfare agencies.
- For various reasons, CSE often not given a high priority by the welfare agency which has resulted in limited visibility to public and limited resources.
- Human services agencies have difficulty holding their own in operating partnerships with courts and attorneys general.
- Reaffirms public perception of CSE as a program for people on welfare.
- CSE requires a different set of skills and orientation than that needed to provide welfare assistance.
- Leaving the program in the welfare agency which involves the least amount of change may be perceived by the public as an inadequate response to the problem.

2. STATE REVENUE OR TAX AGENCY

Advantages:

- Broad range of administrative tax remedies available which are not currently available to CSE.
- Skills and orientation of personnel well suited to monitoring and collecting legal obligations.
- Highly automated operations easily adapted to CSE needs.
- Mandatory tax withholding procedures ideal for collecting child support from a majority of Non-Custodial Parents [NCP].

- Tying child support to taxes elevates the importance of the program in the public mind and thus may result in less delinquency among obligors.
- Reinforces the image of child support as a program of income transfer between the parents.

Disadvantages:

- Tax agencies very resistant to the concept.
- Generally, current personnel lack the skills needed to establish paternity, orders, and other CSE functions unrelated to collecting the legal obligation.
- Public perception of tax agencies, from the standpoint of providing customer service, is not generally positive. This perception and the lack of a history of helping people with problems might cause people to avoid using the service.
- Not easily accessible to the general public. Could pose a hardship for welfare customers and a deterrent to non-welfare customers.
- CSE would probably have difficulty competing for resources since tax collection would continue to be the primary function of the agency.
- Political resistance to the idea and cost to implement likely to be high in most States.
- Coordination with welfare and other social programs more difficult to achieve and likely to suffer.

3. STATE ATTORNEY GENERAL OR LEGAL AGENCY

Advantages:

- A natural fit of skills available and required except for the collection and distribution function.
- Generally, the agency in State government with the greatest public respect.
- General receptivity to the concept.
- In most states independent from the Executive Branch thus often more able to obtain resources.
- Places CSE in a legal rather than welfare context which should generate better response from NCP's.

Disadvantages:

- Litigious traditions incompatible with non-judicial remedies that are considered more effective in CSE.
- Not easily accessible to the general public or accustomed to dealing with the general public.

- Tendency of Attorneys General to prefer high profile and "difficult" cases may relegate CSE to a lower priority, thus making recruitment and retention of highly qualified people more difficult.
- Coordination with welfare programs harder to achieve and likely to suffer.
- Program requirements more socially oriented and not specifically related to enforcing the support obligation may be assigned a lower priority.

4. SEPARATE STATE AGENCY

Advantages:

- Visibility and direct access to the Governor, key Executive Departments and the Judiciary.
- More likely to be able to operate as an equal with the Courts, Attorney's General and other Executive Departments.
- Except for the welfare agency model, easiest and least costly to implement once legislative hurdles are cleared.
- Coordination with welfare agencies better than that possible with the tax agency and attorney general models.
- Elevates the importance of child support as a stand-alone objective in the State rather than a subordinate welfare initiative.
- Change would be perceived by the public as something more than just lip service.

Disadvantages:

- Would require Constitutional changes in many States.
- Almost totally lacking in political support at any level. May not be able to lobby adequately for funding.

DELIVERY OF CHILD SUPPORT SERVICES

Currently, the child support program in many States is very fragmented with child support functions performed by various State and local agencies. The State child support agency generally has limited control over how these functions are performed. In addition, the agencies performing these functions have different levels of commitment, funding, skills, and understanding of how the program works, and systems and procedures for providing services and coordinating with other agencies. As a result, the quantity, timeliness, and cost of case work in many jurisdictions is deficient.

The centralization of the child support program at the State level has many benefits including having one central authority responsible for all program planning, policy, and procedures; budgeting; and obtaining funding and legislation. In addition, central control over the allocation of resources, including staff, is essential to obtaining better results in a program

with high caseloads. Also, the centralization of systems for objectives such as case management and tracking; hiring, training and evaluating staff; procurement of equipment and contractual support; and communication with other agencies involved in child support; etc. will improve system communication and reduce costs.

- Texas is an example of how centralization can result in program improvement. Prior to July, 1985, the child support program was located in the Texas Department of Health and Human Services. Child support services were provided at the local level under cooperative agreement with the State child support agency in many counties, including Dallas, Houston, Fort Worth and El Paso. These services included the receipt of all collections and distribution of collections to the family. The State child support agency provided services in all other counties. The contract counties generally had inadequate funding, resources, and commitment to the program. At the State level, the program had low priority, insufficient resources, and inadequate child support laws. In addition, the State child support agency did not have control over State child support offices around the State because these offices were under the authority of a Regional Administrator who had responsibility for programs other than child support.

