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CHILD SUPPORT ENFORCEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

MAY 18, 2000

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CHILD SUPPORT ENFORCEMENT

THURSDAY, MAY 18, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:02 a.m. in room B-318, Rayburn House Office Building, Hon. Nancy L. Johnson (Chairman of the Subcommittee) presiding.

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
May 11, 2000
No. HR–21

CONTACT: (202) 225–1025

Johnson Announces Hearing on Child Support Enforcement

Congresswoman Nancy L. Johnson (R–CT), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on child support enforcement . The hearing will take place on Thursday, May 18 , 2000, in room B–318 Rayburn House Office Building, beginning at 10:00 a.m.

Oral testimony at this hearing will be from invited witnesses only. Witnesses will include<a name=″6″> Members of Congress, an official from the U.S. Department of Health and Human Services, State child support administrators, representatives of advocacy groups, and advocates for local government and private child support entities. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The Child Support Enforcement (CSE) program, created in 1975 and authorized under Title IV–D of the Social Security Act, is a State-Federal partnership developed to collect child support payments from parents who do not live with their children. In 1998, the most recent year for which data are available, the program collected nearly $14.4 billion in child support payments for single parents and their children, located 6.5 million noncustodial parents, established 848,000 paternities, and established 1.1 million child support orders. Collections by the CSE program have increased more than 60 percent since 1993.

The 1996 welfare reform law (P.L. 104–193) reformed and improved the CSE program by providing: immediate reporting of employer address and wages for every person hired in the United States, strong paternity establishment requirements, new mechanisms to collect child support payments such as revocation of hunting, fishing, and drivers licenses, and greater automation of the child support system. These provisions are widely believed to be the major reasons child support collections have improved so much in recent years. However, as the States work toward even more effective implementation of the welfare reform provisions, there are several issues that were not fully addressed by the 1996 legislation.

The most important is the question of whether the family or Federal and State Governments get to keep collections on past-due child support. When families are on welfare, Federal and State Governments keep all child support collections. Once families leave welfare, the Federal and State Governments are allowed to keep up to half of the money collected on past-due child support. A series of hearings by the Subcommittee showed that many observers, including State child support enforcement officials, believe most or all of this money should go to mothers and children.

Another issue is that a large number of local child support enforcement agencies and private entities are involved in collecting child support. Current Federal laws restrict the amount of government information and the child support collection

methods to which these entities have access. It might be possible to improve child support collections if more information and enforcement methods from the Federal-State program were shared with these other child support entities.

In announcing the hearing, Chairman Johnson stated: "<a name=″7″>Despite the success of recent bipartisan efforts to improve child support collections, a significant amount of child support goes uncollected. We must use all the tools available to get the child support owed and hold noncustodial parents accountable. Even then we must take the necessary steps to make sure mothers leaving welfare get all the child support they are due."

FOCUS OF THE HEARING:

The hearing will focus on child support enforcement issues and proposals to improve the CSE program, including proposals by Chairman Johnson and Rep. Ben Cardin (D–MD), to increase the amount of child support money going to custodial parents and children.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label, by the *close of business*, <a name=″8″>Thursday, June 1, 2000 , to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B–317 Rayburn House Office Building, by close of business the day before the hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "http://www.house.gov.ways__means/".

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman JOHNSON of Connecticut. The hearing will come to order.

I have been looking forward to today's hearing. Ben Cardin and I both introduced legislation that would result in poor and low-income families and their children getting a lot more money from child support. I have fought for this provision since 1995, and know that, working together and with the support of the administration, we should be able to pass a good bill this year.

Here is how important it is: As compared to 5 years ago, we now have at least a million additional former welfare mothers working to support their children. This is an immense achievement, not just for public policy but for these women and their children, themselves. But they are in jeopardy of having so low incomes, or even of being forced to go back on welfare, that they cannot survive, so we want to get them as much money as we can, especially when the money was paid by the children's father.

When fully implemented, my bill would provide these mothers and children with an additional $3.5 billion over 5 years after they leave welfare. I doubt that the Congress will do anything more important than that this year.

There are some points of difference between Ben's and my bill. They are significant and they are worth talking about. One of them provides, through Ben's bill, a lot more money to women on welfare and doesn't allow the States to count that toward their welfare eligibility. My bill does not do that. One of the things that I think has been successful about welfare reform is that it gives the States great latitude over how they phase out welfare payments as a woman moves into the work force, and the child support money is just one piece of all that money they use to provide benefits and to adjust benefits as earnings rise. That is something we will discuss at greater length and think about more deeply throughout this process. It is an important difference, but not one I think that should be allowed to hold up this bill.

There is a second issue that divides us, and this is the concern in some quarters about provisions in my bill that allow the private sector to help mothers establish and enforce child support orders. In fact, I used to think that no force known to God or man could bring together the mothers' groups and the fathers' groups lobbying child support issues, but I have found it.

[Laughter.]

The limited provision that I have put in my bill seems reasonable to me, because it is another way to get dollars to mothers and children.

First, according to our calculations—well, the calculations of the Congressional Research Service—there is about $40 billion in past

due support. In fact, we now make collections in only 14 percent of welfare cases and less than 25 percent of non-welfare cases.

I find it hard to believe and think of all the States that have surpluses and what are happening to those surplus dollars, of what is happening to the Federal surplus dollars—I find it very hard to believe that we are going to put up the additional Federal or State dollars that would be required to greatly improve this collection record. It is not my judgment that the States are inefficient; it is my judgment they are working hard. And if you are only collecting 14 percent of welfare cases and 25 percent of non-welfare cases, you had better start asking yourself: What is our obligation to the majority of American women who need child support and are not getting any help?

We need all the help we can get in collecting this money, and desperate mothers need choices. Furthermore, my provision involving the private sector puts that involvement completely under the control of State government and has a 2-year delay in implementation following guidance issued by the Secretary of HHS and requires a signed contract by private companies, in which they agree to observe all the due process, privacy, and data security issues that the regular Federal and State program must follow.

I cannot imagine, I simply cannot imagine that any State would make contracts with private collection agencies and allow them to tithe 30 percent of the child support payment, but they have total control over that. They can say, "Your charge can't be more than 5 percent." They can say whatever they want.

One benefit of where we are now is that we have some excellent private agencies at work and we have some terrible private agencies at work. We are doing a scandalous job of ripping off mothers who are truly desperate. And from that information and evidence I see absolutely no reason why any State in their right mind can't utilize private agencies to expand the power to collect child support for women and children without allowing that women and children could be exploited. That is why I left the control completely with the States and gave HHS the opportunity to write guidance.

Now, I see no danger in this, but, as I always do—remember, this is one of the few Committees that develops a legislative proposal and actually puts it out for hearing before we go to the floor. As I have in the past, I will certainly listen carefully to the testimony and think over the points that you have raised. But I ask only that you think over the details of how my bill is written, because it is clear from some of the comments that there was no attention to that.

My legislation is not a wide-open, carte blanche opportunity for private firms to get in there and help collect child support, but you know and I know that we have used private collection agencies in every other aspect in the public and private sector. While we have used them in partnership with the private sector, we have always governed those relationships very carefully because they are a public concern.

I ask for not only your input today; I ask for your follow on input to think of that issue of governance. Regardless of these two provisions, I hope that we can get a bill passed this session that will,

when fully implemented, put $3.5 billion more in the hands of mothers needing welfare.

I have requested a reaction to Representative Cox's proposal from the Department of the Treasury and will include their reponse in the record when we receive it.

[The information was subsequently received:]

DEPARTMENT OF THE TREASURY
WASHINGTON, DC 20220
May 23, 2000

The Honorable Nancy L. Johnson
Chairperson, Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Madam Chairperson:

Secretary summers asked me to respond to your letter of May 10, 2000, in which you request the views of Treasury on H.R. 816, the Child Support Enforcement Act (the "Act"). The Act would require individuals who fail to make their child support payments to include the unpaid amounts in their gross income and would allow custodial parents to claim a deduction for unpaid child support payments.

As you are aware, the Administration has made child support enforcement a critical priority. The Federal and state Child Support Enforcement program broke new records in nationwide collections in FY 1999, reaching an estimated $15.5 billion, nearly twice the amount collected in 1992. This Spring, the Administration submitted to the Congress a comprehensive child support bill that proposed incentives for states to direct more child support payments to families, as well as new child support enforcement tools. Although we share the goal of ensuring that families get the child support they need and deserve, and look forward to working with the Congress and the Committee on developing an effective approach, Treasury cannot support the Act.

The Act generally may not be effective in increasing child support payments. In certain circumstances, the Act could actually discourage the payment of child support by imposing a higher tax bill on a delinquent parent, just when he or she might be attempting to marshal resources to pay child support. By providing custodial parents a tax benefit for unpaid child support payments, the Act might also discourage custodial parents from enforcing their rights to receive such payments.

The Act also raises significant tax policy concerns. Under present law, an unpaid debt generally is included in the income of the debtor and deducted by the creditor when it is certain that the debt will not be paid. The Act would prematurely treat unpaid support obligations as if they were certain not to be paid. This premature treatment would require offsetting adjustments if the obligation were paid in the future. By determining the tax treatment of unpaid support obligations before it is certain whether or not they will be paid, the Act would create complexity and be difficult to administer. The Act would also impose administrative burdens on custodial parents by requiring them to provide identifying information on their returns and to send notices to delinquent parents. In addition, the Act as drafted would be extremely complex and difficult to administer.

We thank you for inviting us to share our views with you, and look forward to working with you to continue to develop effective child support enforcement strategies.

OMB has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JONATHAN TALISMAN
Deputy Assistant Secretary (Tax Policy)

I look forward to working with all of you and to working with Ben Cardin in this matter.

Ben.

Mr. CARDIN. Thank you, Madam Chair. I, too, look forward to this hearing and I thank you very much for holding this hearing.

You observed correctly that we don't normally get the groups representing the custodial mothers and the noncustodial fathers together on an issue, but we also have the State agencies in agreement with the Federal Government here as to what the policy should be, so we have the four major stakeholders all in agreement that we need to do one thing, and that is to get more of the child support to the families.

Second, Madam Chair, they agree on a second point, and that is that we should not provide child support private agencies with more of the power that we have here in government.

Let me cover that second point first, and then I will come back to the area of child support.

I think there is very serious problems with extending the authorities that we have to private collection agencies. You mentioned that we allow the States to regulate. Well, the States should regulate first. We should have a system in place first before we extend the powers that we have at the Federal level for the collection of child support.

There are serious problems there now. The witnesses that are going to be testifying later will testify as to fraud and abuse among collection agencies. We know that an awful lot of the moneys that are collected through the agencies, when they use private agency, they take credit for money that has already been collected through the government. We also know it is very expensive—a one-third fee is customary—so less money gets to the families, themselves.

These are all issues that I think need to be addressed first, before we look at expanding and extending the power of government in collection to private agencies.

Madam Chair, it is very interesting to refer to an article that appeared in the "Washington Post" today that documents many of these cases, that points out that private companies frequently charge for child support payments they had no role in collecting. I think we need to deal with these issues first, before we extend the power.

In regards to the pass-through of the child support, you observed that I have filed H.R. 3824, along with my democratic colleagues on the Subcommittee, and it is true that this bill would allow for more of the pass-through of child support to the families. I want to make it clear, it maintains the States' flexibility in determining eligibility. We have not affected that. The States can still determine eligibility based upon the income.

Let me also point out that I appreciate the fact that you have filed legislation, and I would hope that you will keep an open mind, and I promise that I will keep an open mind, because one of the things that has been the hallmark of this Subcommittee's work is that we have been able to work in a bipartisan manner to bring forward some very important legislation.

I think there is a problem out there with the pass-through of child support. I think it is affecting noncustodial parents' willingness to cooperate with the system because they do not believe the money is going to the family, and that if we had a better pass-through policy we would have more child support compliance and

more money going to help families and more connection between noncustodial parents and the rearing of their child. So I would hope that the two of us will find a way that we can bridge the gap on the pass-through of child support so that we can agree on bipartisan legislation in this Congress, have it moving so that we can continue the record that this Subcommittee has made in helping children and families.

Thank you, Madam Chair.

[The opening statement follows:]

Opening Statement of Hon. Benjamin Cardin, a Representative in Congress from the State of Maryland

Madame Chairwoman, during past debates on child support, there has rarely been consensus between the groups representing custodial mothers and those representing non-custodial fathers and between the Federal Department of Health and Human Services and the State Child Support Agencies.

Today, however, we have two issues before us that unite all four of these stakeholders in our Nation's child support enforcement system.

First, all of them *support* sending more collected child support to the families for whom it was intended. And second, all of them *oppose* providing private child support collection agencies with more government information and collection tools.

I therefore hope we can move forward on sending more child support to families, rather than getting mired in a debate about greater authority for private collectors. Our focus should be on increasing resources for children, not on raising profits for collection agencies.

Along with my Democratic colleagues on this Subcommittee, I recently introduced the Child Support for Children Act, HR 3824, which would require all current support be given to families, regardless of their welfare status. This is known as "passing through" child support.

States would then be permitted to determine how much of this income should be disregarded for TANF eligibility and payment purposes. However, unlike current law, my bill would require the Federal government to split the cost with the States of passing through and disregarding child support to welfare families.

In addition to requiring a pass-through of *current* child support, my legislation would simplify the distribution of *past-due* support. In short, the legislation would require that all arrears that accrue when a family is *not* on TANF be directed to the family.

For arrears that accrue while the family is on welfare, States would have a choice to send that money to the family or retain it. Finally, all debts owed to families must be repaid before any debts owed to the State.

Madame Chairwoman, I want to commend you for introducing a proposal to address this second issue, namely sending more child support arrears to families that have left welfare.

I hope you will keep an open mind about expanding this distribution scheme to families on public assistance, especially since such a policy would provide increased simplification for the States, more resources for low-income families, and a greater incentive for non-custodial parents to pay child support. Furthermore, I do *not* think we can defend a system that gives non-custodial fathers with families on TANF the following choice—you can obey the law, or you can provide more resources for your children—but you can't do both.

Finally, I want to express my concern about opening up personal financial information and government collection tools to private collection agencies. I have three basic concerns.

First, providing collection agencies with increased access to the wage and bank data of every American is surely going to raise serious privacy issues. Even if private collectors are required to adhere to certain privacy standards, it is not all clear that State child support agencies could monitor and enforce those requirements. Ultimately, abuse in this area could jeopardize the same tools and data bases to which private collectors are seeking access.

Second, providing private collection agencies with access to certain governmental collection tools, such as the tax refund offset, will lead to a system of **private profit at public expense**. In short, the government agencies will do all the work, the private companies will reap all of the rewards, and the family will receive one-third less than if they got that exact same service directly from the public agency. What public interest could possibly be served in such a system.

Finally, this committee will hear testimony from several witnesses about cases of deception and fraud perpetrated by private collection agencies on both custodial and non-custodial parents. Some of this abuse may result from the fact that child support collection agencies are exempt from the Federal Debt Collection Practices Act, which prevents deception and harassment. When Members hear some of these stories, they may want to *reduce* the authority of private child support collectors, rather than increase their power.

I look forward to hearing our distinguished guests explain their views on this issue.

Thank you.

Chairman JOHNSON of Connecticut. Now I would like to recognize my colleague, Mr. Castle, from the State of Delaware. It is a pleasure to have you before us.

STATEMENT OF HON. MICHAEL N. CASTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE

Mr. CASTLE. Thank you very much, Madam Chairwoman and Mr. Cardin, Mr. Cox, and Mr. Jefferson. I am delighted to be here to discuss a certain portion of child support that concerns me. This is a fundamental principle. It is one that a lot of men, in particular, have trouble understanding, but it is a fundamental principle that a parent who brings a child into this world is responsible for providing for that child's physical needs, regardless of any conflicts of the child's custodial parents.

I say some people have trouble understanding it because, due to lack of visitation, they feel they don't have to pay the support, but support, indeed, does have to be paid. As a result of that, we often get backlogs in child support and uncollected child support, which is a tremendous problem for many supportive parents who actually have the children in custody.

I want to take a few moments to discuss the Child Support Fairness and Federal Tax Refund Interception Act of 2000. I recently introduced this bill to remove a legal barrier that is preventing the Federal tax refund offset program from more effectively ensuring that child support is paid to all those children who deserve it. This bill has been incorporated into the Committee's bipartisan Child Support Distribution Act of 2000, section 403, which I greatly appreciate.

As most of us know, under current law the Federal tax refunds of parents who owe back child support can be intercepted and used to reduce that debt. After garnishing wages, this program is the most effective means of recovering back child support.

This statistic surprised me when I learned it, but the back taxes actually account for one-third of all back child support collected.

However, unlike garnishing wages and many other child support enforcement tools, eligibility for the program is restricted by the age of the child. Eligibility for the program is limited to cases where the child is still a minor, the parent is receiving public assistance, or the child is a disabled adult. This fails to protect nondisabled, college-aged children and their custodial parents, even if a child support deficit accrued while the child was a minor.

The unintended effect of the program is that it rewards noncustodial parents who are successful in avoiding their child support obli-

gations while their children were minors—and, believe me, there are many individuals who do attempt to avoid that responsibility.

The age limit removes the threat of one of the most effective child support enforcement tools, the tax refund intercept.

Rather than recount the legislative history behind this program, I think we should just ask ourselves whether there is any good reason why we should allow delinquent parents to collect Federal tax refunds to use for their enjoyment while custodial parents struggle to recover from years of raising their children alone on one income.

