

① The President today called upon the House of Representatives to pass the Deadbeat Parents Punishment Act and send it to him for signature. The Act, which has passed the Senate but not

PRESIDENT ANNOUNCES THE DEADBEAT PARENTS PUNISHMENT ACT OF 1997
the House, makes it a felony offense to cross state

The President Calls upon the Federal Government to Strengthen Child Support Enforcement

The President stated in a directive to the Attorney General on July 21, 1996 that, "[w]hile State and local agencies have and must have primary responsibility for child support enforcement, the Federal Government has a crucially important role to play." The President asked that the Attorney General take several specific steps to strengthen child support enforcement efforts.

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Current Law Regarding Failure to Pay Child Support Obligations

Current law makes it a federal offense to willfully fail to pay a child support obligation with respect to a child who lives in another state if the obligation has remained unpaid for longer than a year or is greater than \$5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years. The current law, by providing for a maximum punishment of just six months in prison for a first offense, makes violations only a misdemeanor. Police officers and prosecutors have used the current law effectively, but they have found that current misdemeanor penalties are not strict enough to adequately deal with more serious cases, those cases in which parents move from State to State, or internationally, to intentionally evade child support penalties.

The President Proposes Stiffer Penalties For Those Who Fail to Meet Support Obligations

The Deadbeat Parents Punishment Act addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations.

The Act amends Federal criminal law to prescribe criminal penalties (*including mandatory restitution*) for willful failure to pay child support obligations.

An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has state civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance.

President Creates Two New Categories of Felony Offenses, Subject to a Two-Year Maximum Prison Term

The first offense is: Traveling in interstate or foreign commerce with the intent to evade a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000.

The second offense is: Willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000.

Congressional Sponsors

Senate Sponsor- Senator Herb Kohl (R)-Michigan
House Sponsor- Representative Steny H. Hoyer (D)-Maryland

Bills in Congress

The bills described below have been introduced in the current session of Congress. H.R. refers to the House of Representatives, S. refers to the Senate. The phone number of the committee handling the bill is provided below; you may call to check on the status of legislation, or express your views. It is even more important to let your own Representative and Senator know your views. The capital switchboard, which can connect you with the offices of all members of Congress and committees, is (202) CA4-3121 (224-3121). This is a 24-hour switchboard that can provide you night and day with names, addresses, and direct phone numbers of all members of Congress. During normal weekday business hours, the switchboard can connect you with any Congressional office on Capitol Hill. To save on expenses, you can contact the Congressmembers' local branch office in your district. **BETTER YET, WRITE A LETTER AS DESCRIBED BELOW.**

H.R. 2503, the "Deadbeat Parents Punishment Act of 1997", introduced by Rep. Steny Hoyer (D-MD) and Rep. Henry Hyde (R-IL) to establish felony violations for the failure to pay financial child support obligations and other purposes. Referred to House Judiciary Committee, Crime Subcommittee 202-225-3926. Similar to S. 226, introduced by Sen. Herbert Kohl (D-WI), referred to Senate Judiciary Committee, (202) 224-5225. Urge your House member or Senator to offer a "balancing amendment" to provide similar penalties for failure to honor court-ordered visitation. Congress can do this on the same basis that it passes financial child support legislation—to improve collections, because the Census Bureau finds that access (visitation) enforcement improves financial child support payments.

S. 97, introduced by Sen. John Kerry (D-MA), to amend the Internal Revenue Code to require the IRS to collect financial child support through wage withholding and to eliminate State enforcement of financial child support obligations other than medical support obligations. Referred to the Senate Finance Committee, (202) 224-4515. Similar to H.R. 2189, introduced by Rep. Henry Hyde (R-IL), referred to Human Resources Subcommittee of House Ways and Means (202) 224-4515. Urge your House member or Sena

tor to offer a "balancing amendment" to provide IRS enforcement of any financial penalties for access denial that any state may impose, such as fines or court costs for missed access, for the same reason as stated in the note to H.R. 2503 above.

S. 1075, introduced by Sen. Christopher Dodd (D-CT), to provide demonstration projects to establish minimum financial child support payments. Referred to Finance Committee (202) 224-4515. Urge your House member or Senator to offer a "balancing amendment" to establish minimum

access/visitation/parenting time of at least a third of the time on a year-round basis, because the Census Bureau says that parents with at least of the third of the time (joint physical custody) with their children pay up to twice as much in financial child support as parents with no access to their children.

H.R. 869, introduced by Rep. Christopher Cox (D-CA), to require a parent who is delinquent in financial child support to include his unpaid obligation in gross income and to allow custodial parents a bad debt deduction for unpaid financial child support payments. Referred to Human Resources Subcommittee of House Ways and Means, phone (202) 244-4515. Urge your House member or Senator to offer a "balancing amendment" to include unpaid visitation penalty in gross income and to allow non-custodial parents a bad debt collection for unpaid visitation fines or penalties.

H.R. 399, introduced by Rep. Michael Bilirakis (R-FL) to prohibit the provision of financial assistance by the Federal Government to any person who is more than 60 days delinquent in the payment of any financial child support obligation. A hearing was held on this bill in November, 1997, by the Committee on Government Reform and Oversight (202) 225-5074. Write your House member or Senator recommending "balancing" this bill with a provision prohibiting the same assistance to anyone 60 days delinquent in honoring a court's access/visitation order.

