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FOLDER TITLE:

Welfare Reform Child Support

2013-0854-S
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P1 National Security Classified Information [(a)(1) of the PRA]
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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

MEMORANDUM

TO: BRUCE REED, DEPUTY ASSISTANT TO THE PRESIDENT FOR DOMESTIC POLICY

KATHI WAY, SPECIAL ASSISTANT TO THE PRESIDENT FOR DOMESTIC POLICY

FROM: PAUL K. LEGLER, ATTORNEY ADVISOR TO THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION PL

THROUGH: DAVID T. ELLWOOD, ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

DATED: FEBRUARY 17, 1994

RE: WELFARE REFORM ISSUES THAT STILL NEED TO BE EXPLORED

In your recent memo you raised three issues regarding paternity establishment that you would like explored. You have clearly spotted the tough issues - there are no easy answers here - but I hope the following addresses your concerns. I would be glad to discuss these issues with you further at any time.

Strengthen cooperation requirements by imposing a date certain

I believe that the most recent draft (1-25-94) of the child support proposal addresses most of the issues you raise. The proposal does streamline the paternity establishment process, enabling states to establish paternity much more quickly. This is accomplished through an up-front cooperation determination (prior to receipt of benefits), clear responsibility for making the cooperation and sanctioning determination (IV-D, not IV-A), and streamlining the legal process. The mother is held to a very strict cooperation requirement and benefits reduced if she fails to meet the requirement. The cooperation requirement requires that the mother provide both the name of the father and sufficient information to verify the identity of the person named. Essentially this means that the mother must provide an address, telephone number, place of employment, school, etc., - enough information so that if reasonable efforts are made by the state the person could be found and served with legal process.

If the mother does meet the strict cooperation requirement and provides full information, the burden shifts to the state to determine paternity within one year. If the state fails to do so, it will lose FFP. So, the responsibility is very clear for both the mothers and the state. (While the proposal is very tough and strict in its approach to paternity establishment, it is balanced and sensible. Applicants must *meet the new stricter cooperation requirement prior to the receipt of benefits*, but when the mother has fully cooperated and provided complete information, the burden shifts to the state to establish paternity. In contrast, the present Republican proposal requires that the mother must *have paternity established prior to receipt of benefits*. Thus the mother who has done everything that can be expected of her is unfairly penalized for the state's inaction or inefficiency in getting paternity established. She could be denied benefits for a long time through no fault of her own - in some states it is presently not uncommon for the state agency to take two or more years to establish paternity.)

This is the area of the child support proposal that the advocates are already very concerned about. They fear: (1.) that the cooperation requirement is too tough and some mothers will be sanctioned because they really do not know who the father is, and (2.) that the financial penalty on states is also too tough and will result in pressure on states to sanction mothers unjustifiably.

On the other hand, the states will also claim that we are being too tough on them. They will object to the loss of FFP in cases where they have not established paternity because the person cannot be located or served. For instance, even though the mother may give the full name and verifying information, the father may have moved to another state or an urban location where it is very difficult to find him or serve him with legal process. In that case, the state would be penalized if they did not establish paternity within one year. (We see this as essential, however, because otherwise the state will simply claim that they cannot locate the father when they have made very little effort to do so.)

The period of time in which the state has to establish paternity is shortened considerably under the proposal. The proposal allows one year (which is intended to run from the <u>date of cooperation</u>). One year seems about right as an outside limit for all cases, given the real problems in location and service in some of these cases and the time necessary to establish paternity, even under the best type of system. (Existing regulations at 45 CFR 303.5 allow one year after <u>location and service</u>. Proposed regulations under OBRA 1993 <u>generally</u> allow one year after <u>locate</u>. As you can see, our proposal is a substantial change even from the proposed regulation since location is often a time consuming part of the process.)

While we could propose a somewhat shorter time frame, three months is probably too short, especially if it is from the date of cooperation. Both the states and the advocates may object to a shorter period because it would lead to states being penalized unreasonably and may result in states imposing unreasonable sanctions on mothers.

We could leave the time period up to regulation. The Secretary could then set a shorter period, if it was determined that it was feasible to do so. Leaving it to regulation, however, may be perceived as less tough than if we state a specific period. One possibility is to provide that it would be set by regulation "not to exceed one year".

Another question raised regarding the cooperation requirement is the possibility of limiting the number of good cause exceptions. Current regulations allow the following good cause exceptions: child conceived as a result of rape or incest, legal proceedings for adoption are underway or parent is considering relinquishment, or physical or emotional harm (very narrowly defined) might be inflicted by the putative father. We would argue against limiting good cause claims for three reasons:

1. The states already have a strong incentive not to allow too many good cause exceptions because they could lose incentive money under the performance based incentive system.

2. As the attached table shows, very few mothers currently claim or are granted good cause claims, less than two-tenths of one percent of the current caseload per year. The number will obviously grow as we get tougher on cooperation, but we can only speculate as to by how much. From a policy perspective, it is difficult to justify a particular limit.

3. The advocates will be very much opposed to such a limit. They claim that there are high numbers of mothers who are subject to abuse and should claim good cause (women whose cases are not currently pursued). They are also concerned about cases where the father is a drug addict, alcoholic or otherwise presents a danger to children. So far, the advocates (while wanting us to go further) have been very supportive. We risk losing their support if we get too much tougher on this. And, most importantly, there is very little to be gained.

In summary, the existing proposal tries to strike a balance between competing concerns. We will certainly make adjustments if that is the consensus, but we would argue against any make major changes that would upset the balance.

Apply paternity establishment cooperation requirement to housing

Strong arguments can be made for this idea and it was carefully considered by the issue group. Public housing is not an entitlement and there is often a waiting list - "it should go first to those who play by the rules and cooperate in holding fathers accountable".

This idea was also considered during the Bush Administration. A rough estimate was done several years ago using 1987 data. It was estimated that of child support eligible HUD recipients, 359,000 were not receiving AFDC and that the cooperation requirement would affect 60% of them. Savings were estimated at between $18 and $27 million per year.

Two major arguments are made against this idea, however.

1. Concerns have been raised regarding the administrative difficulties in enforcing such a requirement. Public housing is run under a variety of different programs and agencies. Eligibility criteria, application procedures, and waiting list policies vary. In some programs, the private sector is also very heavily involved. Clearly, the procedures for enforcing the requirement would be complicated.

One question which arises is which agency controls the referrals and non-cooperation requirement. In the past, HUD took the position that they wanted to control their own referrals and administration of the non-cooperation requirements. They also proposed that any savings resulting from the reduced housing subsidy should be reinvested in HUD programs.

If the cooperation determination and control were made by a different agency, the IV-D agency, handoffs between agencies would be necessary. Studies have shown that the present IV-D to IV-A handoff has contributed to problems in sanctioning. Undoubtedly, a considerable amount of red tape would be required under the existing housing programs to enforce such a requirement.

2. There may also be considerable political opposition to this idea (in addition to possible HUD opposition). The women's and children's advocacy community would be very much opposed to this.

<u>Require all birthing hospitals and prenatal clinics which receive public funds to ask the women they serve to establish paternity before or at birth.</u>

This idea was in the earlier versions of the child support enforcement proposal, but was deleted for fear that it may raise concerns with hospital interest groups.

As you know, OBRA 1993 required states to develop in-hospital paternity establishment programs, but it contained no teeth to require hospitals to cooperate with the program. We don't know yet whether this will be a problem. One could guess that there may be some hospitals in some states who refuse to participate either because they are opposed to it as an invasion of privacy or they do not want the administrative burden.

On the other hand, experience to date has not shown that it has been a problem. Only a few states currently have programs up and running, so experience is limited, but in Washington State's pilot program, only two small hospitals reportedly did not cooperate. Arkansas is just starting their program and they report that all hospitals are participating. If the program is "sold" right, hospital participation does not seem to be a problem as yet. Many of the large urban hospitals see a real financial interest in such programs because it allows a medical support order to be established, providing access to the father's private health insurance coverage.

The present child support enforcement proposal also expands the OBRA requirements to prenatal clinics. Since we do not have any experience with this, it is difficult to predict whether it will be troublesome to get prenatal clinics to participate.

We have no objection to adding such a provision, but I doubt that CBO would attribute any additional savings to this unless we could show that some hospitals or prenatal clinics will not otherwise participate.

Table 53

IV-A Cases in Which Custodial Parents Claimed Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support and IV-A Cases in Which Good Cause Claims Were Found Valid, FY 1992

STATE	REFUSALS FOR ANY REASON	GOOD CAUSE FOUND
ALABAMA	77	24
ALASKA	41	25
ARIZONA	168	38
ARKANSAS	111	55
CALIFORNIA	787	390
COLORADO	27	19
CONNECTICUT	121	85
DELAWARE	11	11
DISTRICT OF COLUMBIA	0	0
FLORIDA	51	10
GEORGIA	336	298
GUAM	1	1
HAWAII	113	112
IDAHO	0	0
ILLINOIS	196	219
INDIANA	162	94
IOWA	61	23
KANSAS	35	28
KENTUCKY	183	102
LOUISIANA	7	5
MAINE	40	28
MARYLAND	49	23
MASSACHUSETTS	0	0
MICHIGAN	658	395
MINNESOTA	598	264
MISSISSIPPI	29	25
MISSOURI	83	61
MONTANA	137	53
NEBRASKA	22	13
NEVADA	76	60
NEW HAMPSHIRE	1	1
NEW JERSEY	178	134
NEW MEXICO	26	18
NEW YORK	288	152
NORTH CAROLINA	88	71
NORTH DAKOTA	38	13
OHIO	452	255
OKLAHOMA	302	239
OREGON	224	204
PENNSYLVANIA	259	210
PUERTO RICO	36	42
RHODE ISLAND	56	46
SOUTH CAROLINA	117	93
SOUTH DAKOTA	39	31
TENNESSEE	94	88
TEXAS	11	15
UTAH	123	77
VERMONT	120	64
VIRGIN ISLANDS	0	0
VIRGINIA	194	164
WASHINGTON	1,836	1,064
WEST VIRGINIA	86	76
WISCONSIN	522	290
WYOMING	133	77
NATIONWIDE TOTALS	9,403	5,885

Source: Data Supplied by OFA

Child Support Archive

MICHAEL H. BIZIK, SR.
5922 Mayflower Court
Alexandria, VA 22312

August 11, 1993

Re: Prosecutive Guidelines and Procedures for the Child Support Recovery Act of 1992

Dear Ms. Way:

The United States Department of Justice ("DOJ") Guidelines for the Child Support Recovery Act of 1992 ("CSRA") undermine the intent of Congress. (A copy of the Guidelines is attached at Tab 1.)

The intent of Congress in making CSRA a public law was to eliminate enforcement barriers which existed between states when a noncustodial parent chose to reside outside of the state where both the custodial parent and child resided, thereby escaping child support enforcement. Many state representatives explained at congressional hearings that interstate child support enforcement was difficult because of conflicting state laws, inadequate interstate computer tracking technology of delinquent noncustodial parents, and the misinterpretation and untimely enforcement policy that the Uniform Reciprocal Enforcement of Support Act allowed. Based on the interstate child support enforcement problems that most states were having, Congress felt that the Federal Government could play an important role in tracking down and apprehending deadbeat parents. As a result, Congress concluded that when a noncustodial parent crossed state lines and chose to reside in another state, yet failed to pay child support, the delinquent noncustodial parent committed a federal offense.

Initially, the language of H.R. 1241 (House version of CSRA) stated that a six-month child support arrearage by a noncustodial parent should be a federal crime. However, the Senate introduced S. 1241 (Senate version of CSRA) which indicated that a federal crime existed only when a noncustodial parent had a one-year or $5000 arrearage of child support. Of course, S. 1241 was adopted by both the House and Senate and passed by Congress. In fact, Congress passed the CSRA by unanimous consent. (No member of Congress opposed this legislation from becoming a public law.) Gridlock was not present when CSRA was approved by Congress, yet for some unexplained reason DOJ has written inadequate CSRA guidelines which not only insult the efforts of Congress but in addition eliminate the opportunity that most custodial parents would otherwise have had for receiving court-ordered child support within their lifetime.

SIGNIFICANCE OF IMPROVED CHILD SUPPORT ENFORCEMENT

The Clinton Administration's time-consuming efforts to improve healthcare are beneficial and necessary. However, the issue of child support shall also affect a very large number of Americans. For instance, it is a fact that one out of every two children born today will be raised by a single parent before that child reaches 18 years of age. Currently 16 million children are owed child support of which only about 50% receive full payments. Annually there is a $5 billion child support deficit -- about one-third of the total owed. Approximately 30% of child support cases are interstate and only $1 of every $10 collected is from an interstate case. Twenty-five percent of all noncustodial parents terminate employment or change jobs before the state child support enforcement agency can serve a wage withholding notice. About 75% of custodial parents entitled to child support either lack a support order or fail to receive full payments under those orders. Because of these staggering statistics, Congress believed that the CSRA would significantly reduce the severity of child support evasion.