There are no statistics kept that tell us exactly how many Federal tax refunds cannot be intercepted due to this age limitation, but there is at least one person in my home State of Delaware who is adversely affected by this limitation. Last summer, Lisa McCave, who is with us today, sitting right here behind me, and who is from Wilmington, Delaware, where I am from, had to stand by and watch a $2,426 Federal tax refund go to her husband in Georgia, even though he owed her nearly $7,000 in back child support.

This frustration prompted her to write me a letter that I would ask unanimous consent to place into the record. It describes how, since her son was three, she has raised him alone. During that time, she often had to work two jobs to compensate for child support installments that were never paid. She has spent the better part of her time away from work tracking down her former husband, who has often quit his job as soon as his wages were garnished to repay this debt. Obviously, she could have used the $2,426 tax refund to help pay down the $55,000 in parent loans she incurred to send her sons to college. In fact, I thought I would read a portion of the letter, if I could.

"If we single parents can gain moneys from other sources from the noncustodial parent, such as property income and access their bank records for arrearage, why is the Federal income tax refund exempt? It should not be.

"I am writing to say that, on behalf of all struggling single parents, this law must be changed. We must be able to get all moneys available toward paying child supports in arrearage, no matter if the child has become an adult when the arrearage is being paid. We should not have to make our children do without necessaries, nor should we have to work two and three jobs to make up for an irresponsible, non-contributing parent."

I want to thank Lisa McCave for bringing this issue to my attention. I hope that Congress can alleviate the tremendous burden on single parents—and I congratulate all of you who are working on this, by the way—who have to work even harder to provide for their children.

To me, an artificial barrier such as the age limit on the Federal tax refund offset program should be torn down, the sooner the better. A noncustodial parent should not be able to escape their child support responsibilities by playing a waiting and avoidance game until their child is 18 years of age.

The Federal tax refund offset program is responsible for retrieving, as I already indicated, about one-third of these funds, and I think it should be used after the child has become of age, but that incurred while the child was still a minor.

I would urge my colleagues to support this legislation and section 403, and I really appreciate the opportunity of being here—and I am sure Lisa does, too—to present what I think is an injustice that hopefully we can correct as soon as possible in this Congress.

Chairman JOHNSON of Connecticut. Thank you very much, Congressman Castle. And thank you for being here, Lisa, and for your letter. We appreciate having that.

Mr. CASTLE. Thank you.

[The prepared statement and attachment follow:]

Statement of Hon. Michael N. Castle, a Representative in Congress from the State of Delaware

Chairman Johnson, ranking member Cardin, members of the subcommittee, I want to thank you for giving me this opportunity to testify on the important subject of child support.

It is a fundamental principle that a parent who brings a child into this world is responsible for providing for that child's physical needs regardless of any conflicts with the child's custodial parent. It is rewarding for me to join you here today to discuss how we can improve the laws of this country to enforce that principle.

I want to take a few moments to discuss the "child support fairness and federal tax refund interception act of 2000." I recently introduced this bill to remove a legal barrier that is preventing the federal tax refund offset program from more effectively ensuring that child support is paid to all those children who deserve it. This bill has been incorporated into the committee's bipartisan "child support distribution act of 2000" as section 403.

As you know, under current law, the federal tax refunds of parents who owe back child support can be intercepted and used to reduce that debt. After garnishing wages, this program is the most effective means of recovering back child support. It accounts for one-third of all back child support collected.

However, unlike garnishing wages and many other child support enforcement tools, eligibility for this program is restricted by the age of the child. Eligibility for the program is limited to cases where the child is still a minor, the parent is receiving public assistance or the child is a disabled adult. This fails to protect Non disabled, college-age children and their custodial parents, **even if the child support deficit accrued while the child was a minor**. The unintended effect of the program is that it rewards noncustodial parents who are successful in avoiding their child support obligations while their children were minors. The age limit removes the threat of one of the **most effective** child support enforcement tools the tax refund intercept.

Rather than recount the legislative history behind this program, I think we should just ask ourselves whether there is any good reason why we should allow delinquent parents to collect federal tax refunds to use for their enjoyment, while custodial parents struggle to recover from years of raising their children alone on one income.

There are no statistics kept that tell us exactly how many federal tax refunds cannot be intercepted due to this age limitation, but there is at least one person in my home state of Delaware who was adversely affected by this limitation. Last summer, Lisa McCave, who is with us today from Wilmington, Delaware, had to stand by and watch a $2,426 federal tax refund go to her husband in Georgia *even though he owed her nearly $7,000 in back child support*.

This frustration prompted her to write me a letter that I would like to place into the record. It describes how since her son was three, she has raised him alone. During that time, she often had to work two jobs to compensate for child support installments that were never paid. She has spent the better part of her time away from work tracking down her former husband, who has often quit his job as soon as his wages were garnished to repay this debt. She could have used that $2,426 tax refund her exhusband received to help pay down the $55,000 in parent loans she incurred to send her son to college.

I want to read a section from her letter:

"If we single parents can gain monies from other sources from the noncustodial parent, such as property income, and access their bank records for arrearage, why is the federal income tax refund exempt? It should not be. . . . I am writing to say that on behalf of all struggling single parents, this law must be changed. We must be able to get all monies available toward paying child support and arrearage-no matter if the child has become an adult when the arrearage is being paid. We

should not have to make our children do without necessaries, nor should we have to work two and three jobs to make up for an irresponsible, non-contributing parent."

I want to thank Lisa McCave for bringing this issue to my attention. I hope that congress can help alleviate the tremendous burden on single parents who have to work even harder to provide for their children. Artificial barriers, such as the age limit on the federal tax refund offset program, should be torn down. A noncustodial parent should not be able to escape their child support responsibilities by playing a waiting game until their child is eighteen. The federal tax refund offset program is responsible for retrieving nearly one-third of all back child support collected. The time has come to make it a greater success by helping all children who deserve support. I urge my colleagues to support this legislation and section 403.

Thank you, Chairman Johnson for your commitment to this important issue. I look forward to working with you to move this bill to the full house in the near future.

LISA K. MCCAVE
WILMINGTON, DE 19803
July 17, 1999

The Honorable Michael Castle
The House of Representatives
Washington, DC 20510

Dear Congressman Castle:

Senator William V. Roth, Jr. (R–Del) is currently presenting a tax package before the Senate, House and White House. As part of the proposed changes, I urge you to consider another critical change which is of great urgency to single parents. It is a change to the current Federal Tax Refund Offset Program for Child Support monies.

The Law (section 2331, P.L. 97–35) states in Section #2 under Non-AFDC Cases that, "Non-AFDC referrals on behalf of an individual who is no longer a minor even if the arrearage accrued while the person was a minor child may not be submitted for offset." In other words, the child must be a minor as of December 31 of the year in which that case is submitted to OCSE for offset to be eligible to receive the Federal income tax refund.

The Law affects me adversely in this way. It means that in spite of a court order against my ex-husband, William David Wilson (who lives in Albany, Georgia), to collect more than $19,000 in back child support over the last nine years, I cannot collect any money from his Federal income tax refund now because it is arrearage, and my child is an adult. I consider this law outrageous and stupid. It makes no sense.

When my son was seven years old in 1982, my ex-husband ceased to pay child support. When I initiated proceedings against him seven years later, the amount of money he owed in back support was $19,000! He was ordered to continue paying child support until my son was 18 years old, and then the $19,000 arrearage was to be paid at the rate of $200 per month. During the last five years, my ex-husband has been late many times and stopped paying in 1994, 1995 and 1998, each time being summoned to appear in a Georgia court. In spite of the Agreement between Delaware and Georgia, which states that failing to make a payment will result in the full amount being due, the judge just slapped my ex-husband on the wrist each time, and re-instituted the $200/month payment. Again in June 1999, he did not make a payment. And again, his wages will be garnished, which will only be effective until he quits his job, which he has done in the past.

On July 7, 1999, I called my caseworker with the Delaware Child Support Office to inquire about my late June check. She informed me that a Federal Income Tax refund check in the amount of $2,426 had come from the State of Georgia and would be mailed to me. As an aside, I receive a notice twice a year from the Delaware Division of Child Support notifying me that if a Federal Income Tax refund check is due my ex-husband, it will be sent to me.

On July 12, she informed me that because of this Federal Law in the Refund Offset Program, the check will be returned to my ex-husband because my son is no longer a minor! I was incredulous. If we single parents can gain monies from other sources from the non-custodial parent, such as property income, and access their bank records for arrearage, why is a Federal Income Tax refund exempt? It should not be.

I am absolutely furious! And this Law—is ridiculous! This Law must be changed. The fact that my son is 23 years old and an adult has NOTHING to do with the fact that I am collecting back child support now. It should not affect this Law. If my ex-husband had paid the child support from the time my son was seven until he was fourteen, as he should, he would not have accumulated an arrearage of $19,000! But since he still owes child support, this Federal Income Tax refund check should be applied to satisfy the arrearage of child support he owes. This is money that is coming to me—not my son. I paid the total support of my son for seven years when his father did not, and that money belongs to me. The fact that my son is an adult should have no bearing. That should *not* be a stipulation of the Federal Tax Refund Offset Program Law.

From the time my son was three years old, I raised him alone. I have had to work a second job to supplement my income when I did not receive child support, and to pay for my son's college education. I am paying more than $55,000 in parent loans for the Purdue University education my son received. David Wilson did not contribute any money toward his son's education—he barely pays the child support. He continues to avoid his responsibility and will continue to do so because he is irresponsible and manipulates the child support system. And the Law continues to give him opportunities to escape his responsibilities by failing to enforce the Delaware/Georgia Agreement, and with loopholes like this Refund Offset Program Federal Tax Law. Without the $2,426 refund I should have received, I will probably continue to deal with stretches of missed payments in the future. And there will be delays for court appearances caused by my ex-husband as he finds ways to avoid paying the remaining $6,900 in child support arrearage he owes.

I am writing to say that on behalf of all struggling single parents, this Law must be changed. We must be able to get all monies available toward paying child support and arrearage—no matter if the child has become an adult when the arrearage is being paid. We should not have to make our children do without necessaries, nor should we have to work two and three jobs to make up for an irresponsible, non-contributing parent.

We are constantly seeing media attention given to the struggles of single parents. Some laws have begun to give more exposure to the issue of child support issues. But *every* avenue for pursuing all financial resources must be explored. Laws must be fairly and sensibly enforced. Please vote to change this Law as you study the tax package. Thank you for considering my request.

Sincerely,

LISA K. MCCAVE

cc: All United States Senators
All United States Representatives
The White House

Chairman JOHNSON of Connecticut. We have a long string of votes at 10:45, so it is my intention to forego questions to my colleagues, if that is acceptable to Ben Cardin, so we can get on to hear the Deputy Secretary and have a little time to question her.

Mr. Cox.

STATEMENT OF HON. CHRISTOPHER COX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. COX. Thank you, Madam Chairman, Mr. Cardin, Mr. Castle, and the professional staff that are here, for holding your third hearing on this topic. This Subcommittee has done a great deal of work in this area, and I think there are a lot of happy Americans on account of that. The progress that we are making, the focus that we are putting on these important issues is good news, indeed.

In recent years, Congress has done a great deal to improve our Nation's welfare system. The welfare reform law, as President Clinton points out, as the leaders in Congress often point out, is galvanizing a series of new enforcement mechanisms to help States improve child support collections. That is one of the dividends of

our welfare reform. But, despite the gains that we are making, a lot more needs to be done.

It is still true that almost 12 million custodial parents won't receive even a nickel in child support payments over the next year. Only one in five dollars in child support obligations are collected by the child support enforcement program. Of child support obligations, $47 billion went unpaid in the most recent year for which we have complete statistics. That is an extraordinary amount of money. It is a staggering figure. Of child support arrears, 92 percent remain outstanding.

With such a disproportionate share of child support in arrears—92 percent—we have to give delinquent parents a strong financial incentive to pay, and we have to give relief, even more importantly, to the custodial parents who aren't getting the help they need to raise their kids.

I have introduced legislation titled "The Child Support Enforcement Act" to help accomplish these goals, and I am pleased that this important legislation has received, from the get-go, bipartisan support, including sponsorship by Representative Carolyn Maloney and Representative Patsy Mink, active members of the Women's Caucus. It has also been endorsed by a variety of organizations, including the Association for Children for Enforcement of Support and Child Help USA, which I, like a number of Members, have been associated with for many years.

Under current law, custodial parents receive no tax relief when a noncustodial parent fails to meet his or her legal and moral obligations to pay child support in full and on time. I have a very interesting law review article from the "NYU Tax Law Review" that chronicles the court decisions in this area that, in the estimation of the writer—and perhaps to many objective observers—fly in the teeth of what Congress had in mind when it wrote section 61-A-12. That section of the Tax Code makes it very plain that a taxpayer is supposed to recognize income from the discharge of indebtedness. And the mirror provision, the bad debt provision, seemingly also ought to apply for treating parents involved in disputes about paying the money, the same as every other taxpayer, but we don't.

If we did, two good things would happen. First of all, we would be giving tax relief to the parents who need it because they are not getting the money that legally they are owed. Second, we would be imposing an appropriate economic penalty on people who aren't paying their debts, just as we do for all other debts in society.

Third, according to the scorers of this legislation, we will actually raise $394 million in revenue over 10 years. The only reason for that is because we are treating both the income from cancellation of one joint obligation and the bad debt as mirror images and equally, is that statistically the noncustodial parents—the people who owe the child support—typically are in higher tax brackets than the custodial parents, who aren't working as much because they have got child-rearing responsibilities. That mismatch in tax brackets is the reason that, even though we had an even-handed treatment of both sides of the debt, that it actually raises money—a modest amount $394 million over 10 years—but the point is that this is something big that we can do without a charge to the Treasury.

There have been a few questions raised about the legislation. First is whether or not we intend to give the IRS additional power. The legislation gives the IRS no additional power. In my view, that isn't necessary. Other legislation has done that.

Congress, in 1998, passed the Dead Beat Parents Punishment Act and made it a Federal penalty to willfully fail to pay child support, and so on. There are no criminal provisions of this bill, and I don't think we need any. We have already taken care of that elsewhere. This is just a tax provision, an explanation of what section 61-A-12, for example, is all about—nothing more, nothing less. Enforcement of the Tax Code is left to the rest of—the provision would be treated the same as any other provision of the Tax Code.

Another question that has been raised about it is what happens in subsequent tax years if the child support is then paid. I would certainly favorably consider any proposal by the Subcommittee to amend the legislation to simply say that nothing happens. Given these statistics, so much of child support is being never paid, in any case. The simplicity that that would afford and the fairness that that would afford to the custodial parent I think would make it worth the effort, because right now, of course, child support payments are not included in income, in any case.

That is the entirety of my presentation. I tried to anticipate the questions that you are not asking, Madam Chairman. [Laughter.]

Mr. COX. So I both delivered testimony and answered questions.

Mr. CARDIN. If I might just quickly, Madam Chair.

Chairman JOHNSON of Connecticut. Yes.

Mr. CARDIN. First, to Governor Castle, let me say thank you very much for your testimony. I would hope that we could move that as quickly as we could, because it seems like a common-sense correction to our Tax Code.

To Representative Cox, let me just put on the record—and we will come back to it—there have been some concerns raised about the complexity in enforcement of the provision. We all support what you are trying to do, as far as offering financial incentives for individuals to pay child support. That is what you are trying to do, and we want to do that. We will talk about this at a later point.

But the concern is how would IRS be able to monitor whether, in fact, the right child support was paid or not paid and written off, and whether there is consistency between the noncustodial and custodial parents' tax returns.

We need, as you point out, to make sure that the proposal is enforceable, it doesn't add additional complexity to the Tax Code, and it accomplishes the purpose for which you are seeking. We need to talk a little bit more about that.

Mr. COX. Yes. I have taken to heart the expressions of interest and concern in that area. I think that simplification is the answer, that we simply ought not to impose any new administrative burdens. We ought to treat this precisely the same as we would treat any other income and any other deduction, and we ought to put in the hands of the taxpayer most motivated to help us out here any administrative responsibility, and that administrative responsibility could be as simple as sending a 1099. There is already a Form 1099C for cancellation of indebtedness, and the parent who is owed the money and doesn't get it could send that 1099 off to

his or her spouse or former spouse and the IRS already knows how to handle 1099s. It would be no more complex than that.

Chairman JOHNSON of Connecticut. Thank you very much for your testimony. It is a very big idea and one we need to work through. I am concerned about complexity from the IRS' point of view, but we do need to look at that, because it is an idea that would be very powerful.

Mr. COX. Yes. The answer, by the way, that I just gave is a supplement to and a change in the legislation I have introduced, so the question was fairly put. The way the legislation is written, I think the problem is easily answered, as I just answered it.

Thanks.

Chairman JOHNSON of Connecticut. And Mr. Castle's proposal is included in my underlying bill, much simpler and very fair. But thank you for your powerful presentation on behalf of your ideas, and also thank you for the quality of your ideas, both of you. We appreciate it.

It is my pleasure to invite now Olivia Golden, the Assistant Secretary for Children and Families, to testify. As I say, we will then have a series of votes, so the next panel probably won't be called before 11:30, if any of you have things that you need to do, and then we will have to try to keep it fairly tight in the questioning of the other two panels.

Welcome, Secretary Golden.

STATEMENT OF HON. OLIVIA A. GOLDEN, PH.D., ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. GOLDEN. Thank you.

Madam Chairman and Members of the Subcommittee, thank you for the opportunity to testify on important changes, to the child support enforcement program. We are very pleased that several provisions from the President's child support initiative are included in the bill as proposed by Chairman Johnson and Representative Cardin and are the subject of today's hearing.