Congress's Call to Fatherhood

by Jill Hollandsworth

CRC Intern

There has long been a Congressional Caucus for Women's Issues, chaired by Eleanor Holmes Norton (D-DC), and a Senate Children and Family Subcommittee, headed by Sen. Christopher Dodd (D-CT). Now, because Congress has become aware of the need for more involved fathers, it has started the bipartisan Fatherhood Promotion Task Force.

The Task Force, initiated in June 1997, is co-chaired by Reps. Joseph Pitts (R-PA), Mike McIntyre (D-NY), Jim Rogan (R-CA), and Jim Turner (D-TX), and now has 32 members in Congress.

The Task Force is working with The National Fatherhood Initiative, in Gaithersburg, MD., but welcomes input from other groups.

Write to Congress

Write to House members at:

Representative —

(name of your Representative)

House of Representatives

Washington, D.C. 20515

Write to Senators at:

Senator — (name of your Senator)

U.S. Senate

Washington, D.C. 20510

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DEADBEAT PARENTS PUNISHMENT ACT OF 1997 (Senate - November 13, 1997)

[Page: S12667]

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 271, S. 1371.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1371) to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KOHL. Mr. President, let me take a moment to explain the Deadbeat Parents Punishment Act of 1997, which I introduced with Senator **DeWine** and which I drafted with the help of the administration. This measure toughens the criminal penalties we created in the Child Support Recovery Act of 1992 and creates new gradations of offenders to target and punish the most egregious child support evaders. It ensures that more serious crimes receive the more serious punishments they clearly deserve. And, Mr. President, this measure sends a clear message to deadbeat dads and moms: ignore the law, ignore your responsibilities, and you will pay a high price. In other words, pay up or go to jail.

When Senator **Shelby** and I introduced the original Child Support Recovery Act, we knew that Federal prosecutors had a role to play to keep these parents from shirking their legal, and I would argue moral, responsibilities. It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. In fact, Mr. President, since that legislation was signed into law in 1992, over 386 cases have been filed, resulting in at least 165 convictions to date. And not only has that law brought about punishment, but it has also brought about payment. Collections have increased by nearly 50 percent, from \$8 billion to \$11.8 billion, and a new national database has helped identify 60,000 delinquent fathers--over half of whom owed money to women on welfare. Although we should be proud of that increase, we can not merely rest on our laurels. More can be done--and today the Senate's passage of the Deadbeat Parents Punishment Act is a step in the right direction.

Mr. President, as you know, current law already makes it a Federal offense to willfully fail to pay child support obligations to a child in another State if the obligation has remained unpaid for longer than a year or is greater than \$5,000. However, the current law, by providing for a maximum punishment of just 6 months in prison for a first offense, makes violations only a misdemeanor. A first offense--no matter how egregious--is not a felony under current law.

Police officers and prosecutors have used the current law effectively, but they have found that current misdemeanor penalties do not have the teeth to adequately deal with more serious cases--those cases in which parents move from State to State, or internationally, to intentionally evade child support penalties.

Those are serious cases that deserve serious felony punishment and, under this new measure, that serious punishment will be available.

Mr. President, I believe that making the Deadbeat Parents Punishment Act law will make a difference in the lives of families across the country. I thank my friend from Ohio, and this bill's original cosponsor, Senator **DeWine** for his efforts on behalf of children and families, and I commend my colleagues in the Senate for passing this important message. I look forward to this measure quickly passing the House and being signed into law by the President.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the **Record**, as follows:

Section-by-Section Analysis of S. 1371, The Deadbeat Parents Punishment Act of 1997

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DEADBEAT PARENTS PUNISHMENT ACT OF 1997 (Senate - November 13, 1997)

Section-by-Section Analysis of S. 1371, The Deadbeat Parents Punishment Act of 1997

The 'Deadbeat Parents Punishment Act of 1997' amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. 228, to create felony violations for aggravated offenses. Current law makes it a federal offense to willfully fail to pay a child support obligation with respect to a child who lives in another state if the obligation has remained unpaid for longer than a year or is greater than \$5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. For such offenses a maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Aggravated offenses, such as those involving parents who move from state to state to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another state if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000. These offenses, proposed 18 U.S.C. 228(a) (2) and (3), indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although 'ability to pay' is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under state law, is useful in the jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has state civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance. In addition, the presumption of ability to pay set forth in the bill is rebuttable, a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. 3663A, enacted as part of

the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104-132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

Proposed subsection (e) clarifies that prosecutions for violations of this section may be brought either in the district where the child resided or the obligor resided during a period of nonpayment. Inclusion of this language is necessary in light of a recent case, *Murphy v. United States*, 934 F.Supp. 736 (W.D. Va. 1996), which held that a prosecution had been improperly brought in the Western District of Virginia, where the child resided, because the obligor was required, by court order, to send his child support payments to the state of Texas. Proposed subsection (e) is not meant to exclude other venue statutes, such as section 3237 of title 18, United States Code, which applies to offenses begun in one district and completed in another.

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DEADBEAT PARENTS PUNISHMENT ACT OF 1997 (Senate - November 13, 1997)

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the **Record**.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1371) was read the third time and passed, as follows:

S. 1371

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Deadbeat Parents Punishment Act of 1997'.

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

'228. Failure to pay legal child support obligations

'(a) **Offense:** Any person who--

'(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000;

'(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000; or

'(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than \$10,000; shall be punished as provided in subsection (c).

'(b) **Presumption:** The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

'(c) **Punishment:** The punishment for an offense under this section is--

'(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

'(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

'(d) **Mandatory Restitution:** Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

'(e) **Venue:** With respect to an offense under this section, an action may be inquired of and prosecuted in

a district court of the United States for--

`(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an `obligor') failed to meet that support obligation;

`(2) the district in which the obligor resided during a period described in paragraph (1); or

`(3) any other district with jurisdiction otherwise provided for by law.