Furthermore, President Clinton intends to end welfare as we know it. Yet, without an improved child support enforcement scheme, the Clinton Administration will be unprepared to address the following foreseeable questions: How many custodial parents require child support compliance by the noncustodial parents of their children? How many custodial parents purposely choose to remain on welfare rather than collect child support from noncustodial parents? How many newly hired (ex-welfare recipients) custodial parents will be able to adequately provide for a family without child support compliance by the noncustodial parent? Will a new welfare class be created if the government decides to prosecute a delinquent noncustodial parent or expects such parent to satisfy the huge arrearage of nonsupport that was accumulated while the custodial parent was on welfare? The improvement of child support enforcement will help custodial parents raise their children, and will also relieve the government and taxpayers of a foreseeable liability.

I have discovered that communication and compromise are beneficial in eliminating gridlock and cutting through bureaucratic red tape. I believe that the Executive Office of the President should review the CSRA Guidelines that DOJ has written and should offer its recommendations for improving such Guidelines to DOJ. If DOJ is unable to modify its CSRA Guidelines, I suggest that the White House work with Congress in proposing legislation that would realistically allow both DOJ and the states to make court-ordered child support enforceable.

COMMENTS RE: DOJ ("CSRA") GUIDELINES

Willfulness (See DOJ ("CSRA") Guidelines, p. 2)

The DOJ ("CSRA") Guidelines separate willfulness into the following four categories:

(1) For criminal tax cases;

(2) With respect to ability to pay;

(3) Willfulness cannot be presumed from nonpayment alone; and

(4) Partial payment may be relevant to inability to pay.

To go beyond DOJ's misguided rhetoric, any first-year child support activist understands that when a noncustodial parent has a 30-day arrearage towards a child support obligation, the noncustodial parent is in contempt of that state's court-issued child support order. Also, when a noncustodial parent has at least a 30-day child support arrearage, the local office of child support enforcement sends a notice to the delinquent noncustodial parent indicating that at least a 30-day arrearage of child support has accumulated and informs the delinquent noncustodial parent of that state's child support enforcement laws.

In such cases of nonsupport, delinquent noncustodial parents frequently fail to respond to notices sent by his/her child support enforcement collection agency, and in many cases, nonresponsive deadbeat parents flee the state. It is important to note that state child support enforcement offices are able to ascertain the residence of noncustodial parents prior to the issuance of noncompliance child support notices which are sent by first-class mail to noncustodial parents who have at least a 30-day arrearage of child support. Also, in some instances noncustodial parents who have received numerous child support arrearage (30 or more days) notices contact the local child support enforcement office and agree to pay child support, but then later flee the state without ever having payed the full child support arrearage.

The DOJ interpretation of willfulness and its application of federal law and/or current Congressional documentation is obscure because the DOJ fails to understand the rules, regulations, laws and requirements of both the current and previously implemented federal and state legislation. Presently, the DOJ

("CSRA") Guidelines will be ineffective in apprehending deadbeat parents, primarily because the DOJ does not hold a deadbeat parent accountable based on the totality of circumstances, i.e., history of nonsupport, noncompliance notices mailed to noncustodial parents, failure by noncustodial parents to abide by state court-ordered child support compliance laws, etc. (Also, DOJ places the burden of proof on all custodial parents in order to determine whether noncustodial parents nonsupport was willful.)

Sentencing Issues (See DOJ ("CSRA") Guidelines, p. 3)

The intent of Congress to impose a fine and/or up to six months in prison for noncustodial parents who have a $5000 or one-year of child support was to deter such criminal acts and repeated acts in the foreseeable future. Nobody in Congress considered jailing each delinquent parent as a positive and cost efficient solution for improving child support compliance. However, the increase in single parent households and the concerns of deteriorating family values prompted Congress to enact a law which would assist custodial parents in securing the best interest of their children.

I believe that either now or in the foreseeable future the sentencing Guidelines must apply to first-time deadbeat parents who violate the CSRA, so that repeated acts of nonsupport are decreased. Criminal penalties are an effective way to promote proper conduct and to deter willful violations of the CSRA.

Notice (See DOJ ("CSRA") Guidelines, pp. 8-9)

Informing a delinquent noncustodial parent of CSRA and then sending a second letter which advises the deadbeat parent that legal action will be taken by child support enforcement officials, unless satisfactory payment is made within a specified period of time in some cases will work. However, the element of surprise (locating and apprehending a deadbeat parent) will be gone and once notice has been given the noncustodial parent will probably flee.

Thought should be given to modifying the notice provisions. I believe that the history of notices issued by a child support enforcement agency to a noncustodial parent and the number of noncustodial responses to such notices during a 30-day-12-month arrearage should create a preponderance of the evidence. Such evidence should be permissible for having a subpoena issued to the deadbeat parent, exactly one year after an arrearage of child support has been accumulated. Moreover, in order to satisfy proper notification requirements, the following is recommended:

(1) The child support enforcement agency must prove that noncompliance notices were sent to the current address of the noncustodial parent during a 30-day-12-month arrearage;

(2) A certain number of notices must be sent by the child support enforcement office to the proven address of the noncustodial parent; and

(3) An advisory letter explaining CSRA should be sent to the noncustodial parent prior to his/her one-year support arrearage.

I believe that noncustodial parents should be served by subpoena or at the very least apprehended once a one-year child support arrearage has accumulated. It is important to apprehend deadbeat parents as soon as practical because notices, subpoenas and other child support collection/enforcement mechanisms seem to offer a noncustodial parent the opportunity to evade authorities for a longer time than otherwise would have been necessary.

CONCLUSION

It is important for you to understand that many custodial parents who do not collect child support on a regular basis are sometimes offered a settlement. For example, a noncustodial parent who has a $25,000-5-year arrearage of child support will offer $10,000-$15,000 to the custodial parent in order to fulfill his/her child support obligations over time. Out of financial deprivation, and their love for their children, custodial parents accept a settlement (extremely reduced child support obligation) from the noncustodial parent. Hence, the timely enforcement of child support increases the chances that custodial parents will have for receiving the entire child support that is owed.

I submit that the best interest of children are not properly served when either child support is not received on time or when an obligation of child support is reduced.

I am also providing you with a USA Today article (see Tab 2) which was released on February 10, 1993, after I contacted USA Today regarding my concerns that DOJ would finalize inadequate CSRA Guidelines prior to the appointment of an Attorney General by President Clinton.

Furthermore, I am providing you with documentation which supports my reasons for having improved international child support enforcement (see Tab 3).

Finally, I was informed by Deborah Sorkin, DOJ, that the CSRA Guidelines were confidential and that only U.S. Attorney

Offices would be sent a copy. Ms. Sorkin informed me that in order to obtain a copy, I must submit a FOIA request. I am upset that the DOJ would consider the CSRA Guidelines confidential and not make them available to the public, especially because of the impact that these Guidelines would have on both custodial parents and their children. Also, other than DOJ trying to deceive the public, there is nothing in the CSRA Guidelines which would suggest that these Guidelines should have been classified as confidential.

I ask that the DOJ ("CSRA") Guidelines be reclassified public and made available to the public, and further ask that you obtain a copy of the DOJ ("CSRA") Guidelines with exhibits and have them mailed to my Alexandria address.

If I can be of further assistance, please do not hesitate to write me at my Alexandria residence.

Respectfully submitted,

Michael H. Bizik, Sr.

Michael H. Bizik, Sr.

Ms. Kathi Way
Old Executive Office Building
Room 218
Pennsylvania Avenue and 17th St., N.W.
Washington, D.C. 20500

cc: Bruce Reed

Clinton Presidential Records
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U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Main Justice Building, Room 1619
10th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530

(202) 514-2121

July 15, 1993

MEMORANDUM FOR: All United States Attorneys
First Assistant United States Attorneys
Criminal Supervisors

FROM: Anthony C. Moscato
Director

SUBJECT: Child Support Recovery Act of 1992

As you know, Congress last year enacted the Child Support Recovery Act of 1992 which became effective at the end of October 1992. Attached are national guidelines for the implementation of the enforcement of that Act. Basically, it is now a Federal crime for a parent in one state with a child in another to willfully be in arrearage of lawfully ordered child support payments in the amount of $5,000 or more, or for more than one year in any amount.

Many of your offices have been receiving public inquiries about enforcement of this act. It is therefore important that you review the attachment as quickly as possible and meet with the head of your local FBI office, to set up procedures. The FBI has been tasked with investigating these matters and should be receiving a similar directive.

We anticipate incorporating the guidelines into the United States Attorneys' Manual but in the meantime the copy of this memorandum should be disseminated to appropriate Assistants. Please keep the attachments on file as we do not anticipate that they will be made part of the Manual.

Attachments

Office of the Attorney General
Washington, D.C. 20530

July 13, 1993

MEMORANDUM FOR UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

SUBJECT: Prosecutive Guidelines and Procedures for the Child Support Recovery Act of 1992

The Child Support Recovery Act of 1992

The Child Support Recovery Act of 1992 (CSRA), Pub. L. No. 102-521, makes the willful failure to pay a past due support obligation with respect to a child residing in another state a federal offense. 18 U.S.C. § 228 (see appendix 1). A first violation of the CSRA is punishable by six months imprisonment and/or a fine. Subsequent violations are punishable by two years imprisonment and/or a fine. The F.B.I. has investigatory jurisdiction.

The following policies and procedures are intended to ensure effective prosecution of the CSRA by providing a means for selecting egregious cases which states are unable to handle because of the interstate nature of the case.

Elements of the offense

The United States must prove that the defendant:

1. Having the ability to pay,
2. Did willfully fail to pay,
3. A known past due (child) support obligation,
4. Which has remained unpaid for longer than one year OR is an amount greater than $ 5,000,
5. For a child who resides in another state.[1]

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[1] Interstate flight is not an element of the offense.

Definitions

. Past due support obligation

The CSRA defines "past due support obligation" as any amount:

> (A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and
>
> (B) that has remained unpaid for a period longer than one year, or is greater than $5000.

18 U.S.C. § 228(d)(1).

Willfulness

According to the legislative history, willfulness has the same meaning as it has for purposes of federal criminal tax law. H. Rep. No. 102-771, 102d Cong., 2d Sess. at 6 (see appendix 2). For criminal tax cases, willfulness is the knowing and intentional violation of a known legal duty. Cheek v. United States, 111 S. Ct. 604, 610 (1991).

With respect to ability to pay, the legislative history states:

> the government must establish beyond a reasonable doubt that at the time payment was due the [defendant] possessed sufficient funds to enable him to meet his obligation or that the lack of sufficient funds on such date was created by (or was the result of) a voluntary and intentional act without justification in view of all the financial circumstances of the [defendant].

H. Rep. No. 102-771, 102d Cong., 2d Sess. at 6 (see appendix 2).

Willfulness cannot be presumed from non-payment alone. 138 Cong. Rec. S17131 (October 7, 1992) (see appendix 3). The government is required to prove that the defendant, as of the date specified as the date of the offense, willfully failed to pay an outstanding amount.

Criminal culpability is not obviated by partial payment of support obligations because the statute defines past due support obligation as "any amount." However, partial payment may be relevant to inability to pay, which would negate willfulness. The circumstances of any case in which partial payment has been made, including the relationship of the amount of partial payment to the total arrearage and ability to pay the arrearage, should be considered before proceeding.

Venue

Venue for prosecution will lie in either the district where the child resides or the district where the non-paying parent resides. The policy considerations regarding venue are discussed infra.

Sentencing Issues

In addition to the imprisonment and other penalties described above, the CSRA provides that upon conviction the court shall order restitution of an amount equal to the past due support obligation as it exists at the time of sentencing. 18 U.S.C. § 228(c); for general information see Prosecutor's Guide to Criminal Fines and Restitution.[2]

The Sentencing Guidelines do not apply to first violations of the CSRA because they are class B misdemeanors. With respect to subsequent violations, the Sentencing Guidelines do not include a guideline for this offense. Therefore, sentencing should be based on the most analogous offense, which is theft. See U.S. Sentencing Guideline § 2B1.1.

Probation Condition in Offenses

The CSRA amends 18 U.S.C. § 3563(b) so that a sentencing court in any type of case, including violations of the CSRA, may provide, as a condition of probation or supervised release, that a defendant meet his support obligations.