Through enactment of the Personal Responsibility and Work Opportunity Reconciliation Act, President Clinton and Congress provided the necessary tools to the child support enforcement program to secure for our Nation's children the emotional and financial support they need and deserve.

In fiscal year 1999, a record of nearly $16 billion in child support was collected, or double the amount collected in 1992. We are excited about these dramatic achievements and we believe the next step, as both of you said in opening statements, is to ensure that working families truly benefit from the progress we have made.

Simplified distribution is a common thread in all of our proposals to ensure that families receive more of the child support collected on their behalf. Additional support can make a critical difference in a child's well-being, and receipt of child support can play an important role in ensuring that families who leave welfare do not end up back on the welfare roles. This is underscored by a study which found that women who did not receive child support had a 31 percent chance of returning to welfare after only 6 months off the

rolls. In contrast, women who received as little as $1 in support had only a 9 percent chance of returning to welfare.

The President and Congress took an important step in welfare reform to move toward family first distribution, but the changes introduced administrative complexity and did not go far enough. The Administration's proposal for the next step is very simple: When a family is on welfare, the State retains the child support collections, not including any amount the State passes through. When the family leaves welfare, the State has the option of distributing all child support collections to the family. We are very pleased that both Chairman Johnson and Representative Cardin have included in their bills distribution provisions that increase the amount of child support going to families.

A second strategy—passthrough and disregard of child support to families receiving assistance—is also important if we are to get more child support into the hands of children and support families as they move from welfare to self-sufficiency. These families may well be working, like one-quarter of all welfare families.

An ongoing link between child support and family income is crucial in stabilizing the lives of these families and preparing for their self-sufficiency. These payments are also important in creating a clear connection between the child and the noncustodial parent and act as an incentive for custodial and noncustodial parents in cooperating with the Child Support Enforcement Agency.

The Administration's proposal is to provide Federal matching funds for new State efforts to passthrough and disregard child support to TANF families. We are very pleased that Representative Cardin has included a passthrough provision in his bill, and look forward to working with the Committee to ensure this provision is included in the legislation you advance.

We applaud the overall direction of the child support measures being considered by the Subcommittee, including additional proposals that are discussed in my written testimony for review and adjustment of child support orders and expanded use of passport denial.

However, we do have serious concerns about the proposal to provide access to public non-IV–D child support enforcement agencies, and especially to private collection agencies. Congress has given the IV–D program access to a wide variety of information sources, along with detailed privacy requirements. Even with the best of intentions, sensitive data could be compromised if State IV–D agencies with the responsibility to protect the confidentiality of data do not have adequate safeguards once the data leaves the agency. Further, delivering the same services available through the IV–D program through another entity may prove not only inefficient but also costly. Given these concerns, we urge caution in providing access to public non-IV–D agencies.

Extending the measure to allow access to IV–D child support information and tools by private collection agencies is an even more serious concern. Private child support collection agencies are unregulated, and, as a result, there is little ability to oversee their activities or use of information. The potential implications for abusing information are troublesome. The current proposal could potentially give tens of thousands of individuals and private agencies ac-

cess to sensitive and confidential information. Given the privacy and security concerns and policy implications, we cannot support a proposal to give private collection entities access to IV–D information and enforcement tools.

Finally, I want to recognize the importance of promoting responsible fatherhood in the administration's and the Subcommittee's efforts to strengthen families. The Administration has worked throughout its tenure to strengthen the role of fathers and families, and we commend Chairman Johnson and Representative Cardin for their leadership in focusing attention on fatherhood.

In closing, let me say that it is only through our partnership with the Congress and the States that we have been so successful in strengthening child support enforcement. We can improve on existing efforts and get more money to families through the addition of some new enforcement tools, simplified distribution, and expanded passthrough and disregard.

We look forward with enthusiasm to working with you on this important legislation.

Thank you.

Chairman JOHNSON of Connecticut. Thank you very much, Madam Secretary.

[The prepared statement follows:]

Statement of Hon. Olivia A. Golden, Ph.D., Assistant Secretary for Children and Families, U.S. Department of Health and Human Services

Madam Chairman and distinguished Members of the Subcommittee, thank you for giving me the opportunity to testify on important changes to the child support enforcement program being considered by the Subcommittee. Enhancements to this Nation's child support enforcement efforts were one of the cornerstones of the President's budget request this year and we are very pleased that a number of those measures are included in the two bills proposed by Chairman Johnson and Representative Cardin, in addition to being the topic of today's hearing. A common thread in all of our proposals is ensuring that families receive more of the child support collected on their behalf and given our successful track record in working together, I am confident that we can make this happen.

In September I testified before this Committee on the progress we have made in child support collections and paternity establishment. A new record announced since then confirms this progress. In FY 1999, a record of nearly $16 billion in child support was collected or double the amount collected in 1992. In addition, as I reported in September but I believe worth repeating, the number of paternities established or acknowledged has reached a record 1.5 million, almost tripling the 1992 figure of 512,000. Of these, over 614,000 paternities were established through in-hospital acknowledgement programs.

Through enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), President Clinton and Congress provided the necessary tools to the Child Support Enforcement program to secure for many of our nation's children the emotional and financial support that they need and deserve. Tools such as the expanded Federal Parent Locator Services (including the National Directory of New Hires and Federal Case Registry), the passport denial program, financial institution data match program, and license revocation programs have made a tremendous difference in improving our ability to collect child support. State Disbursement Units (SDUs) and central state registries of child support orders have paved the way for state child support agencies to operate more efficiently and for families to receive the support collected on their behalf more quickly.

We are excited about these dramatic achievements, and are convinced that the Child Support Enforcement program is on the right path. The next step is to ensure that working families truly benefit from the progress we have made. Today as requested by the Committee, I will focus my testimony on child support distribution and broadened access to organizations that can participate in the child support program. I would also like to take this opportunity to highlight other important provisions in Chairman Johnson's bill and Representative Cardin's bill. In addition, as

the Administration continues to review other provisions of the bills, we may have further comments.

SIMPLIFIED DISTRIBUTION

I would like to focus first on the rules governing distribution of child support. As I mentioned at the outset, we are in agreement that child support distribution rules need to be changed to provide more child support to families who have left welfare. These families should be the first recipients of child support paid by non-custodial parents, rather than the government. Research shows that the receipt of child support can play an important role in ensuring that families who leave welfare do not end up back on the welfare rolls. It also creates a clearer connection between what the non-custodial parent pays and what the child receives.

The importance of child support to families leaving TANF is underscored by a recent study that found that women who did not receive child support had a 31 percent chance of returning to welfare after only six months off the rolls. In contrast, women who received as little as one dollar to one hundred dollars a month in support had only a 9 percent chance of returning to welfare.

The President and Congress took an important step in the passage of PRWORA in 1996 which provided for "Family First" distribution. This meant that families that left welfare would be first in priority for receipt of payment on past-due support. It was a huge step in the right direction. However, due to complexities caused by related assignment provisions and an exception for the tax refund intercept collections, the changes introduced an added measure of administrative complexity and did not go far enough in directing support to working families. Decisions on distributing collections to the Federal or state governments or the family now vary by the method of enforcement and the period of the child support assignment. This makes it burdensome for states to administer and difficult for families to understand.

Thus, in addition to making working families better off, simplifying distribution rules would make the program easier to administer for state child support agencies, allowing them to devote more attention to collecting support, rather than using resources to administer a complex set of rules that custodial and non-custodial parents do not understand.

So what does this mean in the real world of families struggling to meet their children's basic needs? It can mean the difference in the housing and food and other necessities available to a growing child and it can make a critical difference in a child's well being. According to a recent Urban Institute study, for the average poor child with a nonresident parent, and whose family received child support, the child support received amounted to over one-quarter (26 percent) of their family income. Findings from the report indicate that receipt of child support reduces low-income families' dependence on welfare, reduces the poverty gap for poor children and reduces the income disparity between rich and poor children.

There is clearly a compelling case for directing more support to working families. The Administration's proposal for this is very simple: when a family is on welfare, the state retains the child support collections (not including any amount that the state passes through); when the family leaves welfare, the state has the option of distributing all child support collections to the family. The President's proposal would be a state option, maximizing state flexibility and, for a state that takes the option, it would be a Federal-state partnership in which both the Federal government and the state share the cost of the policy. We believe the Administration's bill strikes the right balance supporting state efforts that get more child support to families, and distributing the cost fairly between States and the Federal government.

We are very pleased that both Chairman Johnson and Representative Cardin have provided leadership in supporting simplified distribution. Both bills include distribution provisions which, like the Administration's proposal, increase the amount of child support going to families. We commend Chairman Johnson, Representative Cardin, and Subcommittee staff for their work on this important issue for children and families and we look forward to continuing to work with this Committee on remaining differences.

PASSTHROUGH

The Administration is convinced that a second strategy is also important if we are to get more child support into the hands of children and support families as they move from welfare assistance to self-sufficiency. This second strategy is passthrough and disregard of child support to families receiving assistance—who may well, like one quarter of all welfare families, be working at the same time. The face of welfare is changing and more families receiving assistance are working and the assistance they receive is more temporary in nature. An ongoing and continued link between

child support and family income is crucial in stabilizing their lives and preparing for self-sufficiency. In my travels around the country, I am hearing from more and more families on the importance of child support in ensuring their children's future success. For example, when I participated in a recent focus group in Michigan on child care, a number of mothers also wanted to share their experiences with child support enforcement and their thoughts on the importance of a strong and effective child support program in stabilizing their lives as they move forward in transitioning from welfare.

Child support passthrough and disregard policies are important to these families by allowing some portion of support paid on a family's behalf to be passed through to the family and disregarded for purposes of calculating assistance benefits. These payments are also important in creating a clearer connection between the child and the noncustodial parent and act as an incentive for custodial and non-custodial parents in cooperating with the child support enforcement agency. The President's child support package includes a proposal for sharing in the costs of providing passthrough payments for states choosing to begin making these payments or increasing current levels of passthrough payments.

Current welfare rules require that when someone applies for welfare (TANF), they must assign their right to child support payments to the state and cooperate with child support enforcement efforts. This is to help reimburse the government for the cash assistance provided to the family. The Federal government and the states each retain a share of the child support collected. Nineteen states "passthrough" to the welfare recipient some part of the state's share of retained child support (usually $50) and disregard it for purposes of determining the level of the benefit payment. Prior to the 1996 welfare reform law, a $50 passthrough was required and the Federal government shared in the cost with states.

In addition to stabilizing the income of families working to leave welfare, there are other benefits for the passthrough of child support to welfare recipients. First, the passthrough and disregard of child support may serve as an incentive for noncustodial parents, particularly low-income non-custodial parents, to pay child support. Organizations that work with low-income fathers report that fathers currently feel they have no incentive to pay child support to a mother on welfare because the money goes to the state and does not benefit the child. Second, the passthrough of child support also provides an incentive for mothers to cooperate actively and fully in child support collection efforts. This is especially critical now that welfare is temporary and parents are moving rapidly into the workforce. Like Medicaid and child care, regular child support can be a key part of moving into stable work for a single-parent family. As one of the studies cited earlier shows, having child support securely in place helps in a successful transition from welfare. Finally, TANF parents who receive support directly in the form of a passthrough are likely to be more familiar with the child support system than parents who do not receive a passthrough. For parents in the latter category, child support enforcement actions are invisible. Familiarity with and confidence in the child support system is critical for parents leaving welfare, who will often be relying heavily on child support to make ends meet and will need to act quickly if, for example, support payments are disrupted in the transition from assistance to work.

The Administration's proposal is to provide Federal matching funds for new state efforts to pass-through and disregard child support to TANF families. The Federal government would share in the cost of amounts above a state's current passthrough and disregard policy, up to the greater of $100 per month or $50 over current state efforts. We believe that sharing in the costs of pass-through and disregard payments will encourage additional states to opt for passthrough policies and encourage states currently providing passthrough payments to increase the amounts they passthrough and disregard.

We are very pleased that Representative Cardin has included a passthrough provision in his bill and look forward to working with the Committee to ensure this provision is included in the legislation you advance.

I would like to turn now to two provisions included in the Chairman's bill that were also included the President's proposal and that we think will make a significant difference to children: review and adjustment of child support orders and expanded use of passport denial for failure to pay support.

Review and Adjustment of Child Support Orders

An additional proposal that would ensure that families obtain more child support is to review and adjust child support orders periodically. Typically, the ability of obligors to pay child support increases over time. So generally, periodically reviewing and adjusting child support awards to reflect the current income of the obligor in-

creases the amount of the support and the economic security of single parent families. It is especially important that TANF families have an updated award when they leave welfare.

We want to maximize the amount of child support available to a family leaving welfare in order to ensure that they have every opportunity to become self-sufficient. Let me offer an example: A mother goes on welfare at the birth of a child born out-of-wedlock. The putative father is found, a paternity action is brought, and he is found to be the father and ordered to pay child support. However, the father is employed only part time so the child support award is only $100 per month. Three years later, the mother leaves welfare. The father now has found a full time job, so that if the award is reviewed and adjusted he would pay $300 per month in support. That additional $200 per month can make a big difference in the financial security of the mother and the child and perhaps enable her to stay off welfare long term when combined with earnings of her own. Indeed, a recent report by the Health and Human Services Office of Inspector General concluded that, "Reviews conducted as parents exit from TANF would likely benefit the government through reduced welfare recidivism and avoidance of the costs associated with receipt of other public benefits."

There are also legitimate reasons to reduce an existing award, for instance, if the obligor has lost his job or suffered a major decline of income. In those cases, periodic review and adjustment means that the award amount is fair and that the child support agency is not wasting its efforts on pursuing a low-income father who does not have the current ability to pay support, and the father avoids building up a large and unmanageable arrearage. Research has shown that regular receipt of current support has a greater impact on reducing recidivism back to welfare than a larger monthly award that is only sporadically paid.

We commend Chairman Johnson for including periodic review and modification in the bill. This is an important provision that will help families and promote the success of welfare reform efforts.

EXPANDED USE OF PASSPORT DENIAL

The Administration's child support package also includes initiatives to collect more child support. I urge you to look at the legislative language we sent to Congress earlier this year for the details on each of these provisions but I would like to take this opportunity to mention one in particular that was included in Chairman Johnson's bill, expanded use of passport denial.

PRWORA provided for the denial of passports for delinquent obligors. The passport denial program, run jointly by HHS and the Department of State, currently works to deny passports to delinquent parents owing more than $5,000 in past due support. The Passport Denial Program has collected more than $4 million in lump sum child support payments since its inception and is currently denying 30 to 40 passports to delinquent parents per day. Let me cite some examples: an obligor flew to Florida and paid $24,000 in cash toward a child support arrearage so he could play baseball overseas; an obligor from Missouri paid $36,000 in child support so he could travel to see his mother and to work in Pakistan; and an obligor from Maryland and Virginia paid $16,000 of child support arrears so that he could travel to England for an interview to attend college to obtain a Ph.D. All told, about 14,000 delinquent parents have had passport applications denied until they pay their child support. This year the Administration has proposed reducing the threshold for passport denial from $5,000 to $2,500. This will allow the program to be even more effective while providing a reasonable threshold for administrative efficiency. We are pleased that the Chairman's bill includes this provision and hopeful that it will be part of the bill reported by the Committee

ACCESS TO CHILD SUPPORT INFORMATION AND TOOLS BY PUBLIC NON-IV–D CHILD SUPPORT ENFORCEMENT AGENCIES

While we applaud the overall direction of the child support measures being considered by the Subcommittee, we have serious concerns about the recent proposal to provide access to public non-IV–D child support enforcement agencies and especially to private collection agencies. Let me first address our concerns with providing access to public non-IV–D child support enforcement agencies.

Congress has given specific statutory authority for the IV–D program to have access to a wide variety of information sources for purposes of enforcing child support obligations. Congress has also specified, in detail, the privacy requirements that come with this access and prohibited the unauthorized disclosure of child support data. The Office of Child Support Enforcement (OCSE) takes this responsibility very seriously. Because of the sensitive nature of the data needed to process and enforce

child support cases, we are committed to ensuring that all uses and disclosures of state and Federal data sources on individuals comply with the highest standards for security and confidentiality.

While extending access to non-IV–D agencies would expand the program's outreach to families needing service, there are practical issues to be addressed. For example, providing access to information in Federal databases to public agencies that are not part of the IV–D program, whether these outside agencies are clerks of court or other entities, raises serious concerns regarding the safeguarding of the data. Even with the best of intentions, sensitive data could be compromised if state IV–D agencies with the responsibility to protect the confidentiality of data do not have adequate safeguards once the data leaves the IV–D agency. The public non-IV–D agencies are not subject to the full range of IV–D security and other requirements specified by Congress. In addition, there is also a Federal oversight role in protecting confidential information that is not addressed in the proposal. The Federal government needs the authority to regulate access to confidential information in order to ensure the proper safeguarding of this information.

Moreover, all of the services to which public non-IV–D agencies would be given access are available to custodial parents directly from the State IV–D agency. In these cases, delivering the same services through another entity may prove not only inefficient but also costly to the Federal government and to state IV–D agencies. Providing access would require building an interface between each participating public non-IV–D agency and the IV–D certified computer system, resulting in additional reprogramming and other systems staff costs for the IV–D agency, in addition to the cost of monitoring use of the information and enforcement tools by outside agencies.

Given these concerns, we urge caution in providing access to public non-IV–D agencies and we would be happy to work with the Subcommittee to see if our concerns can be addressed.