`(f) **Definitions:** As used in this section--

`(1) the term `Indian tribe' has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);

`(2) the term `State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

`(3) the term `support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe 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.'

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Bill Summary & Status for the 105th Congress

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H.R.2925

SPONSOR: Rep Hoyer (introduced 11/07/97)

RELATED BILLS: S.1371

STATUS: Detailed Legislative Status

House Actions

Nov 7, 97:

Referred to the House Committee on the Judiciary.

Nov 18, 97:

Referred to the Subcommittee on Crime.

Bill Summary & Status for the 105th Congress

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H.R.2925

SPONSOR: Rep Hoyer (introduced 11/07/97)

RELATED BILLS: S.1371

COMMITTEE(S):

- ☐ COMMITTEE(S) OF REFERRAL:
House Judiciary
- ☐ SUBCOMMITTEE(S):
Hsc Crime

Bill Summary & Status for the 105th Congress

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H.R.2925

SPONSOR: Rep Hoyer (introduced 11/07/97)

RELATED BILLS: S.1371

2 COSPONSORS:

Rep Hyde - 11/07/97 Rep Conyers - 11/08/97

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Deadbeat Parents Punishment Act of 1997 (Introduced in the House)

HR 2925 IH

105th CONGRESS

1st Session

H. R. 2925

To establish felony violations for the failure to pay legal child support obligations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 7, 1997

Mr. HOYER (for himself and Mr. HYDE) introduced the following bill; which was referred to the Committee on Judiciary

A BILL

To establish felony violations for the failure to pay legal child support obligations, 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.

This Act may be cited as the 'Deadbeat Parents Punishment Act of 1997'.

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

'Sec. 228. Failure to pay legal child support obligations

'(a) OFFENSE- Any person who--

'(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater

than \$5,000;

`(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000; or

`(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than \$10,000;

shall be punished as provided in subsection (c).

`(b) PRESUMPTION- The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

`(c) PUNISHMENT- The punishment for an offense under this section is--

`(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

`(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

`(d) MANDATORY RESTITUTION- Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

`(e) VENUE- With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for--

`(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an `obligor') failed to meet that support obligation;

`(2) the district in which the obligor resided during a period described in paragraph (1); or

`(3) any other district with jurisdiction otherwise provided for by law.

`(f) DEFINITIONS- As used in this section--

`(1) the term `Indian tribe' has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);

`(2) the term `State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

`(3) the term `support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe 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.'

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To require States to impose criminal penalties on persons who willfully fail to pay child support, as a condition of Federal funding of State child support enforcement programs. (Introduced in the House)

HR 267 IH

105th CONGRESS

1st Session

H. R. 267

To require States to impose criminal penalties on persons who willfully fail to pay child support, as a condition of Federal funding of State child support enforcement programs.

IN THE HOUSE OF REPRESENTATIVES**January 7, 1997**

Mrs. ROUKEMA introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To require States to impose criminal penalties on persons who willfully fail to pay child support, as a condition of Federal funding of State child support enforcement programs.

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

SECTION 1. REQUIREMENT THAT STATES IMPOSE CRIMINAL PENALTIES ON PERSONS WHO WILLFULLY FAIL TO PAY CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT- Section 454 of the Social Security Act (42 U.S.C. 654) is amended--

(1) by striking 'and' at the end of paragraph (32);

(2) by striking the period at the end of paragraph (33) and inserting `; and'; and

(3) by inserting after paragraph (33) the following:

'(34) provide that the State shall have in effect criminal penalties for the willful failure to pay child support.'

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect on January 1, 1999, and shall apply to payments under title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement such amendments are promulgated by such date.

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**Denial of Passports to Noncustodial Parents in Cases of Nonpayment of Child Support
(Introduced in the House)**

HR 389 IH

105th CONGRESS

1st Session

H. R. 389

Concerning denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support.

IN THE HOUSE OF REPRESENTATIVES**January 9, 1997**

Mr. ANDREWS introduced the following bill; which was referred to the Committee on International Relations

A BILL

Concerning denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Denial of Passports to Noncustodial Parents in Cases of Nonpayment of Child Support'.

SEC. 2. DENIAL OF PASSPORTS TO NONCUSTODIAL PARENTS SUBJECT TO STATE ARREST WARRANTS IN CASES OF NONPAYMENT OF CHILD SUPPORT.

The Secretary of State is authorized to refuse a passport or revoke, restrict, or limit a passport in any case in which the Secretary of State determines or is informed by competent authority that the applicant or passport holder is a noncustodial parent who is the subject of an outstanding State

warrant of arrest for nonpayment of child support, where the amount in controversy is not less than \$10,000.

LRM ID: MDH32

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, March 12, 1997

URGENT

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT: JUSTICE Proposed Draft Bill on Child Support Recovery Amendments Act of 1997

DEADLINE: 10 am Thursday, March 13, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached Department of Justice (DOJ) draft bill would amend the Child Support Recovery Act pursuant to the President's July 21, 1996, directive to DOJ to establish a felony offense for a person who willfully fails to pay child support for a child in another State. This draft bill is similar to a DOJ draft bill that was transmitted to the Congress on September 27, 1996.