Investigative/Prosecutive Procedures

Referral Sources

Complaints and referrals for investigation may come from private lawyers, individual complainants, or state and local agencies.

Title IV-D of the Social Security Act, 42 U.S.C. §§ 651 et seq., requires states to establish programs for the enforcement of

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[2] The Prosecutor's Guide to Criminal Fines and Restitution can be obtained by contacting Richard Sponseller, Associate Director for Financial Litigation or Frank Shippen of the Executive Office for U.S. Attorneys at 202-501-7017.

child support. The agencies operating these programs are known as IV-D agencies.[3] These agencies must pursue child support on behalf of individuals who are receiving public assistance as well as at the request of individuals who are not. In addition, there may be other qualified agencies involved with child support.[4] Ordinarily, an individual complainant should be encouraged to work with a IV-D agency or other appropriate agency to pursue other available remedies before action is taken by federal prosecutors.

IV-D agencies may have a great deal of information concerning violations of the CSRA. Due to the variation among state laws, U.S. Attorneys are encouraged to coordinate with IV-D officials or their designees and other appropriate officials on local and state levels to establish referral procedures and may wish to establish local committees to develop local guidelines. Additionally, regardless of the source of the referral, U.S. Attorneys may wish to arrange for local IV-D agencies or other appropriate agencies to prepare referral packages for prosecution.

U.S. Attorneys in multi-district states are encouraged to work together to develop a uniform state-wide approach.

Referral Package

U.S. Attorneys should require a referral package in every case. It is suggested that United States Attorneys coordinate the preparation of the referral package with the appropriate IV-D agency. Each referral package for investigation/prosecution should include the information contained in appendix 5. As a general rule, these cases should be accepted only if they make clear that all reasonably available remedies have been exhausted.

Prosecutive Screening Criteria

As a general principle, it is recommended that cases should be accepted only when the referral makes clear that all reasonably available remedies have been exhausted.[5] Among such cases, priority should be given to cases where the following is established:

a. a pattern of flight from state to state to avoid payment or flight after service of process for contempt

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[3] A list of state coordinators for all of the IV-D agencies is attached as appendix 6.

[4] In some states, the State Attorney General may enforce child support obligations.

[5] Specific remedies are identified in appendix 5.

or contempt hearing; or

b. a pattern of deception to avoid payment such as changing employment, concealing assets or location, or using false social security numbers; or

c. failure to make support payments after being held in contempt; or

d. when the failure to make child support payments has a nexus to other potential federal charges, such as bankruptcy fraud (i.e. concealing assets), bank fraud (i.e. false statements to a bank), federal income tax charges (i.e. false statement or tax evasion) or other related criminal conduct.

Selecting Venue

Since venue for this crime may lie in either the district where the debtor resides or the district where the child resides, United States Attorneys may want to consider these general policy guidelines on venue after reviewing a referral package. For example, the efficiency of prosecution should be considered (i.e. costs of transporting witnesses, victims or the defendant or the availability and need for documents custodians to testify). Also, the deterrent impact of the prosecution in each district should be considered generally.

Factors that favor venue in the district where the child resides include the presence of significant evidence in that district, such as judicial or administrative orders reflecting the support obligation or arrearage. Another factor suggesting that venue may be appropriate in the child's district would be if the custodial parent receives public assistance in that district.

Factors that favor venue in the district where the non-paying parent resides include the presence of evidence showing willfulness such as documents concerning the existence or concealment of assets, change(s) of residence or "job hopping."

Notice to Target and Charging

If, after reviewing all pertinent documents, further action is believed to be warranted, the following steps should be taken before filing charges:

1) Before referring any case involving the CSRA to the F.B.I., a letter should be sent to the non-paying parent advising them of the CSRA and that they appear to be in violation of it and requesting payment of the arrearage within a specified period (see

appendix 6). If payment is not made, the matter should be referred to the F.B.I.

2) Prior to filing charges, a second letter advising the target that charges will be filed unless satisfactory payment is made within a specified period of time. (see appendix 7).

3) If satisfactory payment is still not forthcoming and no adequate explanation for non-payment has been advanced, United States Attorneys' offices should file charges against the non-paying parent.

Inasmuch as the first offense is a misdemeanor, consideration should be given to use of a summons to obtain the presence of the defendant in court.

Except in extraordinary cases, pre-trial diversion should not be used to resolve these cases, since the impact of the felonious second offense would be avoided by pre-trial diversion of the first offense.

So that criminal process is not used to enforce a civil debt, once charges are filed, a case should not be routinely dismissed merely because an offender makes payment.

Possible Defenses

In screening cases, some of the possible defenses which should be considered are:

1. *Ex post facto* application of statute, i.e. whether an arrearage in the amount of $ 5000 which had accrued prior to the enactment of the CSRA constitutes a violation or whether the arrearage must have remained unpaid for a period of one year commencing on or after the date of the enactment of the CSRA.

2. Statute of limitations: whether the violation is a continuing offense, i.e., whether an arrearage dating from over five years is chargeable.

3. Custodial parent, perhaps with aid of state or local agencies, has attempted to limit or terminate visitation or otherwise interfere with contact between non-paying parent and child.

4. Payment in kind, i.e. defendant purchased clothes, food or paid tuition.

Criminal Division Contacts

Any questions concerning the CSRA or any suggestions regarding proposed sentencing guidelines may be directed to Deborah Sorkin or Philip Talbert in the Criminal Division at 202-514-1026.

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Divider Title: **2**

Justice Dept. left twisting in the wind

By Sam Vincent Meddis
USA TODAY

As President Clinton readies a third attorney general nomination, the wait is taking a toll.

Staffers inside the Justice Department say morale problems, a cloud over the FBI and a slowdown in judicial appointments are worsened by the lack of leadership.

Latest example: Some members of Congress fear the lack of an attorney general could lead to softening of guidelines intended to nail deadbeat dads.

Sen. Richard Shelby, D-Ala., and Rep. Henry Hyde, R-Ill., wrote Clinton Tuesday asking that the new attorney general "consider appropriate revisions" to guidelines the Justice Department is preparing.

The guidelines issue reflects how the lack of a department chief, after the controversial withdrawals of one nominee and a top candidate, is raising the anxiety level.

Topics of concern range from agency budgets and staff morale to legal policy and judicial appointments.

Drug Enforcement Administration officials describe their situation as bleak. They worry major staff cuts could result if a rumored $40 million is slashed from the drug agency.

While other Cabinet members jockey for funds for their departments, Justice has no comparable voice with Clinton.

At the FBI, Director William Sessions is under the cloud of an ethics investigation. Clinton says he'll review the case, which involves questions about Sessions' use of FBI cars and whether he got a special deal on a home mortgage.

But bureau officials complain that the mere suspicion of impropriety has cost Sessions his credibility. His fate is undecided largely because there's no attorney general to resolve it, they say.

The Justice Department is being run by Stuart Gerson, civil division chief in the Bush administration. He has served as acting attorney general for nearly a month. He's getting advice from Webster Hubble, first lady Hillary Rodham Clinton's former law partner who now has an office at Justice.

Gerson acknowledged he didn't anticipate such a long tenure. But he insists Justice is functioning well with career lawyers running divisions until political appointees arrive.

"I think we're dealing with mature people," Gerson says.

The Justice Department has pulled through tougher times, most notably during the turbulent Watergate era. More recently, the Reagan administration's attorney general, Edwin Meese, resigned after a special prosecutor did not indict him but said he probably violated conflict-of-interest laws.

"Stu Gerson is doing a decent holding action," says Georgetown University law professor Paul Rothstein.

But he says Gerson lacks the inclination and clout to make major decisions.

Among the legal issues needing attention, Rothstein says, are policies on Haitian refugees and whether to push for revival of the defunct special prosecutor law. Also, there are more than 100 vacancies on the federal bench, usually filled after consultation with the attorney general, and a growing backlog of cases.

"It's not critical to have a new attorney general this minute," says Rothstein. "But certainly within a few days or a week it ought to be."

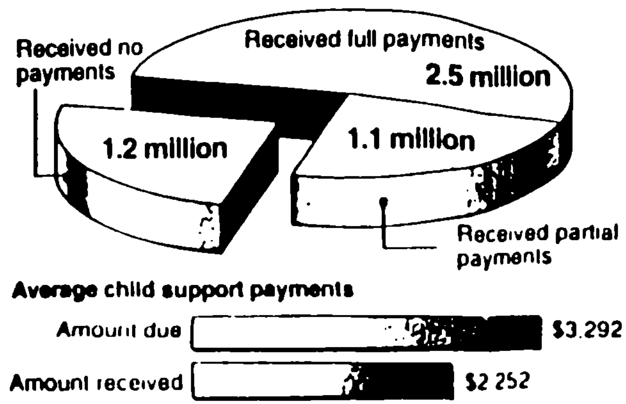
Some are anxiously waiting for Clinton to put his [illegible] p Justice policies.

Shelby and Hyde, for example, know Clinton campaigned hard for a law to hold fathers accountable for child support. Bush signed the bill under campaign pressure in October.

Congressional officials say FBI and Justice Department officials are not eager to strongly enforce the potentially time-consuming law, but a Clinton appointee is likely to do so.

Lagging child support

A 1990 Census study found that only 75% of women awarded child support payments actually received any. As much as $20 billion in delinquent child support is owed. A look at child support in the USA:



Source: U.S. Census Bureau

By Nick Galifianakis, USA TODAY

Fla. prosecutor considered

By Bill Nichols
USA TODAY

Florida prosecutor Janet Reno was the latest name to lead lists of potential attorney general nominees Tuesday, but White House aides indicated no decision is imminent.

RENO

Reno reportedly met with administration officials in Washington, though it was unclear whether she met President Clinton or his wife, Hillary Rodham Clinton.

Reno, a Dade County prosecutor for 15 years, is single and has no children, making her less vulnerable to problems that felled two previous contenders for the attorney general post.

Federal Judge Kimba Wood withdrew from consideration last week when White House officials discovered that she had hired an illegal immigrant, despite breaking no [illegible]. Previous nominee Zoe Baird withdrew because of controversy over her employment of an illegal [illegible] for [illegible] help.

Press Secretary Dee Dee Myers could not confirm reports that a dozen other potential appointees have lost jobs because of similar questions.

"Nobody [illegible] keeping track," Myers said. "I [illegible] not confirm that number."

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Divider Title: 3

The first step in problem solving is to identify the problem. The attached documents illustrate a very common problem that several custodial parents (including myself) are having concerning enforcing American court-ordered child support when the noncustodial parent resides in another Country.

The Interstate Commission on Child Support noted in its August 1, 1992 Report to Congress "that over 2.4 million Americans live abroad, a significant number of whom has support obligations." Of course, "significant number" does not offer a precise count for the total number of Americans that reside overseas and who have child support obligations, nor does it indicate the number of children who reside in America that are owed such support. Furthermore, this statistic precludes foreign noncustodial parents (See Exhibit A).

The Bureau of the Census and Alimony in September, 1991 reported the residence of 10.7% of absent fathers as other/unknown. Furthermore, the same survey indicated that full child support compliance as acknowledged by custodial mothers was a mere 46.6% when fathers resided overseas or their location was unknown (See Exhibit B). This 46.6% compliance statistic of noncustodial fathers who reside in another Country is significantly lower than the child support compliance by fathers who reside in the same or different state than the custodial mother. However, these numbers are inadequate because only custodial mothers were surveyed by the Census Bureau and does not provide any data that would indicate the total number of both noncustodial mothers and fathers who reside in another Country and owe support to a child residing in the United States.

As a result of the inadequate statistics that are available to Congress and the public concerning child support compliance by noncustodial parents who reside in another Country, I strongly recommend that a new study be overseen by Congress. I believe that the total number of children in America who are owed child support from a noncustodial parent who resides overseas exceeds 2,000,000 or rather accounts for approximately 13% of the 16 million children that are owed child support. Without accurate data, the severity of this problem will never be known.

The only mechanism that a state can employ in order to enforce American court-ordered child support overseas is to file a request for reciprocity under the Uniform Reciprocal Enforcement of Support Act (URESA) and hope that the foreign Country reciprocates. Robert Cousins, Senior Assistant Attorney General for the Commonwealth of Virginia concluded in his April 15, 1992 letter to Edouard Brunner of the Swiss Embassy, "the Commonwealth of Virginia's Revised Uniform Reciprocal Enforcement of Support Act, provides for mutual enforcement in support matters with a foreign jurisdiction which has a "substantially similar" reciprocal law in effect" (See Exhibit C).