Access to Child Support Information and Tools by Private Collection Agencies

A related measure being considered by the Subcommittee is to allow access to IV–D child support information and tools by private collection agencies. This proposal raises some very serious concerns, particularly regarding confidentiality of data, and consequently we must oppose it.

Private child support collection agencies are unregulated and as a result there is little ability to oversee their activities or use of information. The potential implications for abusing information are troublesome. For example, without tight control over the use of information, the location of domestic violence victims could be compromised. The current proposal opens up access to "an individual, a person, or any other non-public entity which seeks to establish and enforce an obligation to pay child support" which could give tens of thousands of individuals and private agencies access to sensitive and confidential information.

In addition, this provision would result in further extensive and expensive revisions to IV–D computer systems than would the public non-IV–D agency access, due to the greater number and diversity of private collection entities.

Under the proposal, the private entities could send their cases to the IV–D agency for enforcement activities. The IV–D agency would have no way to verify if the amount sought to be collected is correct and whether there was appropriate due process extended to the non-custodial parent. The IV–D agency would then be required to locate the parent, the Internal Revenue Service would be required to withhold the tax refund, the State Department would deny the passport, etc. And the IV–D program would be required to send the collection to the private agency, which could take its own fee off the top, often 30 percent or even more of each payment. If the services were provided to these families directly by the IV–D agency, the family would receive the full amount collected (except in some former TANF cases as discussed above). While families should theoretically be able to choose between public and private collection agencies, many custodial parents who have not had contact with the TANF program may not be aware of IV–D program services.

Given the privacy and security concerns and policy implications, we cannot support a proposal to give private collection entities access to IV–D information and enforcement tools.

Fatherhood Programs

Finally, I want to recognize the importance of promoting responsible fatherhood in the Administration's and this Subcommittee's efforts to strengthen families. With the President and the Vice-President's leadership, the Administration has worked

throughout its tenure to strengthen the role of fathers in families. For example, we have funded eight child support enforcement responsible fatherhood demonstration projects that will help bolster fathers financial and emotional involvement with their children. The Office of Child Support Enforcement has provided over $1.5 million to the National Center for Strategic Nonprofit Planning and Community Leadership (NPCL) to work with grassroots fathers organizations to help unemployed and underemployed fathers become responsible parents. In addition, Secretary Shalala and the Vice President recently announced the approval of ten state waivers for the Partners for Fragile Families, a set of projects to improve the opportunities of young, unmarried fathers to support their children both financially and emotionally.

We commend Chairman Johnson and Representative Cardin for their leadership in focusing attention on responsible fatherhood. The Fathers Count Act of 1999, passed by the House last fall and included in this bill, is an important step in helping more fathers of low income children work and honor their commitments to their children. The President has proposed a "Fathers Work/FamiliesWin" initiative that shares many of the same goals as the legislation proposed by this Subcommittee. The Administration's FY 2001 proposal would provide $255 million for the first year of this new initiative to help low-income non-custodial parents and low-income working families work and support their children. Of this amount, $125 million would provide grants to help approximately 40,000 low-income non-custodial parents (mainly fathers) work, pay child support, and reconnect with their children. One hundred thirty million dollars would provide new grants to help hard-pressed working families—including mothers and fathers in single and two-parent families—get the supports and skills they need to succeed on the job and avoid welfare. This new initiative builds on the approximately $350 million in innovative local responsible parenthood projects funded through the Department of Labor Welfare-to-Work Grant program. These proposals are an important next step in welfare reform, and would build upon the Administration's efforts to help low-income families succeed in the workforce and help even more long-term welfare recipients go to work.

CONCLUSION

In closing, let me say that it is only through our partnership with the Congress and the states that we have been so successful in strengthening the Child Support Enforcement program. The many new tools provided by the Personal Responsibility and Work Opportunity Reconciliation Act are helping to improve the lives of our nation's children. We can improve on existing efforts and get more money to families through the addition of some new enforcement tools, simplified distribution, and expanded passthrough and disregard. These measures move the program in the right direction and ultimately, help families remain self-sufficient and we look forward to working with you on this important legislation.

Thank you. I would be pleased to answer any questions you may have.

Chairman JOHNSON of Connecticut. On the issue of pass-throughs, we do, in our bill, fund the pass-through of the Federal amount to families that have left—that are leaving welfare. We do, after 5 years, compel the States to passthrough their amount. In our first draft we did that immediately. They are very concerned about the resources they have for child support enforcement, and we figure over 5 years they can figure out how to do this. That is a very expensive provision.

I think, if you force pass-through immediately and don't do what Ben does in his bill, which is prohibit disregard, you won't make a substantial change in the current situation, so my bill concentrates on pass-throughs when you leave, and that difference between legislating that people on welfare would get their child support plus the welfare benefit has, for me, some very troubling aspects.

You will have people on welfare getting a welfare benefit earning more than their neighbor, if the two are combined—child support

and the welfare benefit. I think that is going to cause a lot of problems and begin to re-ignite some of the old feelings about welfare and fairness.

Ms. GOLDEN. I appreciate your extraordinary leadership on ensuring that we focus on distributing child support dollars to families after they have left the welfare rolls. The administration also believes it is important to provide a Federal incentive with some cost-sharing, for passthrough while families are on the rolls but not a mandate an incentive. With the progress of welfare reform, these are the very same families a couple of months apart. Four times the percentage of families on welfare are working now than were a few years ago. I have been talking to a lot of those parents, and I really believe that it is enormously important both that they have the stability of regular child support and that they become connected to the child support system in order to have stability as they move off welfare.

I also believe—and these are similar points that Mr. Cardin made earlier—that there is some evidence that providing that direct link to child support encourages the payment of more child support and more active cooperation.

On the technical questions of the different approaches, the administration's approach to the passthrough while parents are on welfare is an approach which provides a Federal share as States expand their use of passthrough and disregard. As you know, some States do it now, but we would provide an incentive for States to do more in this important area. Mr. Cardin's approach is technically slightly different, but our view is that on both distribution and passthrough the similarities are the important thing, and we are very eager to work with the Committee on any of the technical issues.

Chairman JOHNSON of Connecticut. I am very interested in the child support flowing directly to the family while on welfare so that that connection is made between the supporting parent and the custodial parent, but to prohibit the States from counting that income and eligibility I think is going to create some very serious fairness issues. Some States are not counting it. Connecticut doesn't count it.

Ms. GOLDEN. Right.

Chairman JOHNSON of Connecticut. They have chosen not to count it. But, you see, they coordinate that.

Ms. GOLDEN. Right.

Chairman JOHNSON of Connecticut. They also have the shortest length of stay on welfare.

Ms. GOLDEN. Correct.

Chairman JOHNSON of Connecticut. So they have designed a system that maximizes income, but after 21 months you are into the extent you have to prove you are eligible for an extension.

I think that is one of the good things about the current system is that the States are showing a lot of variation in how they are managing this issue of incentives and supports. And I think for us to go back to the old system of saying, "This is how you should do it," is unfortunate.

I would not be opposed at all to us requiring them to passthrough the original check for child support to the mother, because I think that connection is very important.

There are some that say this would be extremely complicated for the States to do, but I do believe the concept is so sound that we ought to be doing it.

Ms. GOLDEN. The key part of the administration's proposal is to make sure that States aren't at a fiscal disadvantage if they choose to do what Connecticut is doing. In other words, we are trying to make sure that there is not a discouragement for States to disregard, as well as passthrough, because I think you are right—there is one set of advantages that come from connecting a mother to the system, there is a second set of advantages that come from stabilizing the income as she is moving through that transition. So it is an incentive approach, a cost-sharing approach with the State that we have taken to passthrough.

Chairman JOHNSON of Connecticut. By funding the Federal share, we do encourage—I mean, we could actually pass the child support and the Federal share directly, but, since we don't mandate payment for the State share, I don't feel that we can do that.

I think there are some ways we can improve the system so that the custodial parent understands where the money is coming from and who is helping them, but I am very troubled by the proposal that we would go back to saying that then States could not disregard this. I think the question of disregard is so integral to the total structure of their welfare-to-work programs.

Ms. GOLDEN. I am not sure in which proposal you are seeing a requirement that the State could not disregard the passthrough. There are certainly provisions about incentives. There certainly are proposals linking the extra dollars to their choosing to do it that way. But I don't think there are any prohibitions on disregarding the passthrough in any of the proposals.

Chairman JOHNSON of Connecticut. We will get into the details of more of this, because actually I did read your bill as mandating that. I am sorry.

Thank you.

Ms. GOLDEN. OK.

Mr. CARDIN. Madam Chair, thank you very much. One of the purposes for a hearing is to see whether we can't bridge some of the gaps.

Chairman JOHNSON of Connecticut. Yes.

Mr. CARDIN. I agree with the Chair's comments about making sure we do not take away from the States the flexibility of being able to determine eligibility.

There are two parts to the passthrough proposals. One deals with arrearages. We make it clear in our legislation that the arrearages that are as a result when the person was not on welfare goes to the family, and the arrearages from when they were on welfare we simply the distribution. But for a family that is currently receiving TANF benefits, my legislation would require those funds to go to the family, but then allow the States the ability to determine eligibility—how much of that income would be used for eligibility. And, of course, we share the cost with the States.

Let me just make one other observation, because the Chair mentioned the fact that two families in the same economic circumstance might be treated differently, and that is true under current TANF rules because a family might be receiving some income from work, which is permitted under certain circumstances, so we could have two families in a similar situation receiving different income because of the circumstance of one family versus the other.

My question to you is: As far as passing through child support or a family receiving welfare, I wanted you to comment at least on two aspects of this. First, what impact, if any, does that have on encouraging the person to leave welfare, to become self-sufficient? Second, do we have any information about how many noncustodial parents are paying support under the table so that they can get the money to the family rather than paying it through the welfare agency where they know the money will not get to the family.

Ms. GOLDEN. I think they are both areas that deserve much more systematic research, because the quality of the information is not as extensive as I hope it will be soon.

On the first question, in terms of as an incentive to leave welfare, I very much believe, from the parents that I have been talking to, that right now many parents who are on welfare, as the chairman said about Connecticut, are there for a relatively brief period of time. They are either preparing to work or they are working, and they are in the process of putting together pieces of the puzzle to get off welfare and achieve self sufficiency. I really believe that child support, like health care, is one of the key pieces that contributes to economic stability. I believe that it can be a key part of a transition off of welfare.

The statistics I offer in my testimony focus on reducing return to welfare. I don't know that we have very specific statistics on speeding up departure, but from what we know, I believe that having stable and regular child support very is really important in contributing to the ability of a custodial parent to maintain her children, understanding that work may be pretty insecure as low-wage jobs usually have varied hours producing fluctuating income from week to week.

Mr. CARDIN. Before you get on to the second point, what you are suggesting is that here you have a person who is trying to go through a transition to being self-sufficient.

Ms. GOLDEN. Yes.

Mr. CARDIN. That individual who receives regular child support knows that that is part of what the family has as income. They are ready to start planning how to make it without necessarily a cash payment through TANF. That is in place.

Ms. GOLDEN. Exactly.

Mr. CARDIN. It makes it easier for the person to get to the next step.

Ms. GOLDEN. Exactly. It is not such a leap into the unknown. It is not the sense of "anything could change week to week." I have heard that from many parents.

On the second question about noncustodial parents, again we are in the process of doing some research to help us know the answers more systematically, but there is widespread belief that one of the difficulties in persuading noncustodial parents to fully cooperate as

fully as possible is that they can't see how the dollars get to their children.

Again, I hear mothers being satisfied with way too little in the sense of, "He's buying Pampers, and I know that that's all he can do," when, if there were even modest support payments it could lay the basis for a regular child support payment as the parents' income goes up. Note this also is the argument for another provision in Chairman Johnson's bill on reviewing adjustments—that if you can get started, you then can have secure, regular payments that increase as income increases.

Mr. CARDIN. So, again, just trying to summarize what you are saying, if there were child support going directly to the family on TANF assistance, it is more likely that the dollar amount would be more realistic? Is that what you are saying?

Ms. GOLDEN. A more regular payment process would get those dollars to the people.

Mr. CARDIN. Because today many cases the custodial parent is taking lower expectation because the person is not receiving the funds.

Ms. GOLDEN. That is right.

Mr. CARDIN. Thank you, Madam Chair.

Chairman JOHNSON of Connecticut. There is a little problem with your last exchange. In talking with fathers and fatherhood groups, it was very clear that they want to provide things for their children and they want their children to know.

Ms. GOLDEN. Yes.

Chairman JOHNSON of Connecticut. And they need to know that the parent is getting the check, too.

Ms. GOLDEN. I agree.

Chairman JOHNSON of Connecticut. They also need to have a little disposable income so, in addition, they can buy Pampers or something.

Ms. GOLDEN. Yes. I agree with that.

Mr. CARDIN. I didn't mean to imply—my concern is, and I think what Secretary Golden was referring to, is that you get a circumstance where the money is not going directly to the family. The noncustodial parent and the custodial parent are going to be less likely to develop a realistic level to make a regular payment.

Chairman JOHNSON of Connecticut. I appreciate that. I am concerned that sometimes support orders so strap particularly low-income fathers that really the transaction between that low-income father and the mother, while the support might be his check, isn't present. I think we need to really think this through. How can we get not only the support directly to the mother, but the supporting noncustodial parent to be a part of that moment, because what we are trying to build here are human relations, not monetary relations. Monetary relations are important, but in the end what is going to support this kid is love.

So I think we need to begin thinking about what are the transaction circumstances that we could encourage so that that money not only flowed directly but flowed through the father being present.

Ms. GOLDEN. I think we have, in what we have all accomplished together and what we hope to accomplish, some examples of how

to move forward in that arena. We have tripled paternity establishments since 1992.

Chairman JOHNSON of Connecticut. Right.

Ms. GOLDEN. That is about fathers saying they want to be part of their children's lives.

Chairman JOHNSON of Connecticut. Right.

Ms. GOLDEN. I think that has huge potential.

Chairman JOHNSON of Connecticut. I think it is.

I want to give Mr. Jefferson a chance and I will come back to this.

Mr. Jefferson.

Mr. JEFFERSON. Thank you, Madam Chair.

I don't have a question. I just want to make a brief observation.

The welfare system operated for many years on the assumption it was better for families to have a parent at home with young children and all the rest of it, and States determining eligibility and the Federal entitlement system. We have gone from that to one where flexibility is a hallmark of our discussion, and different States have room to shape how they are to determine aid to these families.

This is still an experimental effort. No one knows how well over time it is going to do. I have seen some signs of progress and some signs of stress in this whole system.

I think what is important is, if we can find things that are worthy of replication, that we don't, in the name of flexibility, disregard them, so that we can make things work for families right now, rather than 10 years from now when the child is already grown.

I think that one of these things that has been talked about is this whole issue of connecting fathers with families with children, and the issue of passing through and distribution. You know, a lot of folks right now who are going back on welfare have gone to work, and they are largely unskilled and still trying to figure this whole thing out.

In the midst of all this turbulence, there is a need to try to find something that can be stable, and I think that the idea of connecting, as both Mr. Cardin and Ms. Johnson talk about, are important, but I also think, if we are of a mind that it is important to have passthrough and distribution provisions, particularly the passthrough one we are talking about now, I would hope that we would not abandon it in the name of flexibility when we can, on our end of it, adjust these issues that may be a problem among States, and how States treat eligibility issues from our end of it a little bit better.

I just say that I hope we will keep an open mind on these questions, rather than to give in to the notion that what is the ultimate goal here is State flexibility, when the ultimate goal really ought to be how do we find things that work for families, and, when we do, how do we fix on those things to make sure that it is happening for every child across the country and every State, no matter where the child lives.

Ms. GOLDEN. A couple of brief comments.

The first is that I completely agree with your description of needing peace and stability as things are changing for a family. The

very first parent I talked to after welfare reform who had begun working in the State of New Hampshire talked to me about having a stable child support check. This helped her make all those changes, so I think you are right.

In terms of the flexibility, I would say for us it is very important for families to move forward on families first distribution policies. We believe that passthrough and disregard are also very important for families. We are prepared to work with the Committee on all of the technical issues in whatever way we can be helpful, in the hope that those provisions will be included as you move forward.

Chairman JOHNSON of Connecticut. We only have four or 5 minutes, so I won't be able to go into much detail, but I do want to put a couple of things on the table.

Ms. GOLDEN. OK.

Chairman JOHNSON of Connecticut. On your comments on private agencies, this is in a totally unregulated sector of economic activity, and that concerns me, in and of itself.

Ms. GOLDEN. Yes.

Chairman JOHNSON of Connecticut. Now, it is an area of State law, and they will have to come to their senses. Maybe they will and maybe they won't. But I do regret—I say this with all due respect, Madam Secretary. You certainly are not a defeatist person, but I find your comments on that issue sort of defeatist. I mean, why shouldn't we begin to look at how do we protect privacy, how do we deal with the data issues, and yet how do we partner, because no matter how much better we are doing—and we are doing a lot better—I think what the statistics show us is that we are doing a lot better with cases that are coming into the system, and if you have any way to get the data about this I would be interested. But my belief is—and I can't remember whether it comes from data or whether it doesn't—that we are doing better with cases coming in, but we still don't have the sufficient resources to deal with the volume of current cases, and that we have a terrible problem with backlog, some of which is real and some of which is apparent.

I would like you to think about it.

Ms. GOLDEN. Sure.