In July, 1985, the child support program and less than 300 staff were transferred to the State Attorney General. State child support offices were established around the State which provide the full range of child support services throughout the State. Most child support collections are now paid directly to the State child support agency. The State has many new child support laws, including legislation which requires the Attorney General's office to use the State's share of collections for welfare recipients and incentive payments to fund the program. Currently, the State has over 2,000 child support workers. Texas has made significant improvements in program performance including paternity establishment, and collections.

The options under this category identify where child support services/functions are performed within the State. The options are: child support functions performed at locations throughout the State, collection and distribution functions performed at one location and all other child support functions performed at various locations throughout the State, and all child support functions performed at one location. Each option below assumes the establishment of a central registry of cases accessible to all State child support offices and to other States.

1. **ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION** - Under this approach, the State child support agency has offices located throughout the State. The State Central office distributes all child support collections assigned to the State as a condition of receiving assistance. Each office performs all other child support functions; e.g., intake, location, paternity establishment, and enforcement of support obligations, collection of support, and distribution of non-AFDC collections to the family.

Advantages:

- Reduces fragmented organizational structures.
- Permits use of existing local infrastructure.
- Lowers the cost per case in providing child support services because fragmentation is reduced and services are delivered more uniformly.
- Lowers the cost of automated systems because maintenance would be required on fewer communications lines and systems security would involve fewer locations.
- Provides clients local access to services and information on the status of their case.
- Allows NCPs to pay support at local offices.
- Facilitates the transfer of local staff working for agencies that perform child support services under a cooperative agreement or other arrangement; e. g., Clerk of Court, District Attorney, or local county agency; thus preventing the loss of program expertise.
- Maximizes opportunities to co-locate child support with local AFDC, food stamps, and medicaid offices.

Disadvantages:

- Structure currently lacking in most States.
- Significant investment in current system lost.
- Operating costs still high in most States because functions are decentralized and services delivered from a large number of local offices.
- Program effectiveness still highly dependent on the attributes of each local office, including the skills and commitment of local management.
- The larger the number of local offices the more difficult it is to ensure effective communication and uniform provision of child support services.
- Loss of experienced workers from local government or contractors who are not hired by State or elect to transfer to another local job to retain benefits.
- Opposition from local agencies and officials who are reluctant to relinquish control of child support functions, such as the payment of collections to the Clerk of Court.
- The difficulty of obtaining any needed State legislation to transfer child support functions.
- Lead-time required to transfer child support functions to the State child support agency dependent upon the effective date of necessary State legislation, functions to be transferred, the degree of automation, and caseload.
- Regional structure currently used by many States to administer public assistance programs not consistent with the child support program's need for direct line authority over local child support staff.

2. **ALL FUNCTIONS PERFORMED STATEWIDE EXCEPT COLLECTION AND DISTRIBUTION** - Under this approach, the State child support agency has offices located throughout the State. Each office performs all child support functions; e. g., intake, location, paternity establishment, and establishment of support obligations, except collection and distribution. Collection and distribution functions would be performed at the central office of the State child support agency.

Advantages:

- All advantages listed under **ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION** except number 6.
- Economies of scale for centralized functions which, in turn, allows local offices to focus more staff and time on direct client services.
- Consistency and uniformity of centralized functions.
- Increases State capability to distribute all child support collections at the same time each month in an efficient, effective, timely, and uniform manner through a centralized statewide system.
- Cash handling and accounting functions more likely be separated due to volume of collections which decreases the opportunity for fraud and misappropriation of funds.
- Employer withholdings sent to one location.
- NCPs with support orders in more than one county required to send payments to one location.

Disadvantages:

- All disadvantages listed under **ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION**.
- NCP not able to pay support in person at a local office.
- Payments to non-AFDC families precluded until after the distribution run.

3. **ALL FUNCTIONS PERFORMED AT ONE LOCATION** - Under this approach, the State child support agency has one office which performs all child support functions; e. g., intake, location, paternity establishment, establishment of support obligation, collection, for the State. A minor variation of this approach could be the establishment of small offices in selected locations throughout the State to perform intake and provide clients with a local contact to obtain or provide information about their case.

Advantages:

- The first, third and fourth advantages listed under ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION.
- Economies of scale maximized which lowers operating costs to the maximum possible extent.
- Staff communication, training and supervision enhanced due to the lack of geographical separation.
- Legislative mandates and changes to the program easier and less costly to implement.

Disadvantages:

- All disadvantages listed under ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION except numbers 3, 4, 5, and 10.
- Costly and difficult to implement in States where child support services are now available and provided by local offices throughout the State.
- Clients required to apply for child support services through the mail unless they travel to the central State child support office which may be a long distance from home. The variation discussed above would significantly reduce this problem.
- More difficult to be responsive to clients because contact with the client is infrequent or never occurs.
- Loss of program expertise due to the inability of local staff to transfer and relocate to the central office of the State child support agency.
- Resistance from localities and the political establishment to such a radical change in program operation.