However, asking a foreign Country to reciprocate with the United States by using URESA does not always work and is usually not an efficient legal remedy for full child support compliance. For example, Walter Neuhaus of the Swiss Government recently denied reciprocity with the Commonwealth of Virginia because "neither the U.S.A. itself nor a particular state of this Country has signed the Convention on the Recovery Abroad of Maintenance, New York, 1956 or another international of bilateral convention " (See Exhibit D). I hope that you can understand that when Virginia's URESA request for reciprocity was denied by the Swiss Government, my son's entitlement to American court-ordered child support ended.

Moreover, Congress should be made aware that reciprocating Countries will grant the requesting American State either full reciprocity or simple reciprocity depending upon the laws of the foreign Country. Full reciprocity is when another Country recognizes American court-ordered support and does everything in its power to collect any unpaid support,i.e., free custodial parent representation in the foreign Country, serving subpoenas, garnishing a noncustodial parent's salary... Whereas, simple reciprocity of American court-ordered support is simply a recognition by a reciprocating foreign Country, that a noncustodial parent residing in its Country has a support obligation, but it is the sole responsibility of the custodial parent residing in America to collect and obtain legal counsel to enforce his/her American Court-ordered child support in that Country. Hence, many custodial parents are forced to abandon the enforcement of their child support overseas, because they can not afford the legal costs involved.

Signing and ratifying the U.N. Convention of 1956 is essential, if Congress is interested in securing the best interest of all children who reside in the United States. On August 11,1992 I submitted testimony at the Hearing on the Report of the Interstate Commission on Child Support and asked that the United States sign and ratify the Convention on the Recovery Abroad of Maintenance of 1956 (U.N. Convention of 1956)(See Exhibit E, page 7). On May 4, 1993 Congresswoman Kennelly introduced H.R. 1961 and on page 90 of the bill, she asked that the United States sign and ratify the U.N. Convention of 1956 (See Exhibit F). Congresswoman Kennelly's bill will take effect on January 1, 1995, but until then, many custodial parents (including myself) will not be able to have their American court-ordered child support enforced overseas.

Last year Congress passed by unanimous consent, the Child Support Enforcement Recovery Act of 1992. In October, 1992 President Bush signed the bill making it a law. I offered testimony before the House (H.R. 1241) and the Senate (S. 1002) Hearings. This new law makes it a criminal offense whenever a parent has a 1 year arrearage or owes at least $5,000 worth of child support. However, the language of this new law applies only to a "noncustodial parent who resides in another state." Of course, my testimony at both the Senate and House Hearings was a gallant attempt to persuade Congress to modify the language of the bills so that parents who reside in another Country and then later re-enter the United States, could be apprehended for violating this law. Therefore, this law does not apply to noncustodial parents who reside in another Country.

It is important to note that I believe that there will be a significant increase in the number of noncustodial parents who move to another Country, because of the new and more strict child support enforcement laws.

Currently, noncustodial parents who reside in a foreign sanctuary and who have accumulated a criminal arrearage of child support are immune from prosecution, even after they re-enter the United States. I implore you to assist custodial parents in America who are having difficulties collecting child support from gallivanting noncustodial parents residing overseas. Family values is a shared responsibility of both parents providing assistance for their children, therefore, deadbeat parents must be required to live up to their moral and legal responsibilities. Congress should be prepared to send a message to all deadbeat parents, regardless of their residence, that they are not above the law.

Respectfully Submitted,

Michael H. Bizik, Sr.

MICHAEL HARRISON BIZIK, SR.

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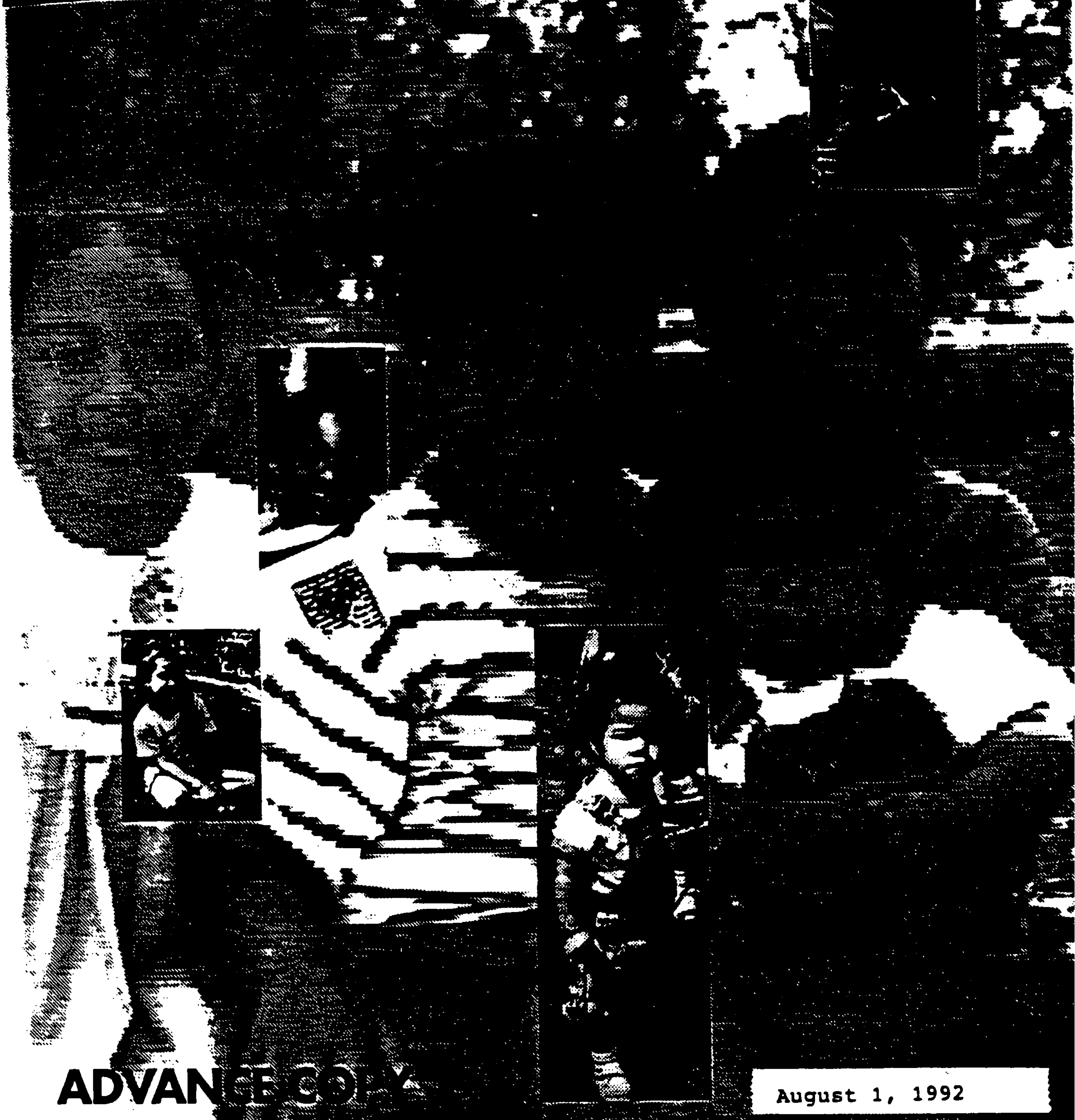
"Supporting Our Children: A Blueprint for Reform"



ADVANCE COPY

August 1, 1992

THE U.S. COMMISSION ON INTERSTATE CHILD SUPPORT'S REPORT TO CONGRESS

Indian tribes should waive their sovereign immunity as payor to the same extent as the federal government waives its sovereign immunity as payor solely for the purpose of garnishment of child support.

[Recommendation to Indian tribes]

m. Congress or DHHS should fund a study to produce genetic paternity data on Indians. The results of such a study would help not only in paternity [illegible] but also in criminal actions and medical donor matches.

[Federal plenary statute]

n. Tribes and states should engage in joint [illegible]:

1. Joint task forces should be established to study [illegible] regarding child support and to recommend approaches to [illegible] jurisdictional and service of process issues.
2. Indian law committees of state bar or tribal bar [illegible] should publish and disseminate tribal court handbooks with the objective of [illegible] communication with and understanding of tribal courts and tribal court personnel.
3. State and tribal judges who [illegible] should meet periodically to share judicial concerns, information and resources [illegible] problems and issues regarding child support.
4. Domestic Relations and Family Law Committees [illegible] bar associations should study the problems of child support enforcement [illegible], especially those in Indian country, and invite tribal participation in developing [illegible].
5. Tribal continuing legal education programs should include [illegible] child support establishment and enforcement.

o. The continuation of the family as perceived by Indian children should be protected and preserved by the Indian courts. Consistent with the mandates of the Indian Child Welfare Act, in seeking solutions to child support problems, the courts should execute remedies which preserve the child's need for healthy contact with both parents, absent credible evidence to the contrary.

[Encouragement]

International Law

The Commission notes that over 2.4 million Americans live abroad, a significant number of whom has support obligations.[35] Historically, an obligor's relocation in a foreign nation made child support enforcement extremely difficult, time-consuming and expensive. There are also thousands of foreigners with offspring who reside in the United States, who are U.S. citizens for whom support should be provided.

The United States has not signed any of the major treaties regarding international support enforcement. The United States is now considering whether to sign the Convention on the Recovery Abroad of Maintenance of 1956. If signed and ratified, the United

States would have a means to enforce an American support obligation abroad. The Commission recommends that the 1956 U.N. Convention be signed and ratified by the United States.

Pursuant to URESA, most states have reciprocal agreements with at least one foreign country or Canadian province regarding reciprocal enforcement of support orders. States do not have the power to enter into treaties. States enter into agreements of comity, where one state recognizes and honors another jurisdiction's procedures and orders. The 1968 version of URESA (RURESA) includes foreign jurisdiction in its definition of state, allowing states to use the URESA process in international cases when the opposing party lives in a foreign jurisdiction that: (1) has laws substantially similar to those of the state seeking enforcement; and (2) extends reciprocity to the American state's orders. In many states, the state attorney general is authorized to enter into reciprocal agreements by verifying the similar nature of the foreign jurisdiction's laws.

All states have reciprocal agreements with Germany and 43 states have reciprocal agreements with Great Britain. A majority of states has a reciprocal agreement with one or more Canadian province.[36] The Commission recommends that states vigorously pursue such agreements, especially in countries or provinces in which many American citizens live.

23 RECOMMENDATION

INTERNATIONAL CASES

a. States are encouraged to enter into statements of reciprocity with foreign nations and Canadian provinces to parentage determination, and the establishment, modification and enforcement of child support awards, under URESA.

b. The United States is encouraged to ratify the U.N. Convention of 1956.

[Encouraged]

Bankruptcy

For almost two hundred years, debtors have relied on the federal bankruptcy system to protect them from onerous debts. Congress enacted bankruptcy laws in 1800, and specifically added a nondischargeability clause for alimony in 1903. Before 1903, the common practice was not to allow bankruptcy discharge of alimony debts. A debtor whose creditors seek more in payment than the debtor has available to collectively satisfy them may file a bankruptcy petition to stop (stay) enforcement. Giving debtors a fresh start is the cornerstone of the country's bankruptcy system. Depending on the type of bankruptcy, a debtor may be able to discharge a debt completely, pay a percentage of the debt or pay the full amount of the debt over a longer period of time.

Several debts may not be discharged, including debts for child support and alimony.[38] This means that a debtor may not escape his or her support duty merely by filing a bankruptcy petition. However, it is wrong to conclude that a support debt is never affected by the bankruptcy filing.

Postpetition debts (debts incurred after the bankruptcy petition is filed) are not directly affected by the filing. Support that accrues after the filing is collectible from the debtor, although support creditors need to be mindful of the effect a bankruptcy stay has on collection techniques until the stay is lifted.

However, prepetition debts (accrued arrearages before the petition is filed) may not be collected without approval of the bankruptcy court. A support creditor could seek the lifting of the bankruptcy stay to collect the arrearage. Without affirmative action on the part of the child support creditor, though, the stay remains in effect until the bankruptcy court decides to lift the stay. In fact, a child support creditor may be sanctioned for con-

Target Groups

22 See, e.g., *Worce*[redacted]*er v. Georgia*, 31 U.S.[redacted]6 Pet. 515 [redacted]832). *See also* [redacted] Cohen, *Handbook* [redacted] *Federal Indi*[redacted] *Law* 241-2 (ed[redacted]982).

2[redacted] California, Minne[redacted]ta (except for Re[redacted]Lake Res[redacted]vation), Nebraska[redacted]Oregon (except fo[redacted]Warm Spri[redacted]s Reservation), a[redacted] Wisconsin (excep[redacted] for Me[redacted]minee Reservatio[redacted].