Chairman JOHNSON of Connecticut. If you think the language in the bill doesn't require the States to govern the right issues in developing these relationships, it doesn't restrict them from addressing other issues, like percentage, and other things.

I think today's article in the "Washington Post" demonstrates the need to get control of this sector and protect women against what are basically shyster operations.

Ms. GOLDEN. Right.

Chairman JOHNSON of Connecticut. The very fact that they are getting paid for cases that they didn't even collect on—and we have had this in some other areas of Social Security law. I think this is a case to support why we ought to be taking up my option.

Now, that much said, there is one other issue that has really come to my attention since the first time we passed our fatherhood bill. In talking to people who run the homeless shelter in my own hometown of New Britain, and also to people who are really in the know about Hartford, they say there are hundreds of fathers that

cannot work legally because their arrearages are so great, and that the longer we delay in having some system—we let teachers who will work in cities earn credit toward their student loan. We let physicians who have loads of debt, if they work in certain areas, relieve that debt.

We have got to come to terms with the fact that we have a lot of men out there who care about their families, they are unskilled, they will never earn much. I talked to a guy earning $6.45 an hour. He was separated from his wife for a couple of years during her third pregnancy. They are now back together. He is supporting the family. He is still paying off arrearages.

You often have no way to look back, and even the IRS has a way to look back and say what is owed in child support here, we must say to this father: "If you adopt this payment schedule, we will forgive some on all of your arrearages."

So we will not bring non-supporting fathers into the system and into the employment system that offers them their only hope of a career, a higher salary, and health benefits if we aren't honest about the extraordinary burden, particularly for people who got into this when they were in high school, into this arrearage problem.

If you can develop any data—see, nobody knows about this. They say this is all underground, and I think it is, because they won't work in the upper ground.

I ask you to help me think about that data—

Ms. GOLDEN. Sure.

Chairman JOHNSON of Connecticut.—see what we can do, and maybe this time around in the fatherhood bill we can do better.

I must excuse myself. We will reconvene at 10:30. Thanks for coming.

Ms. GOLDEN. Thank you.

[Recess.]

Chairman JOHNSON of Connecticut. So much for my best estimates. Sorry to keep you all waiting.

Now we will turn immediately to the first panel, and I think we will just start right in. Mr. Primus from the Center on Budget and Policy Priorities.

STATEMENT OF WENDELL PRIMUS, DIRECTOR OF INCOME SECURITY, CENTER ON BUDGET AND POLICY PRIORITIES

Mr. PRIMUS. Madam Chairman and Members of the Subcommittee, I thank you for the opportunity to testify today on both H.R. 4469 and H.R. 3824. The center supports the basic goals of both of these bills. We believe that the complex rules for distributing child support to families that are current or former recipients of TANF needs to be simplified, and that these recipients should benefit more from child support paid on their behalf. These two bills represent a major step toward meeting these goals. We strongly support the changes H.R. 4469 makes in child support assignment and distribution rules.

Under the proposed legislation, the State could not claim rights to arrearages accrued before or after the family received welfare assistance. Limiting the amount of support that the States may claim means that, once families leave cash assistance, children in custo-

dial families would benefit from more of the child support that is collected on their behalf. For those families that have left welfare, this bill emphasizes a true family first policy on arrearage payments by eliminating the Federal tax intercept exception for those custodial families who have left welfare.

The proposal requires States to distribute to the custodial family all arrears that accrued before and after a family went on welfare before repaying arrearages owed to the State for periods while the family was receiving welfare.

In the State of Maryland, one-third of the total collections in the State are arrearage collections, and nationally, for former welfare families, two-thirds of the arrearage collections come from the Federal tax intercept. But I would urge the Subcommittee to go further and add to H.R. 4469 some of the provisions of H.R. 3824. For example, mandating 100 percent passthrough policy, as in the Cardin billion, would eliminate many of the administrative problems that are part of the current system and may also encourage some of the fathers to pay child support more regularly.

A family first distribution should also apply to all arrearage collections, regardless of the family's TANF status. Why should a family that is currently receiving welfare and is owed an arrearage from the custodial parent while that family was not on welfare be penalized just because when the IRS intercept was made the family was back on welfare? The very fact that the family was on welfare probably means need is greater.

But, most importantly, include in H.R. 4469 the provision in H.R. 3824 which would encourage, not mandate, States to disregard more child support as income in determining TANF benefits.

Currently, in States without a disregard, when noncustodial parents pay child support to children in a family receiving cash welfare assistance, they face 100 percent effective tax rate.

The majority on this Committee I know prides itself on reducing tax rates. Earlier this year the Committee and the Congress passed a bill reducing the perceived tax rate on 65-to 69-year-olds who are earning money and collecting or wanting to collect Social Security.

In your question to Olivia, you mentioned the inequity of two mothers on welfare got differing amounts of income. Take a State that paid a $400 grant. One mother gets a $300 child support from a former partner, one mother gets zero. I don't think they would blame welfare for the fact that they would end up with differing amounts of income. I think the fact that these two different situations—one mother getting 300, the other not—end up with the same $400 grant is what is inequitable.

The other argument that has been levied is we shouldn't give any more money to mothers on welfare from child support. There are two answers to that. One is the welfare levels have been cut in half since the early seventies, but, most importantly, Madam Chairman, is that this does not change one iota the work participation requirements, the ability for the States to sanction mothers who don't participate in work.

In short, if we really believe that these dads should pay, we should not put 100 percent tax on that activity which every one of us supports.

I have listened carefully to your comments about the private access, and I guess what I would say, in summary, is I think the provisions in your bill have put the cart before the horse. I am concerned that maybe we have given some of these firms too much access to data already. I think what ought to be done, as your bill partially does, is have HHS study it, make some recommendations, and then require the States to regulate this industry first, perhaps leaving the details to the State, maybe setting up a minimum, but I think that has to happen first, and then decide whether some of these firms should be given access to more enforcement tools.

I worry that, if we don't do it in this manner, giving private entities access to additional information could bring on a privacy backlash that would undermine support for all of the data that we currently use to enforcement child support payments.

I am also worried about the competition that we set up between the private firms and the State-funded agencies. I am worried that we will not fully fund or State legislators will find an excuse to not fully fund their State agencies if there is a lot of competition from these private firms.

Turning for a moment to State financing—

Chairman JOHNSON of Connecticut. If I may, you must wrap up, please. We have so many people to hear.

Mr. PRIMUS. I am sorry. I will just be very quick.

I think there is an inadvertent mistake in your bill that would allow States to supplant more than they currently have.

Chairman JOHNSON of Connecticut. To do what?

Mr. PRIMUS. To supplant.

Chairman JOHNSON of Connecticut. OK.

Mr. PRIMUS. Finally, I understand your concern about holding the States harmless, but I don't think that provision should continue forever. This is a Federal/State partnership, and I think you should come to that. The fact that the Federal Government would pay the entire cost of these distribution changes should not be something that is grandfathered forever.

And my final concern is about how you close the financing gap remaining in this bill. I would argue you should move this bill forward and worry less about closing that financing gap completely.

Thank you.

Chairman JOHNSON of Connecticut. Thank you.

[The prepared statement follows:]

Statement of Wendell Primus, Director of Income Security, Center on Budget and Policy Priorities

Madame Chairman and Members of the Subcommittee on Human Resources:

Thank you for the opportunity to testify today on child support legislation, specifically H.R. 4469, "Child Support Distribution Act of 2000" and H.R. 3824, "Child Support for Children Act." My name is Wendell Primus and I am Director of Income Security at the Center on Budget and Policy Priorities. The Center is a nonpartisan, nonprofit policy organization that conducts research and analysis on a wide range of issues affecting low-and moderate-income families. We are primarily funded by foundations and receive no federal funding.

OVERVIEW

The Center supports the basic goals of both of these bills. We believe that the complex rules for distributing child support to families that are current or former recipients of TANF need to be simplified. We also believe that children in families that are current or former TANF recipients should benefit more from child support

paid on their behalf. H.R. 3824 and H.R. 4469 represent a major step toward accomplishing these goals. Most of our comments relate to H.R. 4469.

- The assignment period during which states may claim a share of child support would be limited to the period in which a custodial family is receiving TANF assistance.
- Under H.R. 4469, states would continue to have the option to distribute all current child support to families on TANF, although the proposal offers no further incentives to pass through and disregard child support in calculating the welfare benefit level of custodial families.
- For those families that have left welfare, the proposal emphasizes a true "family first" policy on arrearage payments, by eliminating the federal tax intercept exception for those custodial families who have left welfare.

H.R. 4469 is a positive step in moving the child support enforcement system away from its historical cost-recovery mission and toward a program that benefits all custodial families and children.

We also support the basic goals of the Fatherhood Program contained in H.R. 4469. Title V of this bill contains several provisions that would increase employment services to low-income custodial and noncustodial parents. In addition, funds are provided on a competitive basis to encourage child support, TANF, and workforce development organizations to work together with community-based organizations in the delivery of a variety of services to noncustodial parents to help them increase their employment rates, become more involved in the lives of their children, and meet their parental responsibilities.

We commend you for addressing the issues of fatherhood as well as for proposing substantial improvements in child support assignment and distribution, and for sending the message about the importance of non-custodial parents (primarily fathers) assuming financial, child-rearing and emotional responsibility for their children.

Much work remains to be done to improve the child support enforcement system for low-income families. Both bills make substantial progress in ensuring that once custodial families leave cash assistance, more collected child support will reach them instead of reimbursing federal and state governments. The policies reflected in this legislation would make the goals of the child support enforcement system more consistent with the welfare reform goal of promoting financial self-sufficiency. We encourage the Subcommittee take up provisions in H.R. 3824 to provide additional incentives to states to distribute all current support directly to families that are on public assistance and to disregard a substantial portion of those support payments in calculating a family's monthly cash assistance benefit.

We do, however, have serious reservations about two areas of H.R. 4469. We are strongly opposed to the provisions in Title III that extend access to enforcement tools and to additional personal information to private child support entities and public non-IV–D agencies. Private child support enforcement entities currently have access to some private information through the Federal Parent Locator Service, but there are not adequate protections guarding private entities' use of that information. Courts have ruled that the federal Fair Debt Collection Practices Act does not extend to private child support collection companies and there is growing anecdotal evidence that several of these private entities are taking unfair advantage of both custodial and noncustodial parents.

Some privacy advocates believe that personal information is too easily accessible to private child support entities. Granting these entities access to additional sensitive information could lead to invasion of privacy and misuse of information and the further fragmenting of the child support enforcement system. The Center strongly encourages the subcommittee to bring private child support entities under regulatory authority and to require HHS to issue a report on the amount of access private and public non-IV–D entities currently have before considering the extension of additional data and enforcement tools.

In addition, while we support the intent of the hold harmless provision in Title I of H.R. 4469, which will allow states to use their federal TANF grant or use MOE funds to help finance changes in the distribution rules, we are concerned that the way the provision is currently drafted allows states to supplant TANF dollars.

Finally, we have concerns about how H.R. 4469 will ultimately be financed. Currently, the bill is not fully financed and we have heard several possibilities for how this financing gap will be closed. Even though many aspects of this bill are positive, financing it by cutting other programs benefiting low-income people could jeopardize the support of ourselves and others for this legislation. For example, we would oppose cuts in the TANF supplemental grants or in the EITC for childless workers as potential offsets for this bill. In general, we find it problematic that at a time when the budget surplus is substantial, Congress is willing to pass large tax cut

bills that primarily benefit more affluent individuals without any offsets, while proposals such as this one that could significantly help low-income families become economically self-sufficient are subject to an offset requirement. This seems unbalanced and inequitable.

ASSIGNMENT AND DISTRIBUTION OF CHILD SUPPORT PROVISIONS IN H.R. 4469 AND H.R. 3824

The Center strongly supports the intentions of Title I of H.R. 4469, which would simplify the child support assignment and distribution rules for families receiving Temporary Assistance for Needy Families (TANF). As both the child support enforcement system and cash welfare programs have evolved over the last 25 years, the rules determining assignment of rights and distribution of support have become highly complex. This section focuses primarily on H.R. 4469, which would (1) substantially improve assignment provisions, primarily by further simplifying the "on/off" rule, and (2) substantially improve distribution rules by ensuring that once families leave cash assistance, they benefit first from all child support collected on their behalf.

Assignment

"Assignment" rules determine who has a legal claim on child support collections. When a custodial family applies for welfare, it must assign its legal claim to child support collections to the state. Under AFDC, families were required to assign to the state all rights to child support, including child support debt that accrued before a family started receiving welfare assistance. Under welfare reform, the child support assignment rules were amended, and assignment was determined by an "on/off rule," whereby support payments are assigned to the state or the family, depending on whether the family is on or off welfare. These assignment rules were phased in gradually, and should be fully in effect by October 1, 2000. However, several major and troubling exceptions to the on/off rule remain. The assignment provisions in H.R. 4469 are a good first step in addressing these concerns by simplifying the "on/off" rule and limiting assignment to periods of time when the family is actually receiving cash welfare assistance.

The first exception to the on/off rule under current law is that states keep arrears that were owed before the family received assistance if they are collected after the family starts receiving assistance.[1] This provision under current law works against those custodial parents who try to survive financially without child support payments, but do eventually turn to cash welfare assistance as a last resort. The current system punishes these families because they can lose all of the support owed to them if it is collected after they start receiving cash welfare assistance. By contrast, families that start receiving cash assistance immediately after the noncustodial parent fails to pay child support, and that leave cash assistance once child support payments are made again, have fewer arrearages assigned to the state.

The second exception under current law concerns arrears accrued during a period that a family was not receiving welfare, but that were assigned to the state before October 1, 1997 as a condition of the family's subsequent receipt of cash welfare assistance. These arrearages continue to be permanently assigned to the state.

H.R. 4469 would address these two problems by limiting the period of assignment to the state to that time when the family is receiving TANF assistance. In other words, the state could not claim rights to arrearages accrued before or after the family received welfare assistance. States would retain assignment rights to an amount of support equal to the lesser of 1) the number of months the family is on assistance times the monthly amount of current child support due to the custodial family; or 2) the total amount of cash welfare assistance provided to the family. Limiting the amount of support that states may claim means that once families leave cash assist-

[1] See OCSE Action Transmittal 97–17, Case Scenario 5. For example, a family fails to receive child support regularly; by October, 2000, $500 in child support arrears are owed to the family. The family starts receiving cash welfare assistance in November, 2000. The family must temporarily assign the rights to the $500 in arrears to the state and permanently assign any rights to child support owed while the family is receiving cash assistance. The custodial family typically regains rights to the temporarily assigned arrears after leaving welfare. However, if child support is not fully paid while the custodial family is receiving cash assistance and the noncustodial parent owes child support arrears to both the family and the state, arrearage collections can reduce the amount of the $500 in temporarily assigned arrearages, which means that once the custodial family leaves cash welfare assistance, the custodial parent regains a claim to only a portion of the total arrearages that accrued before the family started receiving cash assistance.

ance, children in custodial families would benefit from more of the child support that is collected on their behalf.

Distribution

The Child Support Distribution Act of 2000 also makes changes to the rules governing the distribution of child support for families that are former cash welfare recipients.

The proposal make significant improvements to distribution rules for families that have left welfare, allowing them to benefit more from child support that is collected on their behalf. The proposal requires states to distribute to the custodial family all arrears that accrued before and after a family went on welfare before repaying arrearages owed to the state for periods while the family was receiving welfare. Under current law, including arrearages collected from federal tax refund intercepts are applied first to the debt owed to custodial families and then to the debt owed to the state and federal governments. However, there was one major exception to that rule. Any collections from intercepting an noncustodial parent's federal tax refund are applied towards child support arrears owed to the state before they are applied to child support arrears owed to the children in the custodial family. About one-third of all arrears collections occur through the federal tax refund intercept, but two-thirds of arrears collections for families on welfare are collected through the federal tax refund intercept.[2] Ensuring that this money is distributed according to the family first rules would improve the well being of custodial families and simplify the distribution rules.

OTHER CHANGES IN TITLES I AND II OF H.R. 4469

Limit the Recovery of Medicaid Birthing Costs

We strongly support the provision that prevents states from recovering Medicaid birthing costs from noncustodial parents. Requiring noncustodial fathers to pay the Medicaid costs of birth discourages fathers from establishing paternity. It also can dissuade pregnant women from seeking important prenatal medical care.

Review and Adjustment of Child Support Orders

We are pleased that H.R. 4469 requires that TANF agency to contact the IV–D agency when a custodial family leaves welfare and provide information regarding the change in welfare status. We support the provision requiring the child support agency to conduct a review of child support obligations when a family is about to leave TANF. This review process is important to both custodial and noncustodial parents. A review of child support orders at this time helps to ensure that child support orders reflect NCPs' current income, and to prevent the build-up of large arrearages. A review of the support order at this time would be especially helpful to the custodial family if an upward modification is appropriate. In addition, requiring communication between the welfare and child support agencies may help avoid delays of three to six months in child support receipt that occur when families leave cash assistance. These delays occur when the child support office is unaware of the change in status, and continues to retain support checks for several months. This delay is especially problematic for families making the transition from welfare to work, a time when such families are financially vulnerable. This provision should help ensure that families leaving welfare start receiving child support sooner once they leave cash assistance.

State Financing Options

H.R. 4469 authorizes states to use TANF funds or MOE credit to finance changes in assignment and distribution. The Center believes that the state financing provision allows states to supplant TANF dollars to finance changes in the distribution rules.