* DOJ has requested that OMB clear this draft bill by tomorrow (Thursday, March 13th.) It plans to transmit its draft bill to the Congress tomorrow. *

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Cynthia A. Rice
Diana Fortuna
Emily Bromberg
Pauline M. Abernathy
David J. Haun
E. Irene James
Raymond P. Kogut
David M. Zavada
Laura Oliven Silberfarb
James C. Murr
Janet R. Forsgron
Robert J. Pellicci
Ronald E. Jones
OMB-LA

William Marshall
Barry Clendenen

LRM ID: MDH32 SUBJECT: JUSTICE Proposed Draft Bill on Child Support Recovery
Amendments Act of 1997

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur
_____ No Objection
_____ No Comment
_____ See proposed edits on pages _____
_____ Other: _____
_____ FAX RETURN of _____ pages, attached to this response sheet

Has update to attorney 4/17
general rept from Oct
will fax next week

Felony

Narrow set of cases - aggressive
disruptive
where state efforts fail
where intentional failure
etc

Part of fed resp is to facilitate
state efforts



U.S. Department of Justice

Office of Legislative Affairs

DRAFT

Office of the Assistant Attorney General

Washington, D.C. 20530

? Is this the
final description?

The Honorable Newt Gingrich
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is a legislative proposal, the "Child Support Recovery Amendments Act of 1997," which strengthens federal criminal child support enforcement by establishing felony violations for aggravated cases of failing to pay legal child support obligations and other measures. A section-by-section analysis is also enclosed. We have forwarded an identical proposal to the President of the United States Senate.

This proposal results from the President's directive to the Attorney General of July 21, 1996. In that directive, the President said that, "[w]hile State and local agencies have and must have primary responsibility for child support enforcement, the Federal Government has a crucially important role to play," and asked that the Attorney General take several specific steps to strengthen child support enforcement efforts. One of these steps was "to draft legislation to amend the Child Support Recovery Act to establish a felony offense for a person who willfully fails to pay child support for a child in another State where there has been an egregious failure to meet child support obligations."

Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or is greater than \$5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The draft bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. For such cases a maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Aggravated offenses, such as those involving parents who move from State to State to evade child support payments, require more severe penalties.

The draft bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000. These offenses indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. A maximum two-year prison term is appropriate for these offenses.

The current proposal is similar to one the Department submitted to the 104th Congress, but the current proposal includes several additional measures which clarify and strengthen federal child support enforcement provisions. First, we have considered the statute's application to child support orders issued by Indian tribal courts. The draft bill now includes within its definition section a reference to support obligations as determined under a court order or administrative process pursuant to the law of an Indian tribe. In addition, we have included a venue section which clarifies that prosecutions under the statute may be brought in any district in which the child resided or the obligor resided during a period of nonpayment.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this proposal and that its enactment would be in accord with the program of the President. Please let us know if we may be of additional assistance in connection with this or any other matter.

Sincerely,

DRAFT

Andrew Foia
Assistant Attorney General

Enclosure



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

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Speaker
U.S. House of Representatives
Washington, D.C. 20515

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Sincerely,

Andrew Fois
Assistant Attorney General

Enclosure

A BILL

To establish felony violations for the failure to pay legal child support obligations and for other purposes.

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Amendments Act of 1997."

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

"§228. Failure to pay legal child support obligations

"(a) Offense.--Any person who--

"(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than one year, or is greater than \$5000;

"(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than one year, or is greater than \$5,000; or

"(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than two years, or is greater than \$10,000;

shall be punished as provided in subsection (c).

"(b) Presumption.--The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

"(c) Punishment.--The punishment for an offense under this section is--

"(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in the case of an offense under subsection (a)(2) or (a)(3), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

"(d) Mandatory Restitution.--Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

"(e) Definitions.--As used in this section--

"(1) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe 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

"(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(3) the term 'Indian tribe' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe pursuant to section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

"(f) Venue. - Any offense under this section may be inquired of and prosecuted in any district in which the child resided or the obligor resided during a period of nonpayment, or in any other district otherwise provided by law."

Check
paragraph (F)
on "Venue". The
Original is
worded a little
differently.

SECTION-BY-SECTION ANALYSIS

The Child Support Recovery Amendments Act of 1997 amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. §228, to create felony violations for aggravated offenses. Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or is greater than \$5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. For such offenses a maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Aggravated offenses, such as those involving parents who move from State to State to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than two years or is greater

than \$10,000. These offenses, proposed 18 U.S.C. §228(a)(2) and (3), indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although "ability to pay" is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under State law, is useful in the jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has State civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance.

In addition, the presumption of ability to pay set forth in the bill is rebuttable; a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. §3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104-132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

For all of the violations set forth in proposed subsection (a) of section 228, the government must show the existence of a determination regarding the support obligation, as under current law. Under proposed subsection (e)(1) the government must show, for example, that the support obligation is an amount 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. Proposed subsection (e)(1), however, expands the scope of covered support obligations to include amounts determined under a court order or an order of an administrative process pursuant to the law of an Indian tribe. Subsection (e)(3) defines the term 'Indian tribe' to mean an Indian or Alaska Native tribe, band, nation, pueblo,

village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe pursuant to section 102 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. §479a. The expanded definition permits enforcement of the statute for all children for whom child support was ordered by either a State or tribal court or through a State or tribal administrative process.

Proposed subsection (e)(2) of section 228 amends the definition of "State," currently in subsection (d)(2), to clarify that prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of "State" in section 228, which includes possessions and territories of the United States, does not expressly include commonwealths.