ATTACHMENT A - Summary of CSE regulations on organizational structure

Federal law and the implementing regulations require that there be a single and separate organizational unit in each State to administer the title IV-D program. Federal regulations require the following: The separate IV-D agency may be located within any State agency, including the same agency responsible for the IV-A program, or it may be established as a new State agency. The IV-D agency is solely responsible and accountable for the IV-D program and all of its functions even though it is not required to perform all functions directly. However, if the IV-D agency delegates any function(s) to any other entity, it retains ultimate responsibility for making sure all delegated IV-D functions are carried out in accordance with Federal requirements.

The regulations also outline organizational and staffing requirements for IV-D agencies. The organizational structure of the IV-D agency must provide for the administration or supervision of all of its required IV-D responsibilities and include clearly established lines of authority. More specifically, the organizational structure and staff levels must be sufficient to fulfill the required State level functions outlined in regulation. Further, the organizational structure and resources at the State and local level must be adequate to administer all other support enforcement functions.

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Privatization of Child Support Enforcement Services

Executive Summary

This paper considers the viability, in the context of welfare reform, of the small but growing phenomenon of privatizing child support services. Privatization of child support enforcement, for the purposes of this paper, is contracting, by the Federal, a State, or a county government with private firms to provide a specific geographic area with one, several, or all of the services normally provided by a Child Support Enforcement (title IV-D) agency.

Privatization is increasingly of interest to States because it offers a means of improving services without adding employees to State payrolls and of reconciling demands to improve the efficiency, cost effectiveness, and productivity of child support programs in the face of shrinking resources. Contractors have been equally interested. States represent a large market for various types of contractor expertise--almost \$2 billion in Federal and State funds were spent on child support enforcement services in FY 1992.

To date, privatization has fallen into two categories: privatization of one or multiple services, but not all services, and complete privatization of all IV-D services. The option to privatize a single or multiple services has been available almost as long as the IV-D program. Examples include the provision of lockbox, location and collection services, casework, and service of process. More recently, some States have contracted for the provision in subsections of the States, of the entire range of IV-D services. As with the privatization of just a few services previously, initial results from efforts to privatize all services have been encouraging: in Tennessee's 10th Judicial District, for example, collections in the first year were up by over 44 percent.

Regardless of the type of privatization to be undertaken --

whether for all services or just a subset -- three sets of issues and problems should be addressed: (1) why privatization should be considered at all and whether it is feasible in a variety of settings; (2) whether States can provide the necessary inputs for and sufficiently streamline the procurement process; and, (3) potential long term problems.

Privatization has many advantages, and is worth considering. It is particularly effective for States experiencing resource problems, and for those where the legislature is willing to allocate money, but not additional staff, to IV-D programs. With contractor staff providing services, State payrolls do not need to be increased. At the same time, training, benefits, developmental activities, and technological advances can be built into the overall cost of the contract, generally at a net cost which does not greatly exceed what States are already paying. Moreover, higher costs attributable to privatization may well be offset by gains in productivity, higher collections and lower costs from welfare avoidance. Other advantages include: performance and customer service orientations, management and technology expertise available from contractors, ability to respond quickly to changing caseloads, and more flexible use of personnel and technology.

However, privatization's advantages must be balanced against a range of questions that remain, in large part because there is little experience with privatization in a variety of settings. Open questions include: privatization's effectiveness in larger geographic and/or functional areas; the capacity of firms to meet demand with quality service; contractors' ability to offer competitive costs over time; how close contractor management can remain to line operations; and whether privatizing will lessen or further increase existing fragmentation of the child support system.

Privatization will also be more or less effective depending on the procurement process. Privatization will not work well if the State or county cannot detail the responsibilities of the agency and the contractor, the standards and requirements the contractor is subject to, required output and its format, and the means of

enforcing the contract.

In the long term, a number of issues are relevant, and need to be explored further. First, it will be important to maintain competition. This keeps costs reasonable, and facilitates transition if a contractor is performing poorly. Further, competitors are likely to encourage contractors to maintain high performance. Second, in privatizing, a IV-D agency must be aware of how privatizing may affect the flow of work in the State. If one or several services are improved while others are not, overall services will be limited by the least efficient link in the process. Third, measures need to be developed to insure that services provided through privatization remain effective and cost efficient. Finally, important issues of confidentiality of and access to child support information must be addressed.