We support the intent of the provision, which is to hold states harmless from additional costs associated with distributing the state's portion of child support collected to custodial families. Under this proposal, states may use their federal TANF grant or use TANF MOE funds for the state share of the amount of support distributed to former recipients. However, as a result of this proposal, the amount of additional child support distributed to the custodial family also counts as a state child support expenditure and could be used to draw additional federal child support funds. States would receive credit as a TANF expenditure for the amount of support distributed (the portion that formerly would have belonged to the state) and would

[2] OCSE Annual Report and OCSE press release, January 27, 2000.

count this pass-through as a child support expenditure, thereby drawing down federal matching dollars for child support at the 66 percent FMAP rate. In effect, states would be allowed to use federal dollars to draw down other federal dollars. Allowing the funds to be used in this manner will result in a significant amount of supplantation of TANF dollars—an undesirable result.

The Center also believes that states should not receive this credit indefinitely. After all, the bill is mandating that custodial families be given what they are owed when child support is collected from the noncustodial parent. In principle, states should not continue to be held harmless for years to come from changes made to distribution rules. These changes will cost the federal government, and since the child support enforcement program is a federal/state partnership, states should ultimately bear some of the cost. The additional TANF credit for full distribution should be applicable until 2004 to give the states an incentive to implement these changes in distribution rules as soon as possible.

FURTHER SUGGESTIONS FOR CHILD SUPPORT CHANGES

In this section, we suggest several additional changes regarding child support assignment and distribution that would solidify the role of the child support enforcement agency as an income support program for low-income children in families, rather than a system that serves to recover costs associated with cash welfare payments. A few of our suggestions are reflected in H.R. 3824.

• Mandate a full distribution or a 100 percent pass-through policy.

H.R. 4469 continues the practice under current law of allowing states the option to fully pass through child support to families currently receiving welfare. We believe that a mandatory full distribution policy, as reflected in H.R. 3824, would further simplify administration and would benefit both custodial families and noncustodial parents. A full distribution policy may also encourage more fathers to pay child support more regularly because the custodial parent would know when the NCP (noncustodial parent) paid child support and how much he paid. We urge the subcommittee to consider legislation that moves closer to full distribution by eliminating entirely the on/off rule and allowing all child support payments to be distributed to the family, regardless of its TANF status. TANF disregards would remain a state option.

To work properly, the current system requires constant, immediate, and substantial flows of information in both directions between the TANF, food stamp, and child support offices. To determine benefit levels accurately, the TANF and food stamp offices must know whether the custodial family has cooperated with the child support enforcement agency (in terms of establishing paternity and assigning child support rights to the state), as well as the amount of child support that has been collected. Substantial anecdotal information and reports from state non-profit organizations suggest that this system is not working well because there is a significant delay before the child support office becomes aware of changes to the custodial family's TANF status. The result is that families that leave TANF frequently do not receive the current child support collections to which they are entitled until 3 to 6 months later.

Under a full distribution policy, there would be no assignment rights to the state. Communication between child support and TANF would flow in one direction; the child support office would keep the TANF office informed of the amount of child support paid by the noncustodial parent. No information would have to flow from TANF back to the child support office. Alleviating the administrative hassles so common under current law also could potentially result in significant government savings: when asked to estimate the proportion of administrative resources that State IV–D agencies expend on distribution issues (excluding systems development costs), the answers of four former IV–D directors clustered around 6 to 8 percent, or in the range of $250 million per year.[3]

If states are unwilling to forego assignment and to distribute all child support to families regardless of TANF status at this time, the next best option is to limit the state and federal government's assignment rights to those periods of time when the custodial family is actually receiving assistance. As noted earlier, the Johnson bill makes significant progress here.

• "Family First" distribution should apply to all arrearage collections, regardless of the family's TANF status.

This would mean, for example, that for a family currently receiving welfare, any arrearage collections would be applied to arrearages owed to the family before the collections are applied towards arrearages owed to the state. Depending on the cus-

[3] Letter from Bob Williams to Ron Haskins, November 1, 1999.

todial family's welfare status, current law treats families in similar situations very differently. For example, assume two cases where the family is owed $5,000 in arrearages and the state is owed $2,000. A total of $1,500 in arrearages is collected through the federal tax refund intercept. If the family is currently on welfare, the money would go to the state, but if the family is a former welfare recipient, it would go to the family.

States could also be given the option of an even simpler system that would allow the state to eliminate all arrearages owed to it and to the federal government after a family leaves cash assistance. While a family is a current welfare recipient, states could require the family to assign its child support rights to the state, and could would still have the option of retaining any current support collected. However, if an arrearage accrues during the period of time that the family receives cash welfare assistance, once the family leaves cash assistance, this debt would be owed only to the custodial family rather than to the state. This step would dramatically simplify the accounting that states must do by eliminating the need to keep track of arrearages owed to the state after a family has left welfare.

• Encourage states to "disregard" more child support as income in determining TANF benefit.

Currently, states determine whether or not to "disregard" child support income in determining the size of a family's monthly cash assistance check. The 1996 federal welfare law repealed a requirement that states pass-through and disregard the first $50 per month in child support payments to custodial parents and their children, rather than retaining the full amount as reimbursement for cash assistance. To ensure that custodial families are made better off financially when noncustodial parents pay child support, states should be encouraged to disregard child support payments when calculating the TANF benefit.

In states where the $50 disregard was eliminated, many noncustodial fathers (and custodial mothers) are discouraged and frustrated by the fact that child support payments yield no benefits for their children. In these states, child support payments are counted dollar for dollar against TANF benefits, effectively resulting in a 100 percent tax rate on those child support payments. Under these circumstances, fathers have no economic incentive to pay child support to their children because no matter how much they pay, their children are not better off economically. Of the $2.6 billion dollars of child support collected on behalf of all children in custodial families receiving TANF in 1998, only $152 million, or less than 6 percent, was distributed to TANF families.[4]

States should be encouraged to disregard more child support that is passed through to the custodial family when calculating TANF benefits. States have a number of options in structuring this disregard. The disregard could equal all child support paid; or equal a fixed amount of child support each month, or equal a specific percentage of paid child support. For example, with a 50 percent disregard, every dollar of child support would reduce welfare payments by 50 cents (rather than by a dollar), thus ensuring that custodial families are better off when child support is paid.

We believe the best way to encourage, not mandate, states to disregard child support payments when calculating TANF benefits is to relieve states from their obligation to reimburse the federal government for its share of disregarded child support. We would suggest two modifications to current law. The text of H.R. 3824 reflects our first suggestion. First, we recommend that states no longer be required to reimburse the federal government for child support that is distributed to the custodial family. For example, under current law, if a state collects $400 in current support for a custodial family that is receiving welfare, and disregards $200, the state would still be required to send the federal share of the entire amount of child support collected (a percentage equal to its Medicaid match rate) to the federal government. In this case, we assume the match rate is 50 percent: the state would be required to send $200 (50 percent of the $400 collected), to the federal government. We suggest that in this situation, the state would only be required to send a portion of the child support that it retains to the federal government—in this example, this would equal $100, or 50 percent of the $200 that the state government retained after distributing and disregarding $200 to the custodial family.

Our second suggestion for creating incentives for states to disregard a substantial portion of child support collections would apply to states that disregard at least 80 percent of the aggregate amount of child support for current cash welfare recipients. States that could show that they disregarded at least 80 percent of the aggregate

[4] Office of Child Support Enforcement administrative data reported in Department of Health and Human Services, Temporary Assistance to Needy Families (TANF) Program: Second Annual Report to Congress, August, 1999.

amount of child support collected for current cash welfare recipients would not have to send any child support payments to the federal government.

In general, mandating a full pass-through and creating economic incentives for states to disregard a significant portion of paid child support disregard would solidify the role of child support in improving the living conditions of children, especially children in low-income families. It would rationalize the message of the child support office, and make it consistent with that of the welfare program in promoting and facilitating financial responsibility and self-sufficiency.

FATHERS COUNT

On a previous occasion, I testified in support of the Fathers Count bill, much of which has been incorporated into Title V of H.R. 4469. We support the basic goals of the "Fathers Count" provision in the bill and believe this legislation is a good first step in funding services for low-income noncustodial parents to help them build the capacity to support their children both financially and emotionally. We believe the federal government should take more steps to promote the development of effective strategies for providing services to low-income noncustodial parents. These services would include encouraging marriage where appropriate, strengthening fragile families, and increasing the likelihood that children will benefit from the financial support as well as the personal involvement of two parents. Efforts to promote financial support and personal involvement of noncustodial parents in the lives of these children are likely to be successful only if they reflect a comprehensive approach.

Given the lack of financing for broader efforts to promote fatherhood or assist non-custodial parents in meeting their parental responsibilities, this bill is helpful, although considerably more remains to be done. There is much we need to learn about how government policies should be structured and coordinated to make them most effective in assisting non-custodial parents to become self-sufficient and meet their parental responsibilities. That is why Subtitle A is the right place to begin. This title funds a series of fatherhood grants to launch and evaluate pilot programs to improve noncustodial parents' ability to pay child support, make child support policies for those parents more responsive and more appropriate for low-income families, improve the parenting skills of noncustodial parents, and increase contact and interaction between these fathers and their children.

We commend the changes to the fatherhood provisions in H.R. 4469 that address domestic violence. These changes provide an exception to helping fathers arrange and maintain a consistent visitation schedule with their children in situations where these visits would be unsafe. The changes also give a funding preference to entities that cooperate with community-based domestic violence programs. The prevalence of domestic violence is high in low-income communities, especially among women who are current or former recipients of cash welfare assistance. As policies are put in place to increase noncustodial fathers' involvement with their children, care must be taken to ensure the safety and well-being of children and their mothers.

Title V of this proposed legislation also should be improved by limiting the charitable choice language. Faith-based organizations should be involved in providing services to low-income noncustodial parents. However, we have serious concerns about discrimination in hiring that would be allowed under this charitable choice provision.

EXPANDING CHILD SUPPORT ENFORCEMENT TO PUBLIC NON-IV–D AGENCIES AND TO PRIVATE ENTITIES

The Center strongly opposes Title III of H.R. 4469, which would allow states to provide additional information and enforcement mechanisms to public non-IV–D agencies and to private child support agencies for the purpose of collecting child support. Private and Public non-IV–D child support entities currently have access to some private information by requesting "locate only" data through the Parent Locator Service. Private child support entities are unregulated and there is anecdotal evidence that many are engaged in irresponsible practices that are harmful to consumers—both custodial and noncustodial parents. Private collection agencies may already have too much unrestricted access to private information and ought to be subject to regulations on the use of the data they currently have. We urge the Subcommittee to study and to regulate the industry's current level of access before allowing them additional data and enforcement tools. Allowing private companies and non-IV–D public agencies access to new data sources, including the National Directory of New Hires, could jeopardize families' right to privacy and will raise concerns about the ability of IV–D agencies to monitor and regulate private contractors use of the data. Ultimately, supporting the growth of private child support agencies will

further fragment the child support enforcement system and potentially divert resources from state agencies.

Extending access to the additional information and enforcement tools to non-IV–D entities, public or private, raises serious concerns about privacy. The 1996 welfare reform law gave child support enforcement agencies access to additional personal information through the creation of the National Directory of New Hires. The legislation drew a carefully constructed line that defined what information IV–D agencies could collect and access and how that information could be used. With these new tools, the child support enforcement system has been successful in significantly increasing the amount of child support collected. If the data available through these enforcement tools are made more widely available, there is a very real danger of a "privacy backlash" that would undermine support for using the data to enforce child support payment. Advocates of privacy rights have legitimate concerns about the importance of protecting personal information. Although this proposal allows child support entities to require private entities to follow privacy guidelines set up by the state, we have concerns that state agencies will be limited in their ability to enforce these rules. If there is a perception that information in the New Hire Database is not protected, there will be many who advocate eliminating the Directory entirely.

Extending the information to outside entities also raises concerns about the continued efficacy of the National Directory of New Hires. Although legislation mandates that employers provide information about new hires to the Directory, employers comply with this system on an essentially voluntary basis. There is no strong enforcement mechanism if employers do not provide data to the New Hire Directory. If New Hire information is distributed to non-IV–D agencies, and employers become wary of how the information is used, the progress in child support collections that the Directory of New Hires has made possible in the past years in collecting data may be eroded.

Extending enforcement to private entities

There are actually two forms of privatization within the child support enforcement world. One form of privatization adopted by many state child support agencies involves an outside contractor bidding to act as "an agent of the state" to carry out parts of the child support enforcement mission. These contractors, such as Maximus and Lockheed-Martin, are performing many functions that were once performed by state child support enforcement agencies. States hold these "agents of the state" accountable to the same rules guarding privacy and access to information as state agencies themselves. Subtitle B of Title III of this bill is not concerned with this type of privatization.

Instead, the Title III option to extend to private child support enforcement entities the information and tools of the child support agencies applies to private companies working outside the child support enforcement system. This provision gives states the option to require state child support enforcement agencies to provide any data relevant to seeking or establishing child support obligations to private entities. Currently, some custodial parents are willing to pay private entities for the service of retrieving child support obligations from noncompliant noncustodial parents. Under current law, these private entities operate independently of the child support enforcement system, with no obligation to follow child support enforcement's regulations, and also without access to the state Directory of New Hires that contains sensitive information.

Custodial families that turn to private child support entities pay a premium for their services. Private child support entities retain between one-quarter to one-third of the support they collect. Under this proposal, private entities would be required to pay a fee to cover the child support agency's costs associated with obtaining information about noncustodial parents; however, these private entities would nevertheless benefit substantially from the work performed by public child support agencies in issuing wage withholding orders or intercepting federal tax refunds. This amounts to a diversion of federal and state resources to help generate profit for private businesses.

In addition, many of these private child support collections companies use problematic means to collect child support. Numerous instances of these companies using harassment and threats to collect support have been documented. Courts have ruled that the federal Fair Debt Collection Practices Act (FDCPA) does not extend to private child support companies, so clients and debtors do not have the same consumer protections that cover private collection agencies. Title III would grant these unregulated private entities access to sensitive information stored in state databases but would not require them to follow state agency rules and regulations.

Furthermore, extending information and tools to non-IV–D entities will undercut the efforts of state child support enforcement agencies and could fragment the child support enforcement mission. In the past several years, the child support enforcement system has made great progress in building a central state-based system that serves both welfare and non-welfare families, with central state disbursement units, and a National Directory of New Hires. A competition between a private child support agency that can pick and choose which delinquent fathers to pursue and a public child support agency that must enforce all court-ordered support is an unfair competition. If private child support companies out-perform state agencies by "creaming" those debtors whose delinquent payments are easiest to retrieve, the child support agency will be left with a considerably more difficult caseload. In an unfair competition, state agencies' performance may suffer.

Without a full understanding how reliant these private child support collection entities are on the work of public agencies, state legislatures may be encouraged to underfund the publicly-funded child support agency on the rationale that the services are available through the private sector. Because private entities do not receive state funding, state legislators may assume that it is more cost-efficient to allow private agencies to perform child support enforcement functions, and thus underfund public agencies. Underfunding public child support agencies could fragment child support enforcement so that middle and upper income custodial families relied more heavily on private collection agencies, where they paid fees as high as one-third of the amount collected, and lower-income custodial families relied on the public IV–D agency. A two-tiered system of child support would be inefficient and would stigmatize low-income mothers who rely on state-funded system.

ENFORCEMENT TOOLS

Title IV of H.R. 4469 expands the use of several child support enforcement tools. Several Administration proposals have been made to expand child support enforcement tools; this proposal has selected the best of these proposals:

- Lowering the amount of arrearages that must accumulate before a passport denial is triggered;
- Garnishing compensation paid to veterans for service-connected disabilities to enforce child support obligations; and
- Expanding the use of the tax refund intercept program to collect child support arrearages on behalf of children who are not minors.

Lowering the level of arrearages that must have accumulated before a passport can be denied from $5,000 of arrearages to $2,500 seems reasonable. We believe it would be helpful to fund a study that determines why noncustodial parents who apply for a passport are not being caught earlier in the system. One assumes that people who apply for passports and can afford overseas travel are not low-income fathers, but rather middle-and upper-class fathers with regular employment who should have been forced to pay regular child support at an earlier date through other enforcement mechanisms, such as automatic wage-withholding.

POSSIBLE FINANCING OF H.R. 4469

While H.R. 4469 contains commendable provisions on simplifying assignment and distribution of child support and expanding services to low-income fathers, the Center is very concerned about how this bill may be financed. The bill has several offsets, but they cover only a portion of the costs associated with the bill. A financing gap still exists. We have heard of several options for closing this gap, including cutting the Earned Income Tax Credit (EITC) for childless workers, and cuts to TANF supplemental grants. The Center strongly opposes any attempt to finance this proposal using an offset that cuts the Earned Income Tax Credit for childless workers or cuts the TANF supplemental grants.

The EITC for childless workers is a tax credit for poor workers between the ages of 25 and 64 who do not live with minor children. Only two percent of EITC benefits goes to poor working individuals and married couples not raising minor children. Abolishing this small EITC would result in a tax increase for some of the nation's poorest workers. Single workers are the only group in the United States who begin to owe federal income tax before their income reaches the poverty line. The federal income tax code consequently taxes them somewhat deeper into poverty. Abolishing the EITC for which they qualify would make their tax burdens larger and push them farther below the poverty line.

Moreover, the EITC for poor workers and couples who are not raising minor children never exceeds 7.65 percent of their wages, the amount withheld from their paychecks for the employee share of payroll taxes. Thus, if this small EITC is abolished, these workers will receive no offset to their payroll tax burdens. Even for those

workers too poor to owe any federal income tax, abolition of this credit would result in a tax increase; since none of their payroll taxes would be offset, their net tax burden would rise.