Proposed subsection (f) clarifies that prosecutions for violations of this section may be brought either in the district where the child resided or the obligor resided during a period of nonpayment. Inclusion of this language is necessary in light of a recent case, Murphy v. United States, 934 F.Supp. 736 (W.D. Va. 1996), which held that a prosecution had been improperly brought in the Western District of Virginia, where the child resided, because the obligor was required, by court order, to send his child support payments to the state of Texas. Proposed subsection (f) is not meant to exclude other venue statutes, such as section 3237 of title 18, United States Code, which applies to offenses begun in one district and completed in another.

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DRAFT

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U. S. Department of Justice

Office of the Deputy Attorney General

Special Counsel to the Deputy Attorney General

Washington, D.C. 20530

FACSIMILE COVERSHEET

DATE: 4/16/97

TO: Cynthia Rice
456-7431 (fax)
456-2846 (phone)

FROM: Debra L.W. Cohn
Special Counsel to the Deputy Attorney General

Telephone No. (202) 514 - 3052 Fax No. (202) 307 - 0097

TRANSMISSION CONTAINS 21 SHEETS INCLUDING THIS COVERSHEET

Problems with this transmission should be directed to SeLena Powell, (202) 514-6771

SPECIAL NOTE(S)

Attached is:

1. OMB-cleared legislative package on criminal child support enforcement.
2. "Criminal Child Support Enforcement: The Attorney General's Progress Report to the President" October 1996, (w/o attachments)(an update is being prepared)).
3. Text of letter to Rep. Hyde from DOJ's AAG Foia on criminal child support, which is a good summary over child support enforcement efforts. Please do not release in letter form.
4. Recent statistics on child support enforcement.

U.S. Department of Justice
Washington, D.C. 20530

CRIMINAL CHILD SUPPORT ENFORCEMENT

THE ATTORNEY GENERAL'S PROGRESS REPORT TO THE PRESIDENT



OCTOBER 1996



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

October 21, 1996

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On July 21, 1996, you issued a Directive instructing the Department of Justice to take certain measures to enhance the criminal prosecution of those who willfully fail to pay their child support obligations. I am pleased to report to you on the steps that we have taken to implement that Directive.

As you will see, we have made significant progress in fulfilling each of the mandates of the Directive. I am particularly pleased to report that we have convened the Criminal Child Support Enforcement Task Force with representatives from federal, state, and local government. I am confident that the Task Force will foster cooperation between the different levels of government and the various agencies responsible for child support enforcement.

As detailed in the report, we also have increased steadily the number of federal prosecutions brought under the Child Support Recovery Act. Although the federal government has authority to prosecute only certain interstate cases, we take this responsibility seriously.

I am proud to report that we have made significant progress in strengthening criminal child support enforcement and in developing the coordination that will enable us to do so more effectively.

Sincerely,

A handwritten signature in cursive script, reading "Janet Reno", is written over a horizontal line.

Janet Reno

Criminal Child Support Enforcement

I. Introduction

On July 21, 1996, the President directed the Attorney General to take certain actions to facilitate the identification and prosecution of those who willfully fail to pay their child support obligation. The President's Directive includes four specific mandates, each of which are reported on below. A copy of the Directive is appended as Attachment 1.

Importantly, the Department of Justice has increased steadily the numbers of cases filed and convictions obtained under the Child Support Recovery Act (CSRA). In calendar years 1993 and 1994, 14 cases were filed and five convictions obtained under the CSRA. In fiscal years 1995 and 1996, 187 cases were filed and 64 convictions obtained.

II. The Task Force

Directive. The President's Directive instructed the Attorney General to convene a Task Force comprised of federal, state and local prosecutors, the Department of Health and Human Services, and state agencies responsible for child support enforcement, in order to enhance criminal prosecution of child support obligors. The Task Force was to discuss:

- * measures to improve referrals of appropriate cases for federal, state, or local criminal enforcement;
- * the adequacy of all applicable federal and state laws;
- * the availability and appropriate allocation of resources;
- * ways to coordinate federal, state, and local efforts to make enforcement most effective.

Actions Taken. On Monday, September 30, 1996, the Criminal Child Support Enforcement Task Force met for the first time. The Department of Justice selected the members of the Task Force in consultation with the Department of Health and Human Services, the National District Attorneys Association, and the National Association of Attorneys General. Members were selected to represent state administrative agencies responsible for child support enforcement, state and local prosecutors, federal prosecutors, the Department of Health & Human Services, and the Department of Justice. Members represent urban as well as rural communities, and large as well as small states. A list of the participants is appended as Attachment 2.

The Task Force met for a full day. The members discussed several issues, including: the factors influencing the decision whether to prosecute federally or locally, the means and methods available to strengthen and expand investigative efforts, current legal challenges to federal prosecutions, sentencing options in criminal prosecutions, and effective alternatives to criminal prosecution. A copy of the agenda is appended as Attachment 3.

At the end of the first meeting, the Task Force decided to form several small groups to work on issues identified at the first meeting. The small groups will focus on the following matters: federal prosecution issues, state prosecution issues, federal/state and interstate cooperation, investigations, sentencing options, alternative measures for child support enforcement, and tribal child support enforcement issues.

Among the issues to be considered by the small groups are: whether federal law enforcement officials can assist state prosecution efforts by returning fleeing obligors to face prosecution in the pursuing state; whether additional state legislation should be encouraged; how sentencing options can be improved so that the defendant is appropriately punished and child support obligations are collected; how the impact of federal child support enforcement prosecutions can be maximized; and under what circumstances the data available from the IRS can be obtained and utilized by federal and state prosecutors.

The Task Force is scheduled to reconvene in December to evaluate the information generated by the small groups.