Given all of these potential concerns, the feasibility of privatization as a national, a Statewide, or a large urban area strategy is unclear. In the context of restructuring child support, this may argue for pursuing a gradual expansion of privatization and a strong program of Federal technical assistance and training so mistakes are not repeated. In the short run, this could involve starting with functional areas particularly well-suited to privatization and gradually expanding to complete privatization. States should also carefully consider running a pilot before undertaking full-scale implementation. A pilot helps a State to avoid the negative publicity caused by large scale problems and gives both the State and the vendor a chance to work out any problems before full-scale privatization is attempted.

Taking all of these considerations into account, options could be developed along the lines of the following directions:

- o Demonstrations--State Level. The Federal government could fund demonstrations to test privatization's effectiveness.
- o Privatization at the State Level--State Lead. The Federal government can simply continue to support the existing environment.

- o Privatization at the State Level--Federal Lead. The Federal government could take a proactive role to accomplish privatization at the State level.
- o Greatly Expand Privatization--State and Federal Levels. A combination of the three options above.
- o Privatization at the Federal Level. Partial or complete privatization could be explored should a restructuring option be chosen which gives the Federal government responsibility for some or all child support services.

Privatization of Child Support Enforcement Services

I. Introduction.

The purpose of this paper is threefold. It will provide background about, explore issues related to, and examine options for privatizing child support services in the context of restructuring the existing child support enforcement program.

Privatization of child support enforcement is contracting, by the Federal, a State, or a county government with private firms to provide a specific geographic area with one, several, or all of the services normally provided by a Child Support Enforcement (title IV-D) agency. What privatization is not is the provision of services by private firms directly to custodial parents, generally on a contingency fee basis, which are outside of and duplicate existing services available from the IV-D agency. Typically, such services are limited to location and collection. For this paper, privatization also excludes activities which are not ongoing, such as the development of automated systems or training programs, or which are not specifically child support related, such as facilities management.

Privatization is currently a very small, albeit growing phenomenon. So why is it of interest to States? It's an intriguing means of improving services without adding employees to State payrolls and of reconciling demands to improve the efficiency, cost effectiveness, and productivity of child support programs in the face of shrinking resources. States are facing a range of intractable problems including lack of management expertise, outdated technology, inflexible bureaucracies, growing AFDC caseloads, frequent modifications of child support orders, regulatory change, and strict Federal performance standards.

In this environment, States and local governments have been strongly motivated to consider alternatives like privatization. Moreover, initial feedback suggests that private firms can provide high quality IV-D services at competitive prices.

Contractors have been equally interested. States represent a large market for various types of contractor expertise. In FY 1992, almost \$2 billion in Federal and State funds were spent on child support enforcement services. Firms which can tap this market by offering competitive alternatives to government-provided services have the potential to achieve substantial financial returns.

Is privatization the wave of the future for States? It remains too early to tell. While the privatization of single functions began in the mid-1970's, complete privatization is relatively new, and neither have been subjected to extensive evaluation. Should privatization be adopted as a formal strategy for restructuring State child support enforcement programs? Again, the answer is unclear. Yet given the interest in this approach at all levels of government and among contractors, it cannot be written off for lack of hard data; rather it demands close scrutiny and serious consideration.

II. Background.

States are mandated under title IV-D of the Social Security Act to provide child support enforcement services to all AFDC-eligible cases and to any non-AFDC individuals who apply for them. These IV-D services include paternity establishment, location, order establishment, and the enforcement of support obligations, including the collection and distribution of support. Currently, States either directly provide IV-D services through State staff, or contract for such services through cooperative agreements with public sector county, judicial, district attorney, law enforcement personnel, and/or private attorneys.

States can also obtain some or all of their child support services from private sector firms. While only a few States have chosen to do so, their numbers are increasing. Included among these States are Tennessee, Wyoming, Georgia, Colorado, Idaho, Nebraska, New York, Vermont, Michigan (Wayne County), Massachusetts, California (Los Angeles County) and Missouri.

For now, States are learning which services to purchase and from whom. No clear pattern has emerged regarding the number, breadth of, or geographic area for which the services are being sought. However, privatization efforts to date may be divided into two categories: privatization of one or multiple services, but not all services, and complete privatization of all IV-D services.

Privatization of a One or Multiple Services

The option to privatize a single or multiple services has been available almost as long as the IV-D program itself. Morris County, New Jersey contracted with a private company for lockbox and collection services in 1976. Wyoming, since 1991, has had a statewide contract with a local law firm to conduct all casework (except intake) leading to the adjudication of paternity or establishment of an order. Procedures include location, gathering information and evidence, initiating URESA actions where appropriate, and providing litigation services. Missouri is one of several States to privatize service of process. Georgia completed a pilot study to privatize location.

And the feedback from such efforts is largely positive. In Missouri, successful service of process has jumped from under 50% to 80% and remained cost effective; contractors, on average, charge \$21 per actual service, while the fee per attempt by a sheriff's office was \$20. Initially, privatizing saved Morris County, New Jersey over \$9,000 annually.