[redacted] *See Kennerly v. D*[redacted]*trict Court*, 400 U[redacted]. 423 (19[redacted]1). Ten states (Ar[redacted]na, Florida, Idah[redacted] Iowa, M[redacted]tana, Nevada, No[redacted]h Dakota, South D[redacted]kota, Ut[redacted] and Washington)[redacted]ccepted some deg[redacted] of jur[redacted]diction over Indian[redacted]ountry.

[redacted] Pub. L. No. 90-2[redacted], Sections 201-70[redacted] 82 Stat. 73, [redacted]7-81 (codified at 2[redacted] U.S.C. sections 1[redacted]1-1341).

[redacted] M. Haynes, and J[redacted]Melvin, *Tribal &* [redacted]*ate Court Re*[redacted]*rocity in the Esta*[redacted]*shment & Enfor*[redacted]*ment of Chi*[redacted] *Support* (U.S. De[redacted]. of Health and H[redacted]man Ser[redacted]es 1991), p. 28.

[redacted] *See, e.g., Billie, et* [redacted] *v. Abbott*, 16 In[redacted]n L. Rep. 60[redacted] (1988); *State of Io*[redacted]*a, ex rel. Dept. o*[redacted] *Human Se*[redacted]*ices v. Whitebreast*, [redacted]09 N.W.2d 460 ([redacted]wa 19[redacted]).

[redacted] *See, e.g., McKen*[redacted] *County Social Ser*[redacted]*es Bo*[redacted]*d v. V.G.*, 392 N.[redacted]2d 399 (N.D. 19[redacted], *cert. de*[redacted]*d*, 480 U.S. 930 ([redacted]87).

[redacted]Haynes and Mel[redacted], *supra* note 26.

[redacted]Haynes and Mel[redacted], *supra* note 26.

31 [redacted]t the time of th[redacted]greement, Washin[redacted]on alrea[redacted] had legislation [redacted]thorizing any Sta[redacted]gency to ente[redacted]nto a cooperativ[redacted]greement with a f[redacted]erally rec[redacted]ized tribe for th[redacted] mutual advantage[redacted]nd coo[redacted]ration. See Inte[redacted]al Cooperation A[redacted] Wash. Rev[redacted]Code ch. 39.34 (1972 and Supp. 1991[redacted]

32 S[redacted] Hansen, *su*[redacted] note 19.

33 S[redacted] 45 C.F.R. s[redacted]tions 302.[redacted], 303.107, 304.21[redacted]), and 305.3[redacted]

34 4[redacted]C.F.R. sectio[redacted] 303.107[redacted]

35 U.S. Bureau of the Census, *Statistical Abstract of the United States: 1991* (1991).

36 G. DeHart, *International Enforcement of Child Support and Custody: Reciprocity and Other Strategies* (1986).

37 [redacted]ote, *Alimony* [redacted] *Child Suppor*[redacted] *Are They Disc*[redacted]*geable in Bank*[redacted]*ptcy in the Fift*[redacted]*Circuit?*, 58 Miss.[redacted]J. 155, 157 (19[redacted]).

38 [redacted] U.S.C. section [redacted]3(a)(5) (1988[redacted]

39 [redacted]

40 [redacted]*nty of Santa C*[redacted]*ra v. Ramirez*[redacted]45 F.2d 1494 ([redacted] Cir. 1986).

41 S[redacted] *In re Stovall*, [redacted]1 F.2d 1133 ([redacted] Cir. 1983); *Ohio v*[redacted]*ones*, 94 B.R. [redacted] (N.D. Ohio [redacted]88); *Oregon v. Rich*[redacted]*s*, 45 B.R. 81[redacted]D. Or. 1984)[redacted]

42 I[redacted]Chapter 13 ca[redacted], almost all a[redacted]s of the debtor [redacted] considered p[redacted] of the estate[redacted]

43 S[redacted] *Caswell v. La*[redacted], 757 F.2d 6[redacted]4th Cir. 1985)[redacted] *re Pacana*, 1[redacted]Bankr. Rep. 1[redacted] (9th Cir. BAP 1[redacted]91).

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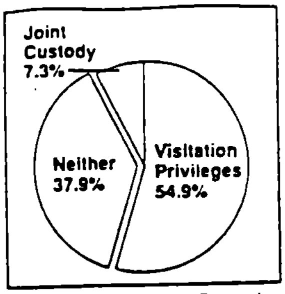
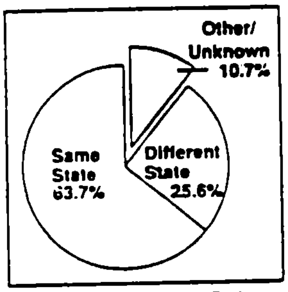
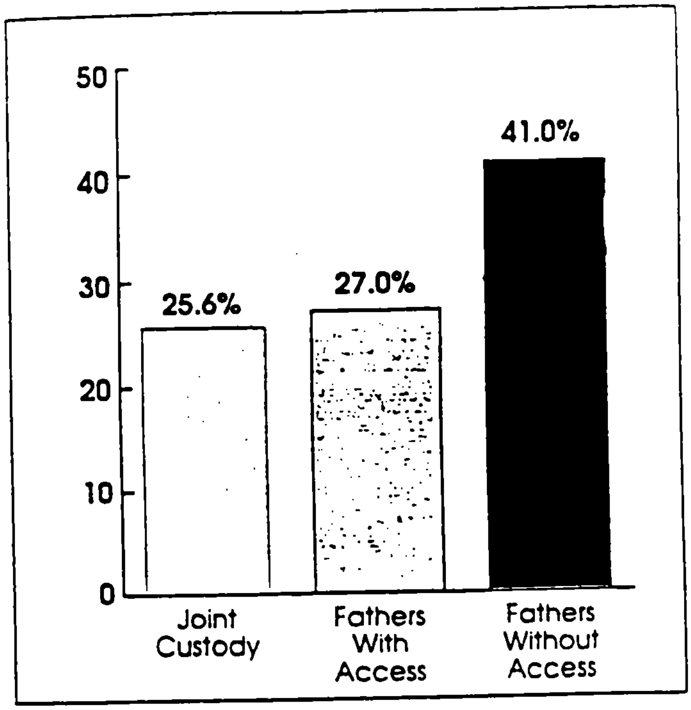


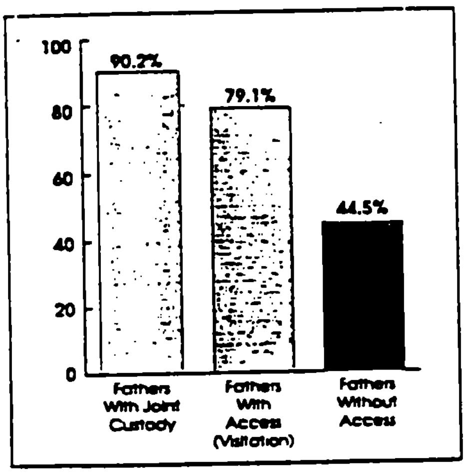
Visitation and Joint Custody Provisions of Absent Fathers (As of Spring 1990)

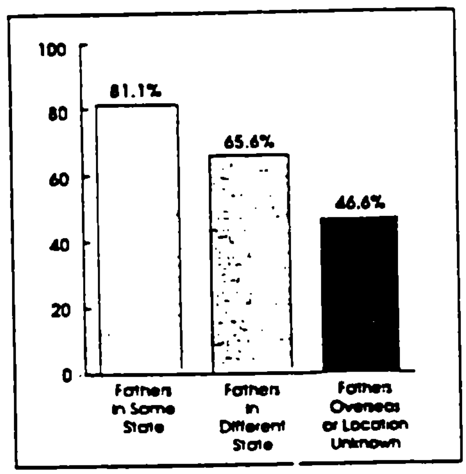


Residence of Absent Fathers (As of Spring 1990)



Poverty Rates of Mothers





Full Child Support Compliance Acknowledged By Custodial Mothers

Source: Bureau of the Census Report - Child Support and Alimony Issued September, 1991

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Office of the Attorney General

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R. Claire Guthrie
Deputy Attorney General
Human & Natural Resources Division

Gail Starling Marshall
Deputy Attorney General
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Deputy Attorney General
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APR 30 1992
DIVISION OF CHILD SUPPORT
FAIRFAX DISTRICT OFFICE

April 15, 1992

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DIVISION OF CHILD SUPPORT
ENFORCEMENT PROGRAMS
DEPARTMENT OF
SOCIAL SERVICES

Mr. Edouard Brunner
Embassy of Switzerland
2900 Cathedral Avenue, N.W.
Washington D.C. 20008

Dear Mr. Brunner:

Thank you for your letter of April 8, 1992 and the accompanying copies of the provisions of the Swiss Civil Code regarding parents' duty of maintenance of the child and Article 84 of Switzerland's Federal Code on Private International Law.

As I advised earlier, the Commonwealth of Virginia's Revised Uniform Reciprocal Enforcement of Support Act, (Section 20-88.13(1) et seq. of the Code of Virginia), provides for mutual enforcement in support matters with a foreign jurisdiction which has a "substantially similar" reciprocal law in effect. I have reviewed the provisions of the Swiss Civil Code and Article 84 and it appears "substantially similar" to Virginia's law. Therefore, reciprocal petitions filed by Switzerland should be honored by Virginia courts and Virginia orders for child support should be enforced by Swiss courts.

Petitions and requests for enforcement may be sent directly to me.

Thank you for your positive and timely response. If you require further information, please let me know.

With kindest regards, I am

Very sincerely,

Robert B. Cousins, Jr.

Robert B. Cousins, Jr.
Senior Assistant Attorney General

RECEIVED
APR 2 3 1992
DIVISION OF CHILD SUPPORT

COMMONWEALTH OF VIRGINIA
REVISED UNIFORM RECIPROCAL
ENFORCEMENT OF SUPPORT ACT

CHAPTER 5.2.

§ 20-88. Support of parents by children. It shall be the joint and several duty of all persons eighteen years of age or over, of sufficient earning capacity or income, after reasonably providing for his or her own immediate family, to assist in providing for the support and maintenance of his or her mother or father, he or she being then and there in [illegible]ous circumstances.

If there be more than one person bound to support the same parent or parents, the persons so bound in support shall jointly and severally share equitably in the discharge of such duty. Taking into consideration the needs of the parent or parents and the circumstances affecting the ability of each person to discharge the duty of support, the court having jurisdiction [illegible] have the power to determine and order the payment, by such person or persons so bound to support, of that amount for support and maintenance which to the court may seem just. Where the court ascertains that any person has failed to render his or her proper share in such support and maintenance it may, upon the complaint of any party or on its own motion, compel contribution by that person to any person or authority which has theretofore contributed to the support or maintenance of the parent or parents. The court may from time to time revise the orders entered by it or by any other court having jurisdiction under the provisions of this section, in such manner as to it may seem just.

The juvenile and domestic relations district court shall have exclusive original jurisdiction in all cases arising under this section. Any person aggrieved shall have the same right of appeal as is provided by law in other cases.

All proceedings under this section shall conform as nearly as possible to the proceedings under the other provisions of this chapter, and the other provisions of this chapter shall apply in cases arising under this section in like manner as though they were incorporated in this section. Prosecutions under this section shall be in the jurisdiction where the parent or parents reside.

This section shall not apply if there is substantial evidence of desertion, neglect, abuse or willful failure to support any such child by the father or mother, as the case may be, prior to the child's emancipation or, except as provided hereafter in this section, if a parent is otherwise eligible for and is receiving public assistance or services under a federal or state program.

To the extent that the financial responsibility of children for any part of the costs incurred in providing medical assistance to their parents pursuant to the plan provided for in § 32.1-74 of the Code of Virginia is not restricted by that plan and to the extent that the financial responsibility of children for any part of the costs incurred in providing to their parents services rendered, administered or funded by the Department of Mental Health and Mental Retardation is not restricted by federal law, the provisions of this section shall apply. A proceeding [illegible] be instituted in accordance with this section in the name of the Commonwealth by the state agency administering the program of assistance or services in order to compel any child of a parent receiving such assistance or services to reimburse the Commonwealth for such portion of the costs incurred in providing the assistance or services as the court may determine to be reasonable. If costs are incurred for the institutionalization of a parent, the children shall in no case be responsible for such costs for more than sixty months of institutionalization.

Any person violating the provisions of an order entered pursuant to this section shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding or imprisonment in jail for a period not exceeding 12 months or both.