III. Sentencing Options and Guidance

Directive. The President's Directive instructed the Attorney General to review sentences already imposed for convictions under the Child Support Recovery Act (CSRA), to identify novel and effective sentencing options, and to provide guidance to federal prosecutors nationwide based upon that analysis.

Actions Taken. The Executive Office for United States Attorneys has completed an initial review of sentences imposed under the CSRA. At the Task Force meeting, members reported on novel and effective sentencing options. The United States Attorney for the District of South Dakota reported that her office commonly requests that the defendant be sentenced to community service as a condition of probation. State prosecutors also noted that, under certain circumstances, community service requirements had been successful. Other Task Force members identified as possible options weekend-in-jail and home monitoring programs, both of which may enable obligors to earn money to fulfill their child support obligations while serving their sentences.

The Department will continue to review the sentencing options to determine which sanctions appear to have the most impact and which have been the most effective at producing results that benefit the children and custodial parents while serving law enforcement concerns of punishment and deterrence. Once that process has been completed, the Department will share that information with the United States Attorneys' Offices in order to make sentences in cases brought under the CSRA both consistent and effective.

IV. Legislative Amendments

Directive. The President directed the Attorney General to draft amendments to the CSRA that would establish a felony for egregious failures to meet with child support obligations.

Actions Taken. The Department drafted legislation to amend the CSRA to establish a felony for egregious failures to meet child support obligations. The "Child Support Recovery Amendments Act of 1996" was transmitted to Congress on September 27, 1996. A copy of that proposal is appended as Attachment 4.

On September 30, 1996, Senator Herb Kohl (D-WI), along with Senator Richard Shelby (R-AL), introduced the proposed legislation as S. 2180, retitled the "Deadbeat Parents Punishment Act of 1996." At the time of its introduction, Senator Kohl indicated that this legislation will be one of his highest priorities in the 105th Congress. On October 3, 1996, Representatives Charles Schumer (D-NY) and John Conyers, Jr. (D-MI) introduced the proposed legislation in the House as H.R. 4341.

The proposed legislation creates two new felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another state if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000. These offenses indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense.

As indicated in the Department's September 27, 1996, letter transmitting this proposal to the Congress, in preparing this proposal the Department considered the statute's application to child support orders issued by Indian tribal courts and related issues. While the legislation as drafted does not specifically address this matter, we intend to consult closely with Indian tribes and other tribal organizations during congressional deliberations on this proposal with a view toward the development

of appropriate amendments. We also intend to consider other amendments to fine-tune and strengthen the CSRA.

V. Internet

Directive. The President directed the Department of Justice to cooperate with the Department of Health & Human Services to place on the Internet the names of those persons charged under the CSRA who have fled criminal prosecution.

Actions Taken. After meeting with the Department of Health & Human Services and the Justice Management Division of the Department of Justice, representatives from the Department's Criminal Division and the Executive Office for United States Attorneys concluded that information about defendants fleeing CSRA prosecution should be published on the Department of Justice "Homepage" rather than on the Department of Health & Human Services Homepage.

Department of Justice representatives have reviewed the formats of the U.S. Marshals' Most Wanted list, the Drug Enforcement Administration's Most Wanted list, the Federal Bureau of Investigation's Most Wanted list, and several states' "Most Wanted Deadbeat Parent" pages. They are determining currently the appropriate format to list defendants who have fled CSRA prosecution and the most effective method of collecting the information about such defendants from the United States Attorneys' Offices.

VI. Conclusion

Federal, state, and local prosecutors, the Department of Justice, the Department of Health & Human Services, and state agencies responsible for child support enforcement are working together to enhance the criminal prosecution of those who willfully fail to pay their child support obligations. The first meeting of the Criminal Child Support Task Force provided an important opportunity to share information and to increase coordination between the different levels of government and the different agencies charged with enforcing child support obligations. The Justice Department will continue to foster such cooperation and to carry out the mandates of the President's Directive.

The Honorable Henry Hyde
U.S. House of Representatives
Washington, D.C. 20510

Dear Congressman Hyde:

Thank you for the recent letter you and Senator Shelby sent to the Attorney General concerning the Department's strategy for prosecutions under the Child Support Recovery Act (CSRA). We appreciate your leadership over the years on this important issue. We are sending a similar response to Senator Shelby.

As you know, Congress mandated that the states bear primarily responsibility for child support enforcement. Title IV-D of the Social Security Act, 42 U.S.C. 651 et seq., requires states to establish child support enforcement programs. The agencies operating these programs, known as state "IV-D" agencies, are responsible for collecting child support and locating parents who fail to make child support payments. The Department of Health and Human Services' ("HHS") Office of Child Support Enforcement ("OCSE") is responsible for funding and overseeing these agencies. States also have primary responsibility for criminal prosecutions for nonpayment of child support.

The Department of Justice has a much narrower but equally significant responsibility in bringing federal criminal prosecutions in the appropriate interstate child support cases. Given the importance of these cases but the absence of additional resources allocated to enforce the CSRA, the Department's prosecution effort is designed to create maximum deterrence, given the available resources, by aggressive criminal enforcement of the most egregious cases. Criminal child support prosecutions not only punishes defendants in specific criminal cases, but also influences the conduct of many other potential defendants who have failed or might otherwise fail to pay child support. Thus, while criminal prosecution is not a practical or appropriate primary mechanism for collecting overdue child support payments, the threat of criminal prosecution not only deters federal criminal behavior but also supports efforts at all levels of government to collect child support from delinquent parents.