Such privatization may be particularly useful, for it draws upon the expertise of companies in areas in which the IV-D agency may have far less experience and for which specific knowledge of the IV-D system is less crucial. This is especially true in the area of lockboxes and collection services. Similarly, by privatizing, a IV-D agency may be able to obtain more advanced technology than would otherwise be available to the State. Thus, by privatizing certain discrete service areas, a IV-D agency can target its personnel and other scarce resources to services requiring in-depth knowledge of the Child Support Enforcement program. Not surprisingly, many States' initial efforts have focused on privatizing a single service, while expansion to the

privatization of all services occurred much later.

Complete Privatization of All IV-D Services

Complete privatization of all services is a relatively new phenomenon. To date only two States have contracted for all of their IV-D services, and in these instances, this has been limited to discrete geographic areas within these States. Tennessee completely privatized one of its Judicial Districts beginning in 1991, and in the near future will have expanded this effort in three additional Districts. Services are being provided by two national firms, each of which has been awarded contracts for all services in two separate Districts. Nebraska also recently privatized all of its Douglas County (Omaha-area) IV-D services. In this case, the Clerk of the District Court will perform all collections and distributions and a single private firm will perform all other services.

Despite the lack of formal evaluation of such efforts, early results are encouraging. In Tennessee's 10th Judicial District, for example, collections in the first year were up by over 44%, while funding resources invested in the program increased by nearly 90%.

Moreover, performance results can be build in directly to a private firm's contract, linking remuneration to the firm's ability to produce specified outcomes. Thus, firms can be held accountable for results which can pass the IV-D audit requirements. In defining these outcomes, States have the flexibility to express performance results as multi-year goals, to require objective, measurable outcomes as opposed to subjective ones, and to specify key facets of performance (e.g., case volume, quality/accessibility and timeliness of service, efficiency/cost of administration).

Despite the attractiveness of privatizing all IV-D services, neither Nebraska nor Tennessee initially chose this approach by design. Tennessee stumbled upon privatization when some of its existing providers failed to adequately provide or chose not to continue providing services. Similarly, in Nebraska

privatization was the only feasible means of responding to the recommendations in a report reviewing the operations of the previous Douglas County IV-D system. In fact, despite its satisfaction with the privatization of Douglas County, Nebraska has no immediate plans for further privatization.

III. Issues and Problems.

Regardless of the type of privatization to be undertaken -- whether for all services or just a subset -- the key considerations are the same. Three sets of issues and problems should be addressed in considering privatization as a restructuring alternative. These include: (1) why privatization should be considered at all and whether it is feasible in a variety of settings; (2) whether States can provide the necessary inputs for and sufficiently streamline the procurement process; and, (3) potential long term problems.

To Privatize or Not?

1. Is Privatization an Option Worth Considering as Part of Child Support Enforcement Restructuring?

For States or counties with adequate staff and resources which are performing well, there may be no reason for considering privatization. However, such a situation is not universal. In particular, there is a reluctance among many governors and legislatures to expand program staff to adequate levels if it means increasing the size of State government by adding to State payrolls. Similarly, in many States, it is difficult to obtain funds for enhancing productivity, including training, long range planning, and technology. This situation is not likely to improve in the future, as States resources are expected to continue to shrink.

Privatization is a good response to these types of problems, and especially to legislatures which will allocate money, but no additional staff, to IV-D programs.

With contractor staff providing services, State payrolls do not need to be increased. At the same time, training, benefits, developmental activities, and technological advances can be built into the overall cost of the contract, generally at a net cost which does not greatly exceed what States are already paying. Moreover, higher costs attributable to privatization may well be offset by gains in productivity, higher collections and lower costs from welfare avoidance.

Privatization also offers other advantages:

- o performance-orientation instead of process-orientation;
- o customer service orientation;
- o management and technology expertise;
- o ability to respond quickly to changing caseloads and requirements; and,
- o more flexible usage of personnel and technology.

Despite these many potential benefits, privatization remains relatively untried. Projects currently underway are relatively small in scale and too few in number and too new to provide a solid basis for evaluation. However, given the potential benefits of privatization, it remains an option worth further exploration.

2. Is Privatization Feasible in a Variety of Settings and on a Large Scale?

At this time, the viability of extensive privatization remains unclear. Open questions include:

- o Scope. Most of the privatization efforts to date have involved small geographic areas and/or limited functional areas. The private companies have worked with small staffs, usually including the displaced IV-D workers.

This reduces the initial learning curve, as well as start-up costs. As contractors expand their scope beyond these initial efforts to larger, or more complex situations, it is unclear whether their initial successes will continue.