Eliminating the EITC for poor workers not raising minor children thus would result in an increase in the tax burdens of more than three million very poor workers. If such a step were taken, and some of the tax measures the House and Senate have passed this year also were enacted, the result would be that some of the nation's poorest workers would have their taxes raised at the same time that some of the nation's wealthiest individuals in the country received substantial tax cuts.

These poor workers already pay an unusually high percentage of their small incomes in federal taxes. A Congressional Budget Office analysis showed that between 1980 and 1993, the average federal tax burden of the poorest fifth of non-elderly households climbed 38 percent, dwarfing the increase in tax burdens borne during this period by any other group of households in any income category. CBO data also show that today, even with the EITC, the poorest fifth of non-elderly individuals who live alone is estimated to pay an average of 17.1 percent of income in federal taxes,[5] a percentage that far surpasses the percentage of income that poor elderly individuals and poor families with children pay. In fact, this percentage is nearly as large as the average tax burden that the middle fifth of families with children bear. A single worker with income equal to the poverty line, which is projected to be $8,884 in 2000, currently pays $1,500 in federal income and payroll taxes after the EITC is taken into account.[6]

Finally, financing this proposed legislation by eliminating the EITC for individuals who are not living with their children would contradict the message and intent of this bill. On one hand, this proposed legislation aims to help low-income NCPs by improving the child support system, and providing parenting and employment services. On the other hand, financing this bill by cutting the childless worker credit would harm the same population it intends to serve by eliminating a valuable work support.

The Center also strongly opposes using cuts in the TANF supplemental grants as an offset for this proposal. The Administration has proposed these cuts as a potential offset, but that does not mean these cuts are a wise idea. Madame Chairman, you have successfully fought back previous attempts to cut TANF. We commend you for those efforts and urge you to not change your position with regard to cuts in the TANF block grant. The supplemental TANF grants were enacted to provide additional resources to poor states whose TANF block grants were small relative to wealthier states with similar populations. The original formula for calculating TANF block grants was inadequate because the size of the TANF grant was based on historical AFDC spending, and the poor states were spending significantly fewer dollars per poor child under AFDC than were wealthier states.

The TANF expenditure rates of the 17 states that received a supplemental grant in 1999[7] are comparable to the expenditure rates of all states: the median state nationwide has 13 percent of its TANF money unspent (unobligated or unliquidated). Seven of the 17 states that received a supplemental grant have a lower percentage unspent. In addition, the 1999 spending level of five of the states that received a supplement (Alaska, New Mexico, North Carolina, Texas, and Utah) exceeds their basic TANF allocation (not including the supplement). These states would face fiscal trouble if their supplemental grants were cut.

Clearly no cuts should be made to the supplemental grants of those states that have been spending down their TANF funds. Nor should cuts be made to those states that have not yet spent all of the TANF monies available to them. Cutting the supplemental TANF block grants would put Congress at the top of a troubling slippery slope in which the grants to other states ultimately could be reduced as well.

In considering offsets for H.R. 4469, it should be remembered that offsets were not required for the tax measures being passed by Congress this session, some of which would reduce the taxes of the nation's wealthiest individuals. It is troubling that Congress would find that such measures need no offset, while a much less cost-

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[5] CBO Memorandum, "Estimates of Federal Tax Liabilities for Individuals and Families by income Category and Family Type for 1995 and 1999," May 1998, pp. 28–9. In accordance with standard economic analysis, the figures in the CBO analysis, as well as in the CBO data in Table 2, include both the employer and the employee share of the payroll tax.

[6] This includes both the employee and the employer share of the payroll tax. Most economists believe that both the employee and the employer shares of the payroll tax are borne by workers in the form of lower wages.

[7] The 17 states that received a supplemental TANF grant include: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Louisiana, Mississippi, Montana, Nevada, New Mexico, North Carolina, Tennessee, Texas, and Utah.

ly measure to support low-income fathers in meeting their duties to their families does require an offset.

CONCLUSION

In sum, we:

- Support changes in the assignment and distribution rules and encourage the Subcommittee to simplify the current rules even more by mandating a full pass-through of child support to families on welfare, and encouraging states to disregard child support payments in calculating custodial families' TANF benefits;
- Support the goals of Fathers Count, which will encourage low-income noncustodial parents to provide financial and emotional support to their children, and we commend the improvements the Subcommittee made in adding domestic violence language;
- Support the expansion of child support enforcement tools and encourage the funding of a study examining why some noncustodial parents are not caught until they apply for a passport;
- Oppose allowing states to finance changes in the distribution rules by supplanting TANF dollars;
- Oppose extending enforcement tools to the public IV–D agencies and private entities, which could jeopardize privacy data, encourage states to under-fund state child support agencies, and fragment the child support enforcement system; and
- Oppose using the EITC for childless workers or the TANF supplemental grants as offsets for this proposal.

Because the H.R. 4469 advances the goals of better child support enforcement and better opportunities for low-income fathers, it would be a shame if the provisions of Title III or the offsets that are chosen prevent the enactment of the rest of the bill.

Chairman JOHNSON of Connecticut. Ms. McLoud of the National Child Support Enforcement Association.

STATEMENT OF DIANNA DURHAM-MCLOUD, PRESIDENT, NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION

Ms. DURHAM-MCLOUD. Good morning, Madam Chairman. Thank you. I am Dianna Durham-McLoud, and I am testifying this morning on behalf of the National Child Support Enforcement Association. I am the former director of the Illinois IV–D program and NCS current President.

NCS is an association representing over 55,000 child support professionals from public agencies and private firms nationwide. Our mission is to ensure that, through education, training, and advocacy, that children receive the financial and emotional support they need from both of their parents.

I thank you, Representative Johnson, for inviting me to share our views on the Child Support Distribution Act of 2000, and I want to commend you and your Committee for addressing the complexity of the distribution rules.

NCS, too, has heard the frustrated voices of America's parents as they move to try to understand these convoluted, hard-to-explain, difficult-to-administrate provisions that have even confounded some of our most sophisticated computer programmers. This distribution simplification should bolster public confidence in the program. When you cannot explain to an intelligent constituent who is trying and motivated to understand what is going on in the distribution because of the pots or the killer bees or whatever the distribution scheme was that was in place at the time, they really think you are simply out to get them.

This act moves us significantly in the right direction in order to assist people continue to take on more personal responsibility.

Our recent experience with PRWORA shows that, when we give appropriate support, people will take on the additional responsibility that we are asking them to do. So we are also saying that we should expand IV–D child support priority so that we are enabling, as well as enforcing, for parents, and not doing a one-size-fits-all approach. We want to have the strict enforcement for the deadbeats, but, of course, we want to have the enablement for the dead broke.

We think that this greater emphasis is in line with the PRWORA spirit, if you will, but in the interest of time written testimony has been submitted. Let me just hit a couple of high points.

One, we believe that there is a need for a new financing scheme for child support. My learned colleague to my immediate right said that we need not worry greatly about that, and my immediate thought was, "Spoken like someone who has never sat in the chair, someone who has never had to try to explain to a State Appropriations Committee why the heck it is this program that was originally presented as one that would make money for the State, now here you are talking about you want a $40 million supplement in order to do this. What is up?"

And you say, "Well, they've changed the rules in Washington." "Well, no one told us they were getting ready to change the rules." "Well, you know, sir, here's the law and this is the mandate."

I remember, with cold sweat running down my face, standing on the floor of the Illinois House when we said, if we told them what to do with their mandate, we wouldn't have the problems we had in Medicaid now, so maybe we should start in child support, since we didn't have the nerve to start with the medical program.

Well, you know, when you are the person trying to get through the legislation, that is a little bit different. All right?

We would like for this Committee to seize the opportunity, modeled on the U.S. Commission on Interstate, to, in fact, have some U.S. Commission on Financing for the child support program. Let us stop the patchwork quilt approach. Let us put it together so that it really works.

You will see more details in the written testimony. We are opposed to a mandate of a 3-year adjustment. We understand the rationale; however, that did exist prior to PRWORA. We suggest that that is not necessarily helpful.

In the interest of time, I will end my remarks by simply saying that we did not comment to every issue raised in your legislation. In your opening, Madam Chair, you said that you had found an issue that brought together the mothers, the fathers, the Feds, the State, public sector, private sector, and everyone else on one issue. Ma'am, they all belong to NCS, and so we represent that broad sense here today.

Thank you for the opportunity. I will be more than happy to respond to any questions.

Chairman JOHNSON of Connecticut. Be prepared in the questions, then, if you represent all those groups, to comment on the privatization issue.

[The prepared statement follows:]

Statement of Dianna Durham-McLoud, President National Child Support Enforcement Association

Madame Chair and Distinguished Members of the Subcommittee:

Good Morning. My name is Dianna Durham-McLoud, and I'm testifying on behalf of the National Child Support Enforcement Association (NCSEA). I'm a former director of the Illinois IV–D agency, and the current President of NCSEA—an association representing over 55,000 child support professionals, from public agencies and private firms nationwide. Our mission is to ensure, through education, training and advocacy, that children receive *financial* and *emotional* support from *both* parents.

I thank you Representative Johnson for inviting me to share our views on the *Child Support Distribution Act of 2000*. I want to commend your efforts to simplify the complexity of the distribution rules we have today. NCSEA has heard the same frustrated voices as you have, upset that distribution is. . . too convoluted to understanda. . . too convoluted to explaina. . . too convoluted to administera. . . and even too convoluted for some of our most sophisticated computer programmers!

The distribution simplification reforms in this legislation should bolster public confidence in the child support program as a reasonable and just public policy in harmony with the civic values of our society. It should also ease the often-strained predicament child support professionals face trying to explain to parents such peculiar quirks as requiring the state retain an IRS intercept, while if the same arrears had been collected by any other means, it would go to the family.

ALIGNMENT WITH PRWORA VALUES

This bill represents a significant step forward in synchronizing child support policy with PRWORA's new paradigm. PRWORA told people on welfare they must take greater *personal responsibility* to work towards self-reliance. But PRWORA also helped them with a plethora of new supports. Our IV–D priorities must also expand more towards *enabling* as well as *enforcing* parents' responsibility to support their children. Yes, that means strict enforcement against *dead-beats*. . . but it also means helping dead-broke dads who genuinely want to meet their obligations to cultivate their ability to do so.

Greater emphasis on personal responsibility also means we must reduce our historic emphasis on welfare cost-recovery. Increasing families' reliance on *parentally-paid* child support in place of *publicly-paid* welfare support obviously promotes personal responsibility. But how can we distribute more parentally-paid support to needy families when many states must retain those collections to fund the very operations that collect the support in the first place? This cost-recovery rationale is still deeply embedded in the financing system for many states. Thus, we find ourselves fiscally restrained from promoting the new philosophy of personal responsibility we all want! So, what can be done?

Your bill, Madam Chair, is a helpful interim solution that moves closer to NCSEA's general thinking about this issue over the years:

• "*Allow States, at their option, to distribute all child support collections, current and arrears, directly to families*." (NCSEA Board Resolution adopted 1/17/95)

It's true that your bill does permit states the option to pass-through to families on TANF any part of the state share of what would be assigned (i.e., current child support and the arrears that accrued while on TANF). This changes the current rules that require retaining all arrears accrued while on TANF. But practically, as long as the federal share must be paid, it's not realistic to expect that states will be able to afford to do a 100% pass-through (*i.e., distribute all child support collections, current and arrears, directly to families*), because then states would have to pay the federal share out of the state treasury. Further, that amount would not even qualify for reimbursement using TANF Maintenance of Effort (MOE) credit or TANF block grants funds, as your bill permits for the state share that is distributed.

On the other hand, by no longer assigning pre-assistance arrears to the state, this bill sends a strong message to TANF families that the support they should have received before going on welfare (which might have even prevented that necessity), will henceforth remain rightfully theirs. So, while the government has been encouraging these families to be more reliant on their own resources, it is also now willing to prioritize that self-sufficiency ahead of the historic emphasis on welfare cost recovery. This message is similarly echoed by removing the mandate to pay the federal share from collections of pre-assistance arrears for families who've left TANF when those arrears are collected via the federal income tax refund intercept (but waiving them if collected by any other method). We all know that policy was born to allay fears that retained collections would dry up in the wake of the PRWORA revolution.

This new emphasis on promoting self-reliance is further reflected by your proposal to pay pre-assistance arrears to "families first" once they leave TANF. This is obviously when their struggle to develop self-reliance can be most daunting.

Finally, your bill's new option allowing states to distribute arrears that accrued while on TANF to families who have left TANF, represents a further step in emphasizing self-reliance. When post-TANF families start receiving support that's always been non-optionally retained as "the state's arrears," they will get the clear message that their government believes in personal responsibility strongly enough to sacrifice this money in order to facilitate families' transition to self-reliance. However, you should also recognize that by not also relinquishing the federal share, states will be less likely use this approach.

To help finance these reforms that will deprive states of what they formerly retained, your bill permits states to access TANF block grant funds, or claim TANF Maintenance of Effort (MOE) credit. We recognize your bill only permits this on amounts distributed beyond the baseline of what states are (or will be) doing, in order to prod expanded efforts. But instituting such a baseline means states will no longer get MOE credit on the existing extent they've opted (or will have opted prior to enactment) to distribute to families. Indeed the 2005 enactment date will likely cause states to forestall any expansion until after 2005 to avoid boosting their baseline.

While NSCEA has not yet formally adopted positions on whether or how to allow states to use TANF block grants or TANF MOE credit, we commend you for recognizing the necessity of reforming the present child support financing system. NCSEA completely shares this recognition that we desperately need to forge a new blueprint for financing the child support program in the 21st Century. During this present transitional period however, we want to emphasize that "*NCSEA opposes any reduction in federal, state and local funding to the child support program, and urges continued partnership to provide adequate program funding*." (1/30/99 NCSEA Board Resolution). We remain concerned about becoming too reliant on TANF sources of funding, especially in light of the possible repercussions on the IV–D program that could result from changes made in TANF funding during PRWORA's upcoming reauthorization.

A New Financing Blueprint is Needed

The new blueprint for financing the child support program must reflect our Post-PRWORA world. That's why I'd like to renew our long-standing call, most recently reiterated in a January 1999 NCSEA Board Resolution, that

"The federal government should create a formal workgroup that involves all appropriate players. . . [to] identify the appropriate method for ensuring an increased level of investment in the program by federal, state, and local governments in a way that. . . adheres to a set of principles that properly relate funding approaches to program needs, goals and performance. . ."

NCSEA believes such a group could devise proposals as profoundly successful as the 1992 recommendations of the Congressionally empanelled U.S. Commission on Interstate Child Support—most of whose suggestions were eventually enshrined in PRWORA. *NCSEA recommends that Congress establish a similar high-profile group*, perhaps called the **U.S. Commission on Child Support Financing**, which could explore ways to reinvent a new balance between the evolving goals of the child support program and its financing mechanism. This Commission should also fashion a new federalism formula for equitably and affordably sharing this responsibility between the federal, state and local levels of government.

Madam Chair, Congress has asked IV–D agencies to take-on more and more duties, and we have agreed because they help us better achieve our mission. But you must also ensure we have the financial ability to fulfill these added duties. Declining TANF rolls and growing non-TANF cases invariably mean that our IV–D financing dilemma will only worsen. Let's start working on a solution now!

Cost-Benefit Research

In the meantime, the present financing dilemma for many states will only be aggravated by the welcome but costly distribution reforms in this bill. Those states that heavily rely on retained collections to fund their IV–D operations will now have to persuade their legislatures to substitute new financing means. For many states, that means lobbying for IV–D appropriations for the first time ever. These states will be challenged to change the mind-set of their Governors and legislatures from viewing child support as cost-recovery income, as the program was originally framed, to instead see it as a valuable investment that makes both economic and social sense.

To help persuade state leaders to make this transition to a post-recoupment era, we need research documenting the cost-benefit value of public investments in child support. That's why *NCSEA is recommending that Congress seize the opportunity with this bill to establish a juried research panel to orchestrate quality studies on the fiscal and social impact of child support*.

OCSE recently released a research literature review (The Lewin Group, April, 2000) that surveyed existing findings in this area. But that comprehensive report concludes, "*The existing cost avoidance literature as a whole is of limited use to policymakers*" due to such snags as outdated studies conducted before PRWORA, small samples, and neglect of the impact on SSI, WIC, public housing, school lunch, CHIP and other public assistance programs whose costs are also avoided when child support is collected. As our Board concluded in the aforementioned resolution:

"*NCSEA believes that a cost avoidance analysis will show that the payoff from investing financially in the child support program is greatly underestimated*."

Definitive cost-benefit research would surely build stronger public and political backing for increased investment in the child support mission. I personally think the findings will show there is no better investment we could make in today's robust economy than to strengthen our child support program so that all children can enjoy the full financial and emotionally support from their parents that they're entitled to.

FATHERS COUNT. . . FOR MONEY. . . AND MUCH MORE

Speaking of children's rights, I want to applaud you, Mrs. Johnson and Mr. Cardin, for your commitment to fostering the ties between fathers and their children. NCSEA continues to support your "*Fathers Count Act*" whose provisions are included in this legislation. Like you, NCSEA believes that every child has a right to both parents. As you likely already know, I'm deeply involved in the responsible fatherhood movement that happily is gaining ground today. I can tell you from personal and professional experience, that when kids see that Dad cares enough to support them, and Dad sees that his support matters immeasurably, then voluntary compliance replaces more costly and confrontational enforcement methods. Unfortunately, and unintentionally, our child support program has too often ended up as a wedge between dead-broke dads and their children. These fathers, who honor their responsibility to support their children, deserve the kind of enabling supports promised in the Fatherhood Programs contained in Title V of this bill.