Effective prosecution of CSRA cases depends on coordination among federal and state

prosecutors and investigators. We rely on the state IV-D agencies to screen and refer the most egregious cases for potential federal prosecution. Moreover, CSRA cases require proof of a valid court order directing payment of child support and other extensive documentation, the specifics which may vary from state to state. The local state IV-D agency assembles the relevant documentation and records and forwards them to the FBI, which, along with other federal and state law enforcement agencies, investigates allegations of potential federal criminal violations. Specifically, the Department has taken numerous steps to ensure appropriate referrals, investigation and prosecution of these cases. These steps include:

- * Delivered numerous oral and written statements from the Attorney General and the Deputy Attorney General to every U.S. Attorney, underscoring the importance of child support enforcement and requesting period reports on each districts' activities.
- * Sent written guidance on best practices on referrals, investigations and prosecutions to every U.S. Attorney's Office, including sample referral forms and Memoranda of Understanding between U.S. Attorney's Offices and State IV-D agencies.
- * Identified effective investigative practices and disseminated them to FBI offices.
- * Increased the number of federal investigators available for child support prosecutions by granting Department of Health and Human Services Office of Inspector General Special Agents authority as Special Deputy United States Marshals to conduct investigations and initiate arrests for CSRA offense.
- * Explored effective means to obtain tax information on the obligor's parent's financial ability to pay, consistent with 26 U.S.C. 6103(i)(1), and shared model pleadings with U.S. Attorney's Offices.
- * Provided onsite training and education by our Criminal Division's Child Exploitation and Obscenity Section and United States Attorneys, to state IV-D agencies, interested federal and state law enforcement and concerned members of the public.

These recent efforts have resulted in a substantial increase in the number of prosecutions brought under the CSRA. The most current available data, covering a period of slightly more than two fiscal years from October 1, 1994, through October 30, 1996, indicates that the Department of Justice filed 231 cases (many of which are still pending) and obtained 72 convictions. In calendar years 1993 and 1994, the Department filed 14 cases and obtained five convictions.

While each case is unique and important, we offer a few examples of our recent enforcement efforts:

- * On March 14, 1996, the U.S. Attorney in the Eastern District of California

filed two criminal CSRA complaints in Fresno and Sacramento charging two absent fathers, with violations of the CSRA. The two men together owe over \$132,000 in unpaid child support. These cases were both investigated by the HHS OIG under their newly deputized authority.

* On June 24, 1996, one man was charged in a one count Bill of Information with violating 18 U.S.C. 228 in the Western District of North Carolina. On July 1, 1995, he pled guilty to that charge and was sentenced to five years probation, and was ordered to pay \$36,400.00 in back due child support. He was also ordered to stay current on his child support payments as a condition of probation. No fine was imposed in light of his restitution obligation. This defendant was a former Olympic gold medalist (1972 4 x 100 meter relay) and former National Football League player.

* On August 15, 1996, an attorney pleaded guilty to one misdemeanor count of violating CSRA in the Western District of Missouri. He admitted he owes more than \$100,000 in unpaid child support, and has paid a total of only \$8,000 since his divorce in 1982. The defendant's two children and his ex-wife live in the Kansas City area; he now resides in Albuquerque.

On December 3, 1996, one defendant pled guilty to a one count indictment charging a violation of 18 U.S.C. Section 228. During the period charged, he represented himself as the President and Chief Executive Officer for a company entitled Taft, Edwards, McNab and Austin, Inc. in California. He portrayed himself as a financier who had no children, and at various times represented his net worth to range from between 3 to 18 million dollars. The government was able to show that on September 23, 1993, the defendant received at least \$84,000 from the sale of bonds. It was also established that he was one of two beneficiaries of the income of a trust set up by his mother prior to her death. Despite these facts, the defendant failed to use these assets to pay his child support obligation which had been set at \$35.00 a week by court order in 1987.

While the number of prosecutions has increased substantially, the Department is working to improve child support enforcement efforts in a number of ways. For example, this February, the Department of Justice is sponsoring child support enforcement training for more than one hundred prosecutors, with representation of every U.S. Attorney's Office.

Second, as a result of President Clinton's Directive to the Attorney General on July 21, 1996, the Attorney General convened a task force comprising federal, state and local prosecutors, FBI, the Department of Health and Human Services, Internal Revenue Service, and state agencies responsible for child support enforcement, in order to enhance criminal prosecution of child support obligors. The Department of Justice selected the members of the Task Force in consultation with the Department of Health and Human Services, the

National District Attorneys Association, and the National Association of Attorneys General.

The Task Force is examining measures to improve referrals of appropriate cases for federal, state, or local criminal enforcement; the adequacy of applicable federal and state laws; the availability and appropriate allocation of resources; and ways to coordinate federal, state, and local efforts to make enforcement most effective. Among the issues being considered by the Task Force are: whether federal law enforcement officials can assist state prosecution efforts by returning fleeing obligors to face prosecution in the pursuing state; whether additional state legislation is needed; improving sentencing options so that the defendant is appropriately punished and child support obligations collected; and the circumstances under which data from the IRS can be obtained and utilized by state prosecutors.

Also as a result of President Clinton's Directive to the Attorney General on July 21, 1996, the Department drafted legislation to amend the CSRA to establish a felony for egregious failures to meet child support obligations. The "Child Support Recovery Amendments Act of 1996" was transmitted to Congress on September 27, 1996. The proposed legislation would create two new felony offenses, subject to a two-year maximum prison term. These offenses are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than \$5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another state if the obligation has remained unpaid for a period longer than two years or is greater than \$10,000. These offenses indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. We also are considering other amendments to fine-tune and strengthen the CSRA to address tribal issues and other concerns.