§ 20-88.01. Transfer of assets to qualify for assistance; liability of transferees. In the event any person is found eligible for, and has received benefits under, any program of state public assistance or any program of state and federal public assistance, including medical assistance, and such person has made, or makes, any transfer or transfers of any property or resources for a cumulative consideration of at least $8,000 less than fair market value, the transferee or transferees of the property or resources shall be liable to the Commonwealth for the uncompensated value of the transferred property or resources if the transferor would have been ineligible for such benefits but for the transfer. In any such case, there will be a rebuttable presumption that the transferee acted for the purpose of assisting the transferor to qualify for public assistance and if such presumption is rebutted, then this section shall not apply. In the case of jointly-owned property transferred by any such person eligible for public assistance only that portion of the consideration below fair market value which is equal to the interest of such person in the transferred property shall be included in any determination of whether there has been a cumulative failure of consideration of at least $8,000 as provided in this section. The State Health Commissioner, the State Commissioner of Social Services, or any other head of any agency of state government having responsibility for a program of public assistance, or their designees, may petition the circuit court having jurisdiction over either the property or over the transferee or transferees for a determination of liability. Such petition may request an appropriate order requiring the transferee or transferees to make payment of the uncompensated value of the transferred property or resources to the Commonwealth to the extent of the cost of the benefits received under the program of public assistance by the transferor. The court's order may require the transferee or transferees to continue payment to the Commonwealth as long as the transferor receives public assistance until the payments equal the uncompensated value in excess of $8,000 of the property or resources transferred. This section shall not apply to any [illegible]rs of property or resources occurring more than four years next prior to date on which the transferor is found eligible for public assistance.

§ 20-88.12. Purposes. The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

§ 20-88.13. Definitions. As used in this chapter unless the context requires otherwise:

(1) "State" includes any state, territory or possession of the United States and the District of Columbia, the Commonwealth of Puerto Rico, and in any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(3) "Responding state" means any state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(4) "Court" means a juvenile and domestic relations district court of this State and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(5) "Law" includes both common and statute law.

(6) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial legal separation, separate maintenance or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(7) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(8) "Obligee" means any person including a state or political subdivision to whom a duty of support is owed or any person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(9) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this chapter.

(10) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(11) "Register" means to file in the Registry of Foreign Support Orders.

(12) "Registering court" means any court of this State in which a support order of a rendering state is registered.

(13) "Rendering state" means any state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(14) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation or remission, regardless of the kind of action or proceeding in which it is entered.

§ 20-88.14. Remedies additional to those now existing. The remedies herein provided are in addition to and not in substitution for any other remedies.

§ 20-88.15. Extent of duties of support. Duties of support arising under the laws of this State, when applicable under § 20-88.18, bind the obligor present in this State regardless of the presence or residence of the obligee.

§ 20-88.15:1. State Information Agency. (a) The Department of Welfare is hereby designated as the State Information Agency under this law, and it shall be its duty:

(1) To compile a list of the courts and their addresses in this State having jurisdiction under this law and transmit the same to the State Information Agency of every other [illegible] which has adopted this or a substantially similar law.

(2) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt in every court in this State having jurisdiction under this law.

(3) To forward to the court in this State which has jurisdiction over the obligor or his property petitions, certificates and copies of the law it receives from courts or information agencies of other states.

(b) If the State Information Agency does not know the location of the obligor or his property in the State and no State location service is available it shall use all means at its disposal to obtain this information, including the examination of official records in the State and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices, both State and federal, where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended.

§ 20-88.16. Interstate rendition. The Governor of this State (1) may demand from the Governor of any other state the surrender of any person found in such other state who is charged in this State with the crime of failing to provide for the support of any person or (2) may surrender on demand by the Governor of any other state any person found in this State who is charged in such other state with the crime of failing to provide for the support of any person. The provisions for extradition of criminals not inconsistent herewith shall apply to any such

although he had not fled therefrom. Neither the demand, the
although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the
oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the
crime was in the demanding or the other state.

§ 20-88.16:1. Necessity for initiation of proceedings for support; effect of such proceedings. (a) Before making the demand upon the Governor of another state for the surrender of a
person charged criminally in this State with failing to provide for the support of a person, the Governor of this State may require any prosecuting attorney of this State to satisfy him that at
sixty days prior thereto the obligee initiated proceedings for support under this chapter or that any proceeding would be of no avail.

(b) If, under a substantially similar law the Governor of another state makes a demand upon the Governor of this State for the surrender of a person charged criminally in that state
with failure to provide for the support of a person, the Governor may require any Commonwealth's attorney to investigate the demand and to report to him whether proceedings for support
have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable
time to permit the initiation of a proceeding.

(c) If proceedings have been initiated and the person demanded has prevailed therein the Governor may decline to honor the demand. If the obligee prevailed and the person demanded
is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order.

§ 20-88.17. Relief from the above provisions. Any obligor contemplated by § 20-88.18 who submits to the jurisdiction of the court of such other state and complies with the court's order of
support, shall be relieved of extradition for desertion or nonsupport entered in the courts of this State during the period of such compliance.

§ 20-88.18. Choice of law. Duties of support enforceable under this law are those imposed or imposable under the laws of any state where the obligor was present during the period or
any part of the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

§ 20-88.19. Remedies of State or political subdivision thereof furnishing support. Whenever the State or a political subdivision thereof has furnished support to an obligee it shall have the
same right to initiate a proceeding under the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement for support furnished and of
obtaining continuing support.

§ 20-88.20. How duties of support enforced. All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this chapter including a proceeding for civil
contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

§ 20-88.20:1. Petition by legal custodian of minor obligee. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as
guardian ad litem.

§ 20-88.20:2. Jurisdiction. Jurisdiction of any proceedings under this chapter is vested in the juvenile and domestic relations district courts of this State.

§ 20-88.21. Contents of petition for support; where filed. (a) The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of
the obligor and his dependents for whom support is sought and all other pertinent information. The obligee may include in or attach to the petition any information which may help in locating
or identifying the obligor including, but without limitation by enumeration, a photograph of the obligor, a description of any distinguishing marks of his person, other names and aliases by which
he has been or is known, the name of his employer, his fingerprints, or social security number.

(b) The petition may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the petition on the ground
that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption or custody
between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

§ 20-88.22. Duty of court of this State as initiating state. If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of
support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and shall cause three copies of the petition, its certificate and this law
to be transmitted to the court of the responding state. Certification shall be in accordance with the requirements of the initiating state. If the name and address of such court is unknown and
the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper
official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the initiating court.

§ 20-88.22:01. Fees and costs. An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and
costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and
incurred in this State when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service
supplied to the obligor, be paid in whole or in part by the obligor. These costs or fees do not have priority over amounts due to the obligee.

§ 20-88.22:1. Obtaining body of defendant by appropriate process. When the court of this State has reason to believe that the obligor may flee the jurisdiction it may (a) as an initiating
court, request in its certificate that the responding court obtain the body of the obligor by appropriate process if that be permissible under the law of the responding state; or (b) as a
responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to
assure his presence at the hearing.

§ 20-88.23. Duty of court of this State as responding state; prosecution of case. (a) When the court of this State receives from the initiating court the aforesaid copies, it shall (1) docket
the cause, (2) notify the official charged with the duty of carrying on the proceedings and (3) set a time and place for a hearing.

(b) The attorney for the Commonwealth shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this State to enable the court to obtain
jurisdiction over the obligor or his property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

§ 20-88.23:1. Location of obligor. (a) The attorney for the Commonwealth on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of
inaccuracies in the petition or otherwise the court cannot obtain jurisdiction, he shall inform the court of what he has done and request the court to continue the case pending receipt of more
accurate information or an amended petition from the initiating court.

(b) If the obligor or his property is not found in the county or city, and the attorney for the Commonwealth discovers that the obligor or his property may be found in another county or
city of this State or in another state he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the
other county or city or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court.
All powers and duties provided by this law apply to the recipient of the documents so forwarded. If the clerk of a court of this State forwards documents to another court he shall forthwith
notify the initiating court.

(c) If the attorney for the Commonwealth has no information as to the location of the obligor or his property, he shall so inform the initiating court.

§ 20-88.23:2. Continuance of hearing. If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a
defense, the court, upon request of either party, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before
the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

§ 20-88.23:3. Immunity of obligor from criminal prosecution. If at the hearing the obligor is called for examination as an adverse party and he or she declines to answer upon the ground
that his or her testimony may tend to incriminate him or her, the court may require him or her to answer, in which event he or she is immune from criminal prosecution with respect to
matters revealed by his or her testimony, except for perjury committed in this testimony.

§ 20-88.24. Order of support. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor
to such order. Support orders made pursuant to this law shall require that payments be made to the clerk of the court of the responding state. The court and Commonwealth's attorney of any
county or city in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county or city in which it was first issued. If
enforcement is impossible or cannot be completed in the county or city in which the order was issued, the Commonwealth's attorney shall send a certified copy of the order to the
Commonwealth's attorney of any county or city in which it appears that proceedings to enforce the order would be effective. The Commonwealth's attorney to whom the certified copy of the
order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

§ 20-88.25. Responding state to transmit copies to initiating state. The responding court shall cause to be transmitted to the initiating court a copy of all orders of support or orders for
reimbursement therefor.

§ 20-88.26. Additional powers of court. In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such
terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of
any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the clerk of the court or the obligee and to report personally to such clerk at such times as may be deemed
necessary.

(c) To punish a defendant who violates any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court
or by confinement for a period of not more than twelve months.

§ 20-88.26:1. Adjudication of paternity issue. If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the
defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court
may adjudicate the paternity issue as if the issue arose in a support case initiated and tried in this Commonwealth.

§ 20-88.27. Additional duties of the court of this State when acting as a responding state. The court of this Commonwealth when acting as a responding state shall have the following duties which may be carried out through the clerk of the court:

(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state or to the appropriate agency of the initiating state and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

§ 20-88.28. Additional duty of the court of this State when acting as an initiating state. The court of this State when acting as an initiating state shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

§ 20-88.28:1. Effect of pending or prior action. A responding court shall not stay the proceeding or refuse a hearing under this law because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

§ 20-88.28:2. Validity of support order. A support order made by a court of this State pursuant to this law does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar law or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this State.

§ 20-88.28:3. Participation in proceeding does not confer jurisdiction. Participation in any proceeding under this law does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

§ 20-88.28:4. Proceedings where obligee and obligor are in different counties or cities in this State. This law applies if both the obligee and the obligor are in this State but in different counties or cities. If the court of the county or city in which the petition is filed finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county or city in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the petition and a certification of the findings to the court of the county or city in which the obligor or his property is found. The clerk of the court of the county or city receiving these documents shall notify the Commonwealth's attorney of their receipt. The Commonwealth's attorney and the court in the county or city to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this State as a responding state.

§ 20-88.28:5. Appeals. A. When the Commonwealth's attorney having jurisdiction is of the opinion that a support order is erroneous or inadequate or presents a question of law warranting an appeal in the public interest, the Commonwelath's attorney is authorized, on behalf of the obligee:

1. To perfect an appeal to the proper appellate court if the support order was issued by a court of this State, or

2. If the support order was issued in another state, to cause an appeal to be taken in the other state.

B. In the event the Commonwealth's attorney fails or refuses to file an appeal, the obligee may file an appeal as provided in subsections A 1 and A 2 of this section.

C. The obligor shall have the right to file an appeal to the proper appellate court if the support order was issued by a court of this State or may cause the appeal to be taken in the other state if the support order was issued in another state.

§ 20-88.29. Evidence of husband and wife. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses as to any relevant matter, including marriage and parentage.

§ 20-88.29:1. Processing payments responsibility of Department of Social Services. — Notwithstanding any other provisions of this chapter, support payments made in this Commonwealth in cases arising under this chapter or pursuant to a similar law in another jurisdiction shall be handled by the Department of Social Services or its designee after an order redirecting payment to the Department of Social Services or its designee has been entered, and no clerk thereafter shall receive or disburse payments in such cases. The change in payment provision shall be initiated by October 1, 1985, unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Courts as to individual courts. The Department shall perform all functions relating to the receipt and disbursal of such payments in place of the clerk of the court. All initial and modified orders entered pursuant to this chapter on or after October 1, 1985, shall provide that support payments shall be paid to the Department of Social Services, unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Court. If the Department of Social Services enters into a contract with a public or private entity for the processing of support payments, then notwithstanding any other provisions of this section and except as provided in the last paragraph of this section:

1. The Department shall notify the affected court of the existence of such contract and how payments are contractually required to be made to such contractor; and

2. The affected court shall include in all support orders (i) how payments are required to be made to such contractor and (ii) that payments are to be made in such manner until different payment instructions are mailed to the person making payments by the court or by the Department.