- o Capacity and Access. No one knows how many firms - especially State and local firms - are providing IV-D services to States. Nationally, there are at least three firms which currently have units specializing in child support enforcement services. Other national firms offer generalized management consulting and data systems services. State-specific firms, including law firms and even collections agencies, have also bid for contracts, as have various smaller and/or local firms and organizations. In the majority of cases, however, the firms are still relative newcomers to child support enforcement, many having five or fewer years experience. While capable of handling the current projects, it is unclear how rapidly these firms can expand their capacity and still retain their edge in areas like customer service and performance orientation. On the other hand, access to this market appears relatively open, and additional firms should be able to gain entry. A concern, however, is that firms trying to get in for the first time will be less committed to observing all of the child support enforcement requirements and serving more difficult cases.
- o Cost. Cost reflects competition and risk. In the small, less complex privatization efforts to date, there have been approximately 1-6 qualified bidders. Further, each project bid first assembled detailed specifications for contractors. By reducing the number of unknowns the contractor had to address, less margin for error (risk) had to be built into the contract, holding down costs. As privatization spreads to larger, more complex projects, there may be fewer qualified bidders. It is also unclear if specifications can be detailed enough to limit risk sufficiently. Either of these factors could result in higher costs.

- o Political considerations. Political considerations could influence the willingness to privatize. First, State officials may be concerned about using a single contractor for extensive services given the predicament that would result if the contractor went out of business or no longer was providing acceptable services. Second, a fragmented system with several political offices already providing services has many parties potentially opposed to any changes. Likewise, within a more centralized system, the bigger the geographic area and the more services the privatization encompasses, the more interested parties will be affected. Either scenario may provide enough opposition to render privatization politically infeasible. Finally, child support agencies could face political pressure to award contracts to contractors who may or may not be qualified or to other State agencies such as State colleges and universities.
- o Distance from Line Operations. Familiarity with line operations enhances management decisions. Projects to date have involved small jurisdictions, with direct top management involvement. If project management becomes more diffuse (e.g., contracts are expanded Statewide in large States or let at the Federal level), this intimate knowledge of local operations could easily be lost, possibly with negative implications.
- o Fragmentation. Privatization could further fragment a system that already involves multiple branches and levels of government. The existing complicated organization hampers program effectiveness, and the additional fragmentation which privatization causes could vitiate the very efficiencies which make it attractive in the first place. Moreover, in the context of moving toward both further centralization within the Child Support Enforcement Program and child support assurance, such fragmentation may be particularly problematic. However, as of yet any fragmentation caused by the privatization effort in Tennessee has not been disruptive. The different contractors are working effectively both with

each other and the various government agencies involved in the IV-D program.

- o Data Conversion. The State must decide who will be responsible for data conversion and clean-up and how both old and new data and/or cases will be phased into the contractor's system or domain of responsibility.

Can States Make the Process Work?

1. Can States Provide the Necessary Inputs to Make Privatization Work?

Privatization will not work well if the State or county cannot detail the responsibilities of the agency and the contractor, the standards and requirements the contractor is subject to, required output and its format, and the means of enforcing the contract. States must also be able to provide information about caseload for which contractors will be responsible to contractors prior to the submission of bids.

Information is conveyed to the contractor in the Request for Proposal (RFP). The RFP should also include information regarding performance standards, monitoring and oversight, penalties for non-compliance, and the process by which services are to be completed. Any constitutional limitations imposed by State or the Federal Constitution should also be reflected in the RFP.

Contractor concerns can be addressed at the front end if States schedule a bidders' conference to discuss the contents of the RFP and any issues that interested bidders may have.

To do this, States must have completely thought through these questions in the context of the whole program and its operations. Some States have been unable to do this. For instance, Virginia sought bids to privatize areas of Northern Virginia and Richmond, but withdrew its request when it was unable to answer questions regarding requirements. The expansion of privatization to larger service and geographic areas may depend on how well States can

identify their own needs and how well they can convey them to interested bidders. Without detailed specifications, States will experience a higher risk of dissatisfaction and unacceptable products, especially if contract periods are multi-year.

During the privatization decision process, it is critical for the IV-D agency to involve top managers and to maintain a dialogue with front line IV-D workers who are frequently concerned about job security, changes in benefit structure, and change in general. It should be stressed that in most cases the displaced IV-D workers are hired by the private contractor or given new positions within the IV-D or other social service agency. In fact, many contracts mandate that the contractor hire existing IV-D staff.

2. The State and Federal Procurement Process

For privatization to work, the period of time required to bring on a contractor cannot be excessive nor can bidders be able to stall the process with protests and objections. Most States which have successfully privatized have required six months to a year to bring on a contractor, although some contractors have been brought on in shorter periods. The length of time between issuance of the RFP to the signing of the contract must be taken into consideration when planning the privatization effort. Time must be allocated for writing the RFP, publicizing its availability, a bidder's conference, the submission of bids, evaluation of the bids, negotiation of the actual contract, and for the new company to set up shop. Thus, more complex contracts are likely to require a longer lead time.