We very much appreciate your continued interest in this very important issue, and I would be glad to meet with you, as I did last year, to discuss with you further our enforcement efforts, legislative proposals, or any other issues concerning the CSRA. Please do not hesitate to contact me if I can be of further assistance to you.

Sincerely,

Andrew Fois
Assistant Attorney General

CASES UNDER THE CHILD SUPPORT RECOVERY ACT OF 1992
18 U.S.C. 228

THROUGH JANUARY 31, 1997

	FY 1995	FY 1996	FY 1997 (Partial)*
MATTERS RECEIVED	575	519	146
CASES FILED	82	140	53
CONVICTIONS AND PLEAS	28	43	27

FY 1994 is not available. The calendar year numbers for 1993 and 1994 are given below. The 1994 calendar numbers will overlap the FY 1995 numbers as FY 1995 includes the last three months of 1994.

CALENDAR YEAR	1993	1994
CASES FILED	2	12
CONVICTIONS AND PLEAS	1	4

* Fiscal Years run from October 1 of the preceding year to September 30. (FY 1995 would be 10/1/94-9/30/95) This column is a Year to Date total of 4 months. Data entry is available about 4-6 weeks after completion of the month.

Justice

~~Debra Cohn~~

Debra Cohn 514-3052

Office of Deputy Attorney General

Legislative package moved
through OMB and they
are holding

DOJ Directive

- meeting in progress
- reviewing sections
- interim report

Wall

METRO

Cynthia
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For States, Federal Help Often the Difference in Child Support Cases

By Brooke A. Masters
Washington Post Staff Writer

In 1992, Fairfax County health inspector Daniel Bannister fled to Florida, leaving behind his unemployed wife to cope with cancer and take care of their two children.

Over the next four years, he racked up \$60,000 in unpaid child support, while his ex-wife, Terry, lived on food stamps and disability payments.

Virginia's Division of Child Support Enforcement spent more than four years trying to find him and collect some money, with no success. Finally, the case was referred to federal prosecutors under a 1992 law that makes it a crime to cross state lines to avoid paying child support.

Federal investigators found him in less than two months.

Yesterday, Bannister, 50, was sentenced to serve 30 days in jail, on weekends, and to pay his ex-wife \$500 a month. Since his arrest, he also has made a cash payment to her of \$8,000.

"I gave up... I thought he would never be found," said Terry Bannister, 49, who attended the hearing in a wheelchair because she lost a leg to the cancer. "Then they gave it to the federal government. I guess people shouldn't give up."

The Bannister case shows how federal efforts can make the difference in tracking down deadbeat parents who move from state to state to avoid their obligations. Not only do federal investigators have access to better databases, but they also have people stationed all over the country. States collected only 18.3 percent of the child support payments they sought in 1995, and officials estimate that at least 20 percent of cases involve parents who are out of state.

Yet federal authorities handle only a tiny number of child support cases. The Justice Department prosecutes fewer than 200 deadbeat parents annually, although the number is rising because investigators from the Department of Health and Human Services have started taking some cases. In fiscal 1996, 140 cases were filed nationwide, up from 82 in 1995, according to the Executive Office of U.S. Attorneys.

Meanwhile, there are more than 300,000 delinquent parents in Maryland, Virginia and the District alone.

"The main objective is to bring cases in every area of the country as a deterrent," said Justice Department spokesman Gregory King. "The [federal] law is not designed to be a collection tool. We don't have the resources."

Some congressmen think the federal government should step in more often. Rep. Henry Hyde (R-Ill.), who chairs the

House Judiciary Committee, is planning to introduce a bill to make the Social Security Administration or another federal agency responsible for collecting child support.

"State efforts to collect child support are not working," Hyde spokesman Sam Stratman said. "Federal taxpayers are subsidizing deadbeat parents with federal welfare dollars for children who are not getting support payments."

Currently, U.S. attorneys get involved only when local officials refer cases to them. Avoiding child support is a federal crime only if the parent owes more than \$5,000 and willfully has avoided making payments.

The U.S. attorney for the Eastern District of Virginia, Helen F. Fahey, is the area's most aggressive in seeking out referrals and filing charges. Her office has received 85 referrals and has

See CHILD SUPPORT, D7, Col. 1

DONNA BRITT

Former Panther Will Discover a Changed Nation

The scene at Elmer "Geronimo" Pratt's joyful release from prison Tuesday after 27 years reminded a few of Nelson Mandela's emergence from a South African prison in 1990. Pratt was jailed for the same number of years as Mandela, and his release sparked similar jubilation among supporters. As Pratt strode through the Santa Ana, Calif., throng at his release, a well-wisher cried:

"Free at last! Free at last! Thank God Almighty, he's free at last!"

Fascinating: an ex-militant who once headed Southern California's wing of the radical Black Panthers greeted by the evocative words of the nation's best-known integrationist; a man seen by some as a victim of America's judicial system freed after



Aron Moved To Wing for Ill Prisoners

Hit Man Case Suspect 'Vaguely Suicidal'

By Jon Jeter
and Michael Abramowitz
Washington Post Staff Writers

Developer and politician Ruthann Aron was transferred yesterday to a special wing for ill and suicidal prisoners at the Montgomery County Detention Center, where she is being held on charges that she tried to hire a hit man to kill her husband and another man.

Aron, a member of the county Planning Board who ran unsuccessfully for the U.S. Senate in 1994, has refused intermittently to eat while in