An employer of 10,000 persons or more shall not be required to make payments other than by combined single payment to the Department's central office in Richmond without the express written consent of the employer.

§ 20-88.30. Rules of evidence. In any hearing under this law, the court shall be bound by the same rules of evidence that bind the courts of record of this State. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (§ 20-88.26:1) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

§ 20-88.30:1. Enforcement of foreign support orders; additional remedies. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

§ 20-88.30:2. Same; obligee may register order. The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

§ 20-88.30:3. Same; clerk to maintain registry. The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall file foreign support orders.

§ 20-88.30:4. Same; when Commonwealth's attorney to represent obligee. If this State is acting either as a rendering or a registering state the Commonwealth's attorney upon the request of the court shall represent the obligee in proceedings under this article.

§ 20-88.30:5. Same; how order registered; notice to obligor. (a) An obligee or obligor seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modiciations thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee or obligor, showing the post-office address of the obligee or obligor, the last known place of residence and post-office address of the obligor or obligee, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee or obligor, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this law.

(b) Promptly upon registration, the clerk of the court shall send by certified or registered mail to the other party at the address given a notice of the registration with a copy of the registered support order and the post-office address of the obligee. he shall also docket the case and notify the Commonwealth's attorney of his action. The Commonwealth's attorney shall proceed diligently to enforce the order.

§ 20-88.30:6. Same; effect of registered order; petition to vacate, hearing, staying enforcement. (a) Upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this State and may be enforced and satisfied in like manner.

(b) The obligor has twenty days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this State may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

§ 20-88.30:7. Construction of chapter. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 20-88.31. Short title of chapter. This chapter he designated and cited as the Revised Uniform Reciprocal Enforcement of Support Act.

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FOLDER TITLE:

Welfare Reform Child Support

2013-0854-S
ms681

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
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Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Bundesamt für Polizeiwesen
Office fédéral de la police
Ufficio federale di polizia
Uffizi federal da polizia

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DEC 1992

[001a]

3003 Bern, December 9th, 1992

Division of Child
Support Enforcement
3953 Pender Drive
Fairfax/Virginia 22030
USA

☎ 031 / 61 43 45
Fax 031 / 61 53 80

Ihr Zeichen
Votre réf.
Vostro rif.

Unser Zeichen
Notre réf.
Nostro rif. L 26 506 N/Wi/lam

Child support enforcement; your request of October 13th and 27th, 1992

Debtor: WELS Mylena, [redacted] Wattstrasse 12, CH-4056 Basel

Creditor: BIZIK Michael, [redacted] 5922 Mayflower Court, Alexandria, Virginia 22312

Dear Sirs,

We acknowledge receipt of the documents in the above mentioned matter.

We are afraid we can not help you.

The problem is that neither the U.S.A. itself nor a particular state of this country has signed the Convention on the Recovery Abroad of Maintenance, New York, 1956 or another international or bilateral convention in this matter.

The only possibility for Mr. Bizik is the private way; in other words he has to ask a swiss attorney at law to represent efficaciously his interests.

All we ~~would~~ can do is to try that Mrs. Wels sign an agreement, but we have noted that actually there is no arrearage (where is the problem?).

Yours faithfully

FEDERAL OFFICE FOR POLICE MATTERS

Walter Neuhaus

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Divider Title: **E**

PREPARED TESTIMONY OF
MICHAEL HARRISON BIZIK, SR.,
CUSTODIAL PARENT AND FATHER,
ALEXANDRIA, VIRGINIA

THE HOUSE WAYS AND MEANS COMMITTEE,
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON THE REPORT OF THE
INTERSTATE COMMISSION ON CHILD SUPPORT

August 11, 1992

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[0016]

My name is Michael Bizik, and I am from Alexandria, Virginia. I am the natural father and sole custodial parent of Michael Harrison Bizik, who is now 9 years old. I have raised Michael on my own as a single parent since he was 15 months old. I am very grateful for the opportunity to submit testimony before the House Subcommittee on Human Resources.

On July 1, 1988, the Commonwealth of Virginia implemented guidelines which would help Judges in determining a fair amount of child support to be awarded. Based on these child support guidelines a Judge could take the combined income of both parents, calculate the earning percentage of each parent based on their total combined income and then order one parent to pay child support based on his/her earning percentage. For example, if a father was ordered to pay child support and earned $60,000 per year, while a mother earned $40,000 per year, a father would be required to pay 60 percent of the costs involved in raising a child, since he earned 60 percent of the total combined income.

Initially, the Commonwealth of Virginia hired economists who would help with the calculating of expenses involved in raising a child. The economists concluded that the costs involved in raising each child would be different based on the income of that child's parents. For instance, the costs involved in raising a child whose parents earned more than $100,000 per year would be higher than parents of a child who earned a combined income of $20,000 per year.

As a result, child support could be ordered by Judges in Virginia far more easily and a parent's responsibility would be similar to the financial support that each parent would have been able to provide, if the parents had remained together. These child support guidelines were designed to be fair, but remained at the Judge's discretion whether to apply them.

[redacted]

(b)(6)

How many law abiding fathers will be treated differently in our society, simply because "Deadbeat Dad" may be implied by some to mean every father is a "deadbeat dad?" If any person in Congress does not understand the significance of such a prejudicial statement which labels all fathers as deadbeat dads, then I suggest that they go public with calling delinquent noncustodial mothers "Deadbeat Moms." I am sure that Congress will understand the enormous impact of unwarranted name calling, based on the negative response that it will receive from law abiding Americans who simply do not like to be categorized with the thugs of our society.

The emotional issue of child support cannot be helped by name calling, but rather in unifying both male and female custodial parents who require and demand that noncustodial parents meet their parental obligations by providing support. Once unified, both the male and female custodial parents can be properly represented by Congress and the responsible party (noncustodial parent) can be sought after for the support to which a child is entitled. If anyone in Congress wishes to ventilate their frustrations, I ask that they do not alienate law abiding male or female parents who are trying to do the best for their children, but rather that Congress passes legislation which would hold parents accountable when they <u>willfully</u> refuse to support a child.

I favor any legislation which would help to secure the best interests of children. However, whatever legal remedies for which Congress plans to implement in order to ensure that each parent measures up to his/her moral and legal responsibilities for providing the financial and emotional support that our children are entitled to, Congress must first clearly give its interpretation to the best interests of a child. It is important that the best interest of a child is defined by Congress so that when a parent fails to offer the fundamental support for which a child richly deserves, such a parent can be easily exposed for not living up to his/her parental responsibilities.

Congress should establish guidelines which will help to identify the intent of either parent and his/her failure to provide both the financial and emotional support of American children. By identifying the intent of a parent who fails to provide support to a child, local child support officials will be able to hold parents accountable more often and will be able to collect child support in a more timely fashion. These guidelines will help to eliminate the emotional disparity of justice which many parents feel, when one parent chooses to rationalize his/her reasons for abandoning a child. Often, many parents who fail to provide support to a child, recruit friends and families to not only assist with their abandonment of a child, but also in trying to convince several innocent bystanders that they were victims of circumstances. This victims of circumstances rationalization used often by noncustodial parents in defending their position for not providing support to a child does not serve the best interest of a child and makes a mockery of a Judge's order for awarding custody and child support to a custodial parent. These guidelines will help child support officials to prove beyond a reasonable doubt the true intentions of those parents who cross state lines or leave the United States in order to willfully avoid providing support of a child.

Many criminals in our society are held accountable for repeated offenses. In many cases, those criminals who have a history of committing the same crime more than once (repeat offenders) are dealt with more severely. The reasoning for which Judges offer stiffer penalties and deal with repeat offenders more severely, is to help deter such acts by those people who did not learn the first time. Since jailing a parent who does not provide support is costly and is usually not in the best interest of a child, I ask that the history of nonsupport by a parent be used to incriminate such a parent in any future legal proceeding. Thus, parents who freely choose to withdraw their ability to support or have not supported a child, can be held accountable and can eventually be reprimanded for his/her reluctance for offering support. As a result, all parents will recognize the importance of providing support to a child and the consequences involved for their failure to provide such support.

I hope that Congress can understand the ego, emotional state of mind, pride and politics for which a noncustodial parent incorporates in his/her all out attack to not only undermine the abilities of the custodial parent who has chosen to support a child, but also the great harm that a noncustodial parent inflicts on an innocent child as a result of such emotions. Child support is a very emotional issue. Until Congress establishes a foundation which can identify the best interest of a child and it establishes rules which would help govern the conduct for those parents who consider themselves to be above both American and God's laws, the problems attributed to the lack of parental support will continue.

Many custodial parents are pushed to the edge both financially and emotionally, yet most responsible parents are able to do whatever it takes, even without the support of the noncustodial parent in providing the fundamental support of a child. It is interesting that a noncustodial parent cannot afford to find a job or pay child support, despite the fact that many custodial parents find the time and energy to not only raise a child but also are able to work more than one job in order to provide for a child. I have very little sympathy for the noncustodial parent's claim that they cannot afford either the financial or emotional support for a child because they cannot find a job. If Congress believes that providing job programs for noncustodial parents will help secure the financial support of children, then I agree that the implementation of a noncustodial job program is a good idea. However, based on the child support payment history of many American parents, I am of the firm belief that many noncustodial parents are vindictively malevolent towards the custodial parent's role for being solely responsible for the child. As a result, the real reason of nonsupport is the lack of will that a noncustodial parent has for paying child support.

To overhaul State child support collection facilities is an overreaction by Congress and would be an increasingly expensive and timely process. I propose that Congress can better assist State child support collection facilities by providing them with the tools necessary for the enforcement and collection of child support. An example of improved legislation which will greatly assist a State's ability to collect child support is Congressman Hyde's proposal of H.R. 1241. The bill would establish a criminal penalty for flight to avoid payment of arrearages of child support. On January 31, 1992 I submitted testimony to the House Subcommittee on Crime and Criminal Justice supporting H.R. 1241.

I am against Federalizing the child support industry because of the enormous costs to the taxpayer and the time (at the cost of child support recipients) for which it will take to fully implement a competent agency by the Government. However, it is imperative that Congress continues to study child support issues with the hope that such studies can help to improve a State's ability for collecting child support. Further, I ask that the U.S. Census Bureau, the General Accounting Office and any other offices which can offer Congress important data on child support be required to do so. The computation of child support statistics would provide Congress with the necessary insight for improving the child support industry in America.

Finally, it is essential that this Committee help to expose and prevent the financial and emotional deprivation which many custodial parents and their children experience when a noncustodial parent is permitted to escape (without any legal consequences) from his/her American court-ordered child support obligations by departing to another country. The August 1, 1992 report by the U.S. Commission on Interstate Child Support noted that a significant number of the 2.4 million Americans who live abroad have support obligations (see U.S. Commission on Interstate Child Support Report (August 1, 1992), 10-24). In essence, this statistic indicates that approximately 15% of the 16 million children who are owed support can be attributed to those noncustodial parents who live in foreign countries. However, the total number of children who may be owed child support by noncustodial parents who reside outside of the United States might very easily be higher when calculating the total number of children for whom these noncustodial parents owe support. For example, if the average number of children who are owed support by a noncustodial parent who resides in another country is 1.5, then 1.5 children multiplied by the 2.4 million noncustodial parents who reside in another country would equal 3.6 million children who are owed child support or rather accounts for 22% of the 16 million children who are owed support. Moreover, even though Interstate cases represent about 3 out of 10 child support cases, and although only $1 of every $10 collected by the system is from Interstate cases, I am willing to wager that the amount collected from the noncustodial parents who reside in foreign countries is enormously less than the Interstate cases statistic of $1 collected for every $10 owed.

In order to help enforce court ordered child support of the United States abroad, the United States should sign and ratify the convention on the Recovery Abroad of Maintenance of 1956 (U.N. Convention of 1956). This Committee is urged to expand the current language of child support legislation before Congress by including criminal penalties for noncustodial parents (who reside in or have citizenship with another country) who have at least a one year arrearage of American court-ordered child support, so that these parents can be apprehended when trying to re-enter the United States. At the very least, the United States should play a more active role in helping custodial parents in the United States collect unpaid child support from a noncustodial parent who chooses to live in another country, so that child support can be fully enforced and collected in a timely manner.

Currently, each state becomes solely responsible for establishing reciprocity with another country in order to ensure that child support orders are established and enforced abroad. The time for which it takes a state to establish reciprocity with another country is long and there are no guarantees that reciprocity will ever be granted. In addition, there are many risks involved when a state independently establishes reciprocity with another country, such as the amount of child support as ordered in the United States if contested by the noncustodial parent could be dramatically and improperly lowered by the reciprocating foreign country. As a result, the United States must play a larger role in helping both the custodial parent and his/her child in securing and enforcing American court-ordered child support abroad.