A related issue is the length of the contract. Currently, many States obtain services through annual cooperative agreements. This period, however, is insufficient for a contractor to come up to speed, establish itself, and still recoup its investment. As a result, States like Tennessee have contract periods of as long as five years. While this makes the project more attractive to the contractor, it also locks the State into a longer term arrangement which may ultimately become problematic. As

contracts expand in terms of scope, this issue may pose a greater concern for both sides.

Magnifying these problems is the fact that the IV-D agency has little to no control over the bidding process it must follow. The bidding regulations and requirements were not formulated with the IV-D program in mind and may need to be changed so they are better suited to Child Support privatization.

Long Range Problems

1. Maintaining Competition

One State which privatized emphasized that competition must be maintained or problems may arise in any of three areas:

- o Cost. Reduced competition is likely to raise costs, particularly if a State comes to rely on a single contractor. By fully recompeting on a regular basis, a greater pool of knowledgeable contractors can be sustained.
- o Transitions. States experimenting with privatizing suggest that relying on a single contractor, particularly at the State level, could result in significant problems. Should a contractor fail or decide not to renew the contract, there is no one available to step in and insure continuity of service. Rather, States may want to involve several contractors in their privatization efforts. In this way, competition will be maintained, thereby reducing costs. Moreover, alternatives will exist should a State decide that a contractor's performance is unsatisfactory or should a contractor decide not to renew.

If a State decides to change contractors, further problems would have to be resolved. These include whether or not key staff could be transferred to the incoming contractor and how to transfer resources and information in an orderly fashion. Coordinating the transition between two firms is difficult. It may be achieved in one of two

ways. Either the first firm shuts down and then the second one sets up shop or they run parallel services. The first involves a service lag, while the second is very costly. The type of transition must be considered when deciding when to begin the bidding process and estimating the cost of the contract.

Finally, having made the decision to privatize, a State may have difficulty in subsequently returning to direct provision of services. Given the many difficulties which would have to be overcome, the initial decision to privatize becomes even more significant.

- o Performance. As an agency becomes dependent on a single firm, the motivation for the firm to do competent work decreases. Competition would tend to promote higher standards of customer service and programmatic results.

However, competition may be hard to maintain, for firms who win the initial contract will have an advantage in service and bidding experience over any potential newcomers.

2. Insuring Coordination

In deciding an area to privatize, the agency must be aware of how privatizing that area may affect the flow of work. If one or several steps in the process are improved while others are not, overall services will be limited by the least efficient link in the process. Alternately, if a contractor fails, this could create a bottleneck in the process. The inefficiencies associated with any additional fragmentation are also a concern. When planning for coordination, the State must be aware of any archaic or illogical practices which may make the privatization particularly problematic.

To avoid long range problems, the contractor(s)' interaction with various requirements and centralized systems must be considered. At a minimum these include: the State's centralized management information system; the Federal Child Support Enforcement Network

(CSENET); and the ability to process interstate cases forwarded by other States.

States must also avoid contracts which involve duplicating systems that already exist. Instead contractors should tap into preexisting databases. For example, a collections and disbursement contract can involve building a module which uses the data in an existing State system, rather than building a whole new system.

3. Cost Efficiency

Privatization needs to be tested for programmatic and cost effectiveness. To do so, a clear measurement and monitoring system should be incorporated into the contract. States may also need to establish an initial baseline against which subsequent costs and performance can be measured.

The cost implications of privatization are unclear. Although it saves government FTE's, it is not necessarily less expensive than a government system. Privatizing may have allowed additional resources to be brought into a program. In addition, private workers often earn more than government workers and contract turnover will require investments in both infrastructure and training. A service lag may result in costly audit penalties. And although many of the long and short range problems can be eliminated through monitoring and oversight, such oversight is itself very costly. Personnel may need to be assigned to full-time onsite monitoring duties. Such costs must be considered when making the decision to privatize. However, additional costs may be recovered in increased incentive payments for higher collections and audit penalty avoidance.

It is also not clear how long private firms can generate additional high levels of productivity. Although their enhanced automation and flexibility may increase collections in the short run by providing an efficient means of coping with the backlog of cases, it is unknown if they will be able to handle difficult cases any more effectively than IV-D staff workers.