When a foreign country denies a state's request for reciprocity and whereas the United States is unable to help a custodial parent collect the child support owed by a noncustodial parent who resides in the same foreign country that has denied reciprocity, some custodial parents may decide to forcibly abduct a noncustodial parent from their foreign country in the hope that an American court can collect the unpaid child support to which his/her child is entitled. The Supreme Court decided on June 15, 1992, in United States v. Humberto Alvarez-Machain, 112 S.Ct. 2188 (1992), that a forcible abduction does not prohibit a trial in a United States court for violation of this country's criminal laws. Although a forcible abduction by a custodial parent would be construed by many laymen as illegal, the reasoning behind such an abduction might help to convince many congressional members that vast changes concerning improved international enforcement of American court-ordered support are needed. Furthermore, based on the statistical history of the United States concerning collecting child support, it is logical to conclude that many noncustodial parents will increasingly decide to move to another country in order to escape from his/her child support obligations once the child support laws are improved in the United States.

I congratulate Chairman Downey and the members of the House Subcommittee on Human Resources on holding this Hearing concerning the report of the Interstate Child Support Commission.

Thank you.

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"Supporting Our Children: A Blueprint for Reform"

ADVANCE COPY

August 1, 1992

THE U.S. COMMISSION ON INTERSTATE CHILD SUPPORT'S REPORT TO CONGRESS

Indian tribes should waive their sovereign immunity as payor to the same extent as the federal government waives its sovereign immunity as payor solely for the purpose of garnishment of child support.

[Recommendation to Indian tribes]

m. Congress or DHHS should fund a study to produce genetic frequency data on Indians. The results of such a study would help not only in parentage establishment, but also in criminal actions and medical donor matches.

[Federal plenary statute]

n. Tribes and states should engage in joint activities such as the following:

1. Joint task forces should be established to study problems of service delivery regarding child support and to recommend approaches to addressing jurisdictional and service of process issues;
2. Indian law committees of state bars or tribal courts should publish and disseminate tribal court handbooks with the objective of fostering ongoing communication with, and understanding of, tribal courts and tribal court personnel;
3. State and tribal judges who preside in adjacent locations should meet periodically to share judicial concerns, information and resources and to address mutual problems and issues regarding child support;
4. Domestic Relations and Family Law Committees of local and state bar associations should study the problems of child support enforcement with respect to Indian children, especially those in Indian country, and invite tribal participation in developing remedies; and
5. Tribal continuing legal education programs should include sessions on child support establishment and enforcement.

o. The continuation of the family as perceived by Indian children should be protected and preserved by the Indian courts. Consistent with the mandates of the Indian Child Welfare Act, in seeking solutions to child support problems, the courts should execute remedies which preserve the child's need for healthy contact with both parents, absent credible evidence to the contrary.

[Encouragement]

International Law

The Commission notes that over 2.4 million Americans live abroad, a significant number of whom has support obligations.[35] Historically, an obligor's relocation in a foreign nation made child support enforcement extremely difficult, time-consuming and expensive. There are also thousands of foreigners with offspring who reside in the United States, who are U.S. citizens for whom support should be provided.

The United States has not signed any of the major treaties regarding international support enforcement. The United States is now considering whether to sign the Convention on the Recovery Abroad of Maintenance of 1956. If signed and ratified, the United

States would have a means to enforce an American support obligation abroad. The Commission recommends that the 1956 U.N. Convention be signed and ratified by the United States.

Pursuant to URESA, most states have reciprocal agreements with at least one foreign country or Canadian province regarding reciprocal enforcement of support orders. States do not have the power to enter into treaties. States enter into agreements of comity, where one state recognizes and honors another jurisdiction's procedures and orders. The 1968 version of URESA (RURESA) includes foreign jurisdiction in its definition of state, allowing states to use the URESA process in international cases when the opposing party lives in a foreign jurisdiction that (1) has laws substantially similar to those of the state seeking enforcement; and (2) extends reciprocity to the American state's orders. In many states, the state attorney general is authorized to enter into reciprocal agreements by verifying the similar nature of the foreign jurisdiction's laws.

All states have reciprocal agreements with Germany and 43 states have reciprocal agreements with Great Britain. A majority of states has a reciprocal agreement with one or more Canadian province.[36] The Commission recommends that states vigorously pursue such agreements, especially in countries or provinces in which many American citizens live.

33 RECOMMENDATION

INTERNATIONAL CASES

a. States are encouraged to enter into statements of reciprocity with foreign nations and Canadian provinces for parentage determination, and the establishment, modification and enforcement of child support awards, under UIFSA.

b. The United States is encouraged to ratify the U.N. Convention of 1956.

[Encouragement]

Bankruptcy

For almost two hundred years, debtors have relied on the federal bankruptcy system to protect them from onerous debts. Congress enacted bankruptcy laws in 1800, and specifically added a nondischargeability clause for alimony in 1903. Before 1903, the common practice was not to allow bankruptcy discharge of alimony debts. A debtor whose creditors seek more in payment than the debtor has available to collectively satisfy them may file a bankruptcy petition to stop (stay) enforcement. Giving debtors a fresh start is the cornerstone of the country's bankruptcy system. Depending on the type of bankruptcy, a debtor may be able to discharge debt completely, pay a percentage of the debt or pay the full amount of the debt over a longer period of time.

Several debts may not be discharged, including debts for child support and alimony.[38] This means that a debtor may not escape his or her support duty merely by filing a bankruptcy petition. However, it is wrong to conclude that a support debt is never affected by the bankruptcy filing.

Postpetition debts (debts incurred after the bankruptcy petition is filed) are not directly affected by the filing. Support that accrues after the filing is collectible from the debtor, although support creditors need to be mindful of the effect a bankruptcy stay has on collection techniques until the stay is lifted.

However, prepetition debts (accrued arrearages before the petition is filed) may not be collected without approval of the bankruptcy court. A support creditor could seek the lifting of the bankruptcy stay to collect the arrearage. Without affirmative action on the part of the child support creditor, though, the stay remains in effect until the bankruptcy court decides to lift the stay. In fact, a child support creditor may be sanctioned for con-

22 [redacted]See, e.g., Worc[redacted]r v. Georgia, 31 U.S[redacted]6 Pet. 515 [redacted]832). *See also* [redacted] Cohen, *Handbook* [redacted] *Federal India*[redacted] *Law* 241-2 (ed[redacted]982).

2[redacted]California, Minne[redacted]ta (except for Re[redacted]Lake Res[redacted]vation), Nebraska[redacted]Oregon (except fo[redacted]Warm Spri[redacted]s Reservation), a[redacted] Wisconsin (exce[redacted]for Me[redacted]minee Reservatio[redacted]

[redacted] *See Kennerly v. D*[redacted]*trict Court*, 400 U[redacted]. 423 (19[redacted]1). Ten states (Ar[redacted]ona, Florida, Idah[redacted]Iowa, M[redacted]tana, Nevada, No[redacted]h Dakota, South D[redacted]kota, Ut[redacted] and Washington)[redacted]ccepted some deg[redacted] of jur[redacted]diction over Indian[redacted]ountry.

[redacted] Pub. L. No. 90-2[redacted], Sections 201-70[redacted] 82 Stat. 73,[redacted]7-81 (codified at 2[redacted]U.S.C. sections 1[redacted]1-1341).

[redacted] M. Haynes, and J[redacted]Melvin, *Tribal &* [redacted]*ate Court Re*[redacted]*rocity in the Esta*[redacted]*shment & Enfor*[redacted]*ment of Chi*[redacted] *Support* (U.S. De[redacted]. of Health and H[redacted]man Ser[redacted]es 1991), p. 28.

[redacted] *See, e.g., Billie, et*[redacted] *v. Abbott*, 16 In[redacted]n L. Rep. 60[redacted] (1988); *State of Io*[redacted]*a, ex rel. Dept. o*[redacted]*Human Se*[redacted]*ices v. Whitebreast*,[redacted]09 N.W.2d 460 ([redacted]wa 19[redacted]7).

[redacted] *See, e.g., McKen*[redacted] *County Social Ser*[redacted]*es Bo*[redacted]*d v. V.G.*, 392 N.[redacted]2d 399 (N.D. 19[redacted], *cert. den*[redacted]*d*, 480 U.S. 930 ([redacted]87).

[redacted]Haynes and Mel[redacted], *supra* note 26.

[redacted]Haynes and Mel[redacted], *supra* note 26.

31 [redacted]t the time of the[redacted]greement, Washin[redacted]on alrea[redacted] had legislation [redacted]thorizing any Stat[redacted]gency to ente[redacted]nto a cooperativ[redacted]greement with a f[redacted]erally rec[redacted]ized tribe for th[redacted] mutual advantage[redacted]nd coo[redacted]ration. *See* Inte[redacted]cal Cooperation A[redacted] Wash. Rev[redacted]Code ch. 39.34 (1972 and Supp. 1991[redacted]

32 S[redacted] Hansen, *sup*[redacted] note 19.

33 S[redacted] 45 C.F.R. s[redacted]tions 302.[redacted], 303.107, 304.21[redacted]), and 305.3[redacted]

34 4[redacted]C.F.R. sectio[redacted] 303.107[redacted]

35 U.S. Bureau of the Census, *Statistical Abstract of the United States: 1991* (1991).

36 G. DeHart, *International Enforcement of Child Support and Custody: Reciprocity and Other Strategies* (1986).

37 [redacted]ote, *Alimony* [redacted] *Child Suppor*[redacted]*Are They Disc*[redacted]*geable in Bank*[redacted]*ptcy in the Fift*[redacted]*Circuit?*, 58 Miss.[redacted]J. 155, 157 (19[redacted]).

38 [redacted] U.S.C. section [redacted]3(a)(5) (1988[redacted]

39 [redacted]

40 [redacted]*unty of Santa C*[redacted]*ra v. Ramirez*[redacted]45 F.2d 1494 ([redacted] Cir. 1986).

41 S[redacted] *In re Stovall*, [redacted]1 F.2d 1133 ([redacted] Cir. 1983); *Ohio v*[redacted]*ones*, 94 B.R. [redacted] (N.D. Ohio [redacted]88); *Oregon v. Rich*[redacted]*s*, 45 B.R. 81[redacted]D. Or. 1984)[redacted]

42 I[redacted]Chapter 13 ca[redacted], almost all a[redacted]ts of the debtor [redacted] considered p[redacted] of the estate[redacted]

43 S[redacted]*Caswell v. L*[redacted], 757 F.2d 60[redacted]4th Cir. 1985),[redacted]*re Pacana*, 1[redacted]Bankr. Rep. 1[redacted](9th Cir. BAP 1[redacted]1).

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H.L.C.

Barbara B. Kennelly

(Original Signature of Member)

103D CONGRESS
1ST SESSION

H. R. 1961

IN THE HOUSE OF REPRESENTATIVES

Mrs. KENNELLY for herself, and Mr. Meehan, Mr. Barlow, Mr. Lewis of Georgia, and Mr. Moran introduced the following bill; which was referred to the Committee on ______________

A BILL

To improve the interstate enforcement of child support and parentage court orders, and for other purposes.

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

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Interstate Child Support Act of 1993".

(b) REFERENCE TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, wherever in this Act an amendment is expressed in terms of an amendment to or

"(36) Procedures allowing State courts to order the assignment of an interest in jointly held property to an individual owed a child support arrearage (determined under a court order or an order of an administrative process established under State law) by a holder of an interest in the property, to the extent of the arrearage.".

SEC. 426. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by section 301 of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by inserting after paragraph (27) the following:

"(28) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.".

TITLE V—COLLECTION AND DISTRIBUTION

SEC. 501. PRIORITIES IN DISTRIBUTION OF COLLECTED CHILD SUPPORT.

(a) STATE DISTRIBUTION PLAN.—Section 457 (42 U.S.C. 657) is amended by adding at the end the following:

"(e) Beginning on September 1, 1994, the amounts that a State collects as child support (including interest) pursuant to a plan approved under this part, other than amounts so collected through a tax refund offset, shall (subject to subsection (d)) be paid—

"(1) first to the individual owed the support or (if the individual assigned to the State the payment of the support) to the State, to the extent necessary to satisfy the current month's support obligation;

"(2) then to the individual owed the support, to the extent necessary to satisfy any arrearage that accrued after assistance with respect to the child under this title ended;

"(3) then, at the option of the State—