4. Insuring Confidentiality

Child support agencies may use State and Federally maintained data to which other government agencies, including law enforcement agencies in some cases, are denied access. Use of this data is governed by stringent privacy rules, which tightly control access. Privatizing child support services would make this data and its use available to private firms, creating the potential for significant problems. These include:

- o Data Ownership. The State must decide who owns and controls the data, who is allowed access to it, and who is responsible for updating it.
- o Data Misuse. Among the possible issues are how to prevent a private agency, for example a collection agency, from using its access to State and Federal data to pursue its non-child support cases; what would happen if private agencies sold State or Federal data; whether or not third parties would be in a position to obtain access through private firms; whether existing data could be altered without authorization; and how agencies would be audited.
- o Sanctions. Penalties would need to be formulated for private sector firms which illegally or inappropriately used State and/or Federal data and an agency would need to be designated to prosecute offenders.

Given all of these potential concerns, the feasibility of privatization as a national, a Statewide, or a large urban area strategy is unclear. In the context of restructuring child support, this may argue for pursuing a gradual expansion of privatization and a strong program of Federal technical assistance and training so mistakes are not repeated. In the short run, this could involve starting with functional areas particularly well-suited to privatization and gradually expanding to complete privatization.

Further, while privatizing certain functional areas may be feasible, the feasibility of complete privatization is also unclear. The larger the geographic scope of privatization efforts, the more crucial all of the issues discussed above become. It is possible for a State to have so much invested in a large project that it would be unable to cancel it if the contractor failed to meet performance or other standards. Thus, regardless of the type of privatization under consideration, States should carefully consider running a pilot before undertaking full-scale implementation. A pilot helps a State to avoid the negative publicity caused by large scale problems and gives both the State and the vendor a chance to work out any problems before full-scale privatization is attempted.

IV. Configurations of Privatization.

In considering the options for privatization within the context of restructuring the child support enforcement program, one of two positions may be taken. First, the use of privatization could be greatly expanded. IV-D agencies^a could be mandated or encouraged to phase in the use of private firms to aid automation, take advantage of economies of scale, and centralize services. Private firms could be encouraged to participate by awarding them "franchises" to completely serve all individuals in need in a given geographic area, and by providing sufficiently long contract periods to make their investments worthwhile. Second, a "wait and see" attitude could be adopted. Privatization could be allowed to develop on its own or a series of demonstrations could be undertaken.

The options outlined below are consistent with all of the restructuring options discussed in the option papers.

1. Privatization Demonstrations--State Level

The Federal government could fund demonstrations and evaluations to test the effectiveness of privatization options. Based on the results, training, guidebooks, regulations, and recommendations for future privatization could be formulated.

2. Privatization at the State Level - State Lead

This is essentially the current situation. States have the flexibility to privatize the services they see fit subject to the regulations which cover IV-D activities. The Federal government could also actively work as requested to provide technical assistance and training and to promote privatization. However, in this case the State is ultimately responsible for the privatization effort.

3. Privatization at the State Level - Federal Lead

The Federal government mandates or strongly encourages the States to privatize all or some of their service areas. The Federal government takes a proactive role, providing technical assistance, training, and suggested practices. Such an approach could force States to make use of economies of scale and to target their staff resources on services which require the most judgement and expertise. States could also be required to privatize certain functions when their performance does not meet minimum levels of acceptability.

4. Greatly Expanded Use of Privatization--State/Federal Levels

Options could be explored which support some combination of the three approaches above. The goal would be to significantly increase privatization to maximize the benefits it provides. This could involve the privatization of a subset of IV-D services or the complete privatization of all services nationwide.

5. Privatization at the Federal Level

Partial or complete Federal privatization could be explored should a restructuring option be chosen which gives the Federal government responsibility for some or all child support services (e.g., a national registry, collection and distribution functions). This could involve either one or multiple contractors. In a federalized system, privatizing certain centralized functions such as collections and distributions could take advantage of economies of scale and alleviate interstate

difficulties.

V. Need for Further Study.

Privatization is a relatively new phenomenon. There is little experience on which to evaluate it and, to our knowledge, no formal studies have been completed. Consequently, in order to evaluate potential options, the issues and concerns raised earlier in this paper must be further explored.

Appendix A	
Selected IV-D Privatization Efforts	
State	Activity
GA	locate (pilot)
TN	complete privatization of 4 Judicial Districts
WY	all services leading to paternity or order establishment except intake
MO	service of process
NB	all services in Douglas County
CA	LA County -- paternity blood testing, interim automated billing system (until the county-wide system is up), banking and court trustee functions, supplemental locate services, service of process
CO	collections and disbursement
MA	collections
MI	1 county -- locate
NJ	Morris County -- lockbox and collection services
MD	Prince George's County -- lockbox and collections services
NY	New York City -- lockbox services
NJ	Hudson County -- lockbox services
AR	Little Rock -- deposits, collections, distributions for Non-AFDC cases
PA	York County -- bank used for AFDC payments
CA	San Francisco County -- lockbox services