NCSEA supports responsible fatherhood initiatives because our members are increasingly working with community based organizations running these programs, and we're seeing results. More than any other agency in state government, the child support program is in a position to reach out to fathers separated from their children. We believe everybody wins—fathers, children, mother, and society in general—by helping fathers fulfill their responsibility.

Perhaps just as important as the simplification rationale is the fact that the expanded distribution to families contained in this bill will help remove the disincentive fathers face when they know their payments will end up retained by the state rather than helping their children. Eliminating the assignment of pre-assistance arrears, and paying them to the family first once off TANF, will help reduce this disincentive appreciably.

In order to determine more scientifically the impact of these Fatherhood programs and incentives, NCSEA recommends a strong research and evaluation component, to assess how participation in fatherhood program affects such desired outcomes as encouraging regular child support payments, facilitating fathers' involvement with their children, and boosting the employment, substance abuse rehabilitation, and credit rating of these participants.

DON'T MANDATE 3-YEAR REVIEW AND ADJUST

I'd like to turn now to one provision in this bill that NCSEA opposes—the reinstatement of mandatory review and adjustment of all TANF child support orders every three years. There were very good reasons why this was made voluntary back in 1996—a widespread consensus that it just was not efficient. Think about it, if doing this is so lucrative, then why do states need to be mandated to do what would be in their best financial interest?

That's why NCSEA passed a resolution in 1995 declaring that:

"*All notice provisions related to the review and adjustment of child support orders, with the exception of a one-time notice of a right to review and adjustment, should be eliminated from Federal law and regulations. Any further noticing should be determined by the state in accordance with their individual due process or other noticing requirements.*"

This is still our position. *NCSEA strongly recommends that the scheduling of any review and adjustment remain at the request of the parents involved, or the discretion of the IV–D agency*. These parties have a built-in incentive to ensure orders are appropriately modified when circumstances change.

I understand that this change is being driven by the need to find money to pay for the costs of expanding distribution to families. But the budgetary assumptions behind this policy are based on dated research conducted prior to PRWORA, in a much different environment that we have today. Also, a recent review (Lewin, ibid.) of these early 1990s studies pointed out another flaw: "*support orders with greater potential for an upward adjustment were selected for review and modification during these demonstrations*." Let IV–D agencies similarly select which cases have the potential to cover the increased costs and staffing necessary to do these reviews.

The above reasoning is just as germane regarding the bill's mandating of a review and adjustment for every family who leaves TANF. Again, sometimes this will be prudent, but not always. Let's not foist any more unfunded mandates on states. Let's just let the IV–D agencies decide.

This concludes my statement. Once again thank you Madame Chair and distinguished Members of this Subcommittee for allowing me the privilege to testify today.

Chairman JOHNSON of Connecticut. Ms. Smith?

STATEMENT OF MARILYN RAY SMITH, CHIEF LEGAL COUNSEL, CHILD SUPPORT ENFORCEMENT DIVISION, MASSACHUSETTS DEPARTMENT OF REVENUE, AND EXECUTIVE DIRECTOR, MASSACHUSETTS COMMISSION ON RESPONSIBLE FATHERHOOD AND FAMILY SUPPORT

Ms. SMITH. Good afternoon, Madam Chairman, Mr. Cardin, Members of the Committee. Thank you for the opportunity to testify on the Child Support Distribution Act of 2000.

My name is Marilyn Ray Smith. I am chief legal counsel for the child support enforcement division at the Massachusetts Department of Revenue.

The bill you are considering today has several provisions of interest. I would like to comment on two provisions. The first is simplifying the rules for distributing child support collections, which I strongly support, and the second is providing access to child support information to certain non-IV–D public and private entities, which I strongly oppose.

I would like to first commend you, Madam Chairman, for your leadership and the leadership of the Members of this Subcommittee for your work on the distribution rules. The current distribution rules are a failure, by almost any measure. They are difficult for States to follow, for staff to explain, for parents to understand, and for computers to implement. Computers have to keep track of six buckets as payments move, depending on the source of the payment and when the person was on public assistance. Their rules are a hold-over from the days when child support was seen as a cost recovery program rather than a path to self-sufficiency.

The bill before you completes the changes started by welfare reform and will initiate a full "Families First" policy, including giving families priority in the Federal tax refund intercept. Families will assign child support rights only for the period they are on the welfare, while arrears that accrue before and after the family is on welfare will belong to the family. If the family is on welfare, the State arrears get paid first. If the family is not on welfare, the fam-

ily arrears get paid first. It is very simple. Instead of six buckets on the computer, there are only two.

But, more importantly, it will give families an incentive to go off and stay off welfare, because if they are not on welfare, they get paid first. And in the long run, I believe the child support program will collect more money because it will no longer be wasting valuable time on consuming expensive computer resources as we try to operate under the existing incomprehensible rules.

Therefore, I applaud you and the Subcommittee for proposing simple, clear rules that will help more families obtain self-sufficiency, and I enthusiastically support this proposal.

Next I would like to address the proposal to give States the option to release confidential employment and financial information from the State new hire directory and the Federal Parent Locator Service to certain non-IV–D public and private entities that meet the State's criteria for participation.

Over the years, I have had the privilege on several occasions to appear before this Committee seeking your support for many positive enhancements to the Nation's child support program, which this Committee has always graciously received and often adopted. Therefore, I must regretfully proffer that this proposal, in my view, is not in the best interest of the child support program or the children that it serves.

Last October I provided extensive testimony on a similar proposal, expressing concerns that the ultimate goal of private collection agencies is to be able to deduct fees ranging from 30 to 40 percent from child support collections made by the IV–D agency. I have similar concerns about this proposal, ranging from disclosure of confidential information to entities that realistically will be difficult to regulate, to the impact that this proposal will have on employers, banks, and the State child support enforcement agencies.

I have a number of practical questions about implementation. How will the IV–D agency be able to monitor these agencies to ensure that they comply with data security, privacy protection, and due process requirements? In Massachusetts, the child support program is housed in the Department of Revenue, which is a repository not just for tax and child support information, but also new hire, wage reporting, and bank account information. We have more data in our State agency probably than any other agency in the country, and protecting this confidential data is a top priority for our commissioner. We receive regular training and we are audited periodically, both manually, as well as through a computer program that keeps track of who gets access to what information for what purpose.

How can confidentiality safeguards realistically be put in place for the range of diverse entities contemplated in this proposal? Private child support collection agencies are not regulated by other Federal or State law, so the brunt of the monitoring and auditing duties will fall on the IV–D child support agency. Custodial and noncustodial parents alike may be mistreated through harassing collection practices or unfair contracts.

We had one recent case in Massachusetts, where the collection agency threatened the noncustodial parent that it would send a public notice with personal information to his relatives, friends,

and neighbors if he did not pay up. Confused, since his case was already being enforced by the Massachusetts child support program, he sent a cashier's check for $9,930 made payable to the Commonwealth of Massachusetts to the collection agency in California. The agency promptly cashed the check by endorsing it, "Child Support Services," closed the bank account, disconnected phones and disappeared. The mother did not get one cent.

This is not an isolated incident. Other abuses we have encountered include altering court orders to change the payee from the Massachusetts child support agency to their company, and then sending the altered order to the employer with a demand for payment; using Federal forms to gain unauthorized access to interstate locate information; threatening employers, custodial parents, and the Massachusetts child support agency with a variety of lawsuits based on specious claims; and misleading unsophisticated custodial parents into thinking they are dealing with the State child support program by calling themselves "CSE of Massachusetts," "Office of Child Support Enforcement Services," or "Child Support Collections of Massachusetts."

Our experience to date has not been positive. We are not coming at this from a monopolistic attitude, but rather from a worry of how can we monitor every letter, every form, every contract to prevent these abuses.

What if one State permits easy access with few controls to its information and accepts requests from these entities and sends them to another State? Will other—

Chairman JOHNSON of Connecticut. I am sorry. I do have to note that the red light is on, if you want to just wind up.

Ms. SMITH. Just one more point.

Chairman JOHNSON of Connecticut. OK.

Ms. SMITH. It is a very important point. What if one State provides access and then it becomes a gateway to the Federal parent locator service for all States? The State which doesn't want to go this way is not able to protect the privacy of its citizens because the private collection agency can make all the requests to one state through the parent locator system. They really only have to have contracts with one State to open up the system for the entire country.

I think that broad access to confidential data will run the risk of jeopardizing the entire program.

Chairman JOHNSON of Connecticut. Thank you. We will discuss these issues at more length.

Ms. SMITH. Thank you.

[The prepared statement follows:]

Statement of Marilyn Ray Smith, Chief Legal Counsel, Child Support Enforcement Division, Massachusetts Department of Revenue, and Executive Director, Massachusetts Commission on Responsible Fatherhood and Family Support

Madam Chairman, distinguished Members of the Human Resources Subcommittee: good morning, and thank you for the opportunity to testify on the Child Support Distribution Act of 2000.

My name is Marilyn Ray Smith. I am Chief Legal Counsel for the Child Support Enforcement Division of the Massachusetts Department of Revenue. I also serve as Executive Director of the Massachusetts Commission on Responsible Fatherhood and Family Support, which is chaired by Governor Paul Cellucci. The Commission is composed of a broad range of representatives from state agencies and community-

based organizations devoted to improving the lives of Massachusetts children by promoting responsible fatherhood initiatives. Before joining the Department of Revenue in 1987, I practiced family law in Boston, representing both custodial and noncustodial parents in divorce, paternity, child support and custody and visitation matters.

The bill that you are currently considering has several proposals of interest. The two that I would like to address in my testimony today are quite disparate: one would simplify the rules for distributing child support collections by giving more money to former welfare moms, while the other would give states the option of turning over confidential data about income and assets of noncustodial parents to a broad range of public and private entities that met certain requirements. I enthusiastically support the former, but I most respectfully question the wisdom of the latter and suggest that it will distract us in our mission to help children receive the child support to which they are entitled.

SIMPLIFY THE DISTRIBUTION RULES: MORE MONEY FOR FORMER WELFARE MOMS

Madam Chairman, I would like to commend the leadership of this Subcommittee for your work on the distribution provisions of this bill. The current rules for distributing child support collections are far too complex and undermine the effectiveness of our nation's child support enforcement program. This bill will simplify the rules for distributing collections, while providing more money for former welfare families. It also provides the flexibility that is needed to help states finance these changes.

The rules for distributing child support collections have been complex from the program's beginning in 1975. I thank you, Madam Chairman, for your valiant efforts during the 1995 welfare reform debate to streamline the rules and to put families first in distributing collections. Despite those efforts, some states—which were dependent on welfare reimbursement collections to fund the child support and welfare programs—successfully pushed for a compromise. The resulting system, enacted in 1996, was more confusing and unintelligible than ever. Child support distribution rules make the Railroad Retirement Act and the Medicaid regulations look like child's play. No business in America could survive under the kinds of complex rules that Congress imposes on the nation's child support program.

Simpler rules would permit states to fully concentrate on the larger mission of the child support program, such as supporting former welfare mothers in making the transition off public assistance and encouraging fathers to pay past-due support as they see more of their money going to the family instead of to the state. The proposal before you today includes the kind of straightforward distribution rules that our nation's child support program and the families we serve desperately need. This proposal is remarkably similar to what the House passed in 1995 as part of H.R. 4. By enacting these provisions now, Congress can complete the unfinished business of welfare reform.

The current distribution rules are a failure by almost any measure. They are difficult for states to follow, for staff to explain, for parents to understand, for computers to implement. They create accounting nightmares for customers, litigation from advocacy groups, headaches for computer programmers, audit deficiencies for states. Instead of supporting the goals of welfare reform, the current rules are particularly harsh for families who leave public assistance or who delay seeking benefits during hard times.

Two aspects of the current system—the assignment of "pre-assistance" arrears and the treatment of federal tax intercept collections—lead to the need for complicated distribution rules. States are required to create six different categories, or "buckets," of child support arrears. The names alone are mind-numbing: permanently assigned, temporarily assigned, conditionally assigned, never assigned, unassigned during assistance, and unassigned pre-assistance. Child support payments migrate among these buckets, depending on whether the family is receiving public assistance, when the arrears accrued and the source of the collection. The result is a maze of buckets, rules and exceptions, through which it becomes almost impossible to track accurately who gets which money when.

These complex rules are holdovers from the days when child support was seen solely as a cost recovery program for states to recoup welfare costs. Today, with welfare reform and time-limited benefits, we have moved to a new paradigm. Child support has become an integral part of a strategy to promote self-sufficiency because it gives families additional income to reduce their need for welfare or avoid public assistance altogether.

In this new context, the current requirement that families must assign to the state all child support arrearages that accrued *before* they received public assistance is outdated and counterproductive. Families who suffer a hardship and return to

welfare for just a few months can end up losing thousands of dollars in arrears that were due for the period that they struggled to make it on their own. By doing without both child support and welfare, these families lose the debt owed to them so that the state can recoup more welfare money. In contrast, families who turn to welfare right away assign fewer pre-assistance arrears to the state and get a welfare grant in return.

Under current law, the assignment rules will change to become more family friendly on October 1, 2000. The similarly unfair treatment of federal tax refund intercept collections, however, will remain unchanged. Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), collections from this highly lucrative enforcement measure must always be applied first to arrears owed to the state, even when arrearages are also owed to the former welfare family. By paying these tax refund collections to government first, we deprive former welfare families of the child support they need to remain off public assistance. There is no policy rationale to explain to a parent why the family gets payments from a bank levy, insurance settlement lien or even a state tax refund, while the state keeps the money from a federal tax refund.

In marked contrast to the intricacies of the current rules, the distribution rules proposed by this bill are simple and equitable. Under the legislation before you, families will assign their rights to support only for the period that they receive assistance. Child support collections will follow the status of the case: the family is paid first when the family is off welfare; the state is paid first when the family receives assistance. Former welfare families will receive all of their arrears, no matter how collected, before the state is reimbursed for welfare costs. The pre-welfare assignment and the state's priority for federal tax intercept collections are gone. The six buckets of arrears become two: assigned and unassigned. These are rules that are easy to explain, easy to follow and easy to program. More importantly, this policy sends the message to low-income families that their government is willing to put families' financial needs first, giving them an incentive to attain self-sufficiency and the money they need to remain that way.

Implementing these distribution changes will lead to lower retained collections, which is a particular concern for states that fund their child support programs through public assistance collections. The financing options included in this bill will give states the flexibility they need to make a transition to the new distribution scheme. In the long run, the child support program may well save money because we will no longer be wasting valuable staff time and consuming expensive computer resources as we try to operate under incomprehensible rules.

Again, I applaud this Subcommittee's leadership in slicing through the Gordian knot of the current distribution rules and proposing clear rules that will help more families remain independent of public assistance.

State Option to Expand Information and Remedies to Public and Private Entities

The Subcommittee is currently considering a proposal that would give states the option to release confidential employment and financial information to certain public and private entities that operate outside the child support enforcement program mandated by Title IV, Part D, of the Social Security Act (the IV–D program). The public non-IV–D child support agencies would include any state or local agency (other than the IV–D child support agency) which is principally responsible for the operation of a child support registry or for establishing or enforcing obligations to pay child support. The private child support enforcement agencies would include any individual, person, or other non-public entity which seeks to establish or enforce an obligation to pay child support. Both types of entities would have to agree to follow certain requirements established by the state, including adhering to the same state and federal requirements relating to data security, privacy protections, and due process as are applicable to the state IV–D agency, as well as other procedures set by the IV–D director.

If the state elected one or both of these options, the IV–D child support program would provide the public and/or private entity with all information in the State Directory of New Hires relating to an individual against whom the entity sought to establish or enforce a child support obligation, such as name, address, Social Security number of the individual, and the name, address, and employer identification number of the individual's employer, as well as any other information the State Directory of New Hires collects, such as date of birth, or health insurance information. In addition, all information in the Federal Parent Locator Service (FPLS) would be made available, including date of birth, telephone number, income, group health in-

surance coverage and other employment benefits, and types, status, location and amounts of assets and liabilities of the noncustodial parent.

The enforcement remedies available for cases being enforced by public or private non-IV–D entities would include, at state option, the federal tax refund intercept and passport denial programs, reporting to credit agencies, and inclusion in financial institution data match for issuance by the entity of a levy on any identified account. Under current law these remedies are available only to cases which are receiving child support services from the state IV–D child support program.

Over the years I have had the privilege on several occasions to appear before this distinguished Subcommittee seeking your support for many positive enhancements to the nation's child support program, which this Subcommittee has graciously received and often adopted. Therefore it is with some reluctance that I must respectfully proffer that this proposal is not in the best interests of the nation's child support program or the children it serves.

On October 5, 1999, I provided extensive testimony on a similar proposal, expressing in detail my concerns about the ultimate goal of the private collection agencies to deduct fees ranging from 30 to 40 percent from child support collections made by the IV–D agency at taxpayer expense. This includes collecting fees from tax refund intercepts and income withholding from current support, which require little if any work on the part of the collection agency to justify such high fees.

I have similar concerns about this proposal, ranging from disclosure of confidential information to entities that will realistically be difficult to regulate, monitor, and audit, to operational and computer programming costs, to the impact of this proposal on employers, financial institutions, the Departments of State and Treasury, the state unemployment insurance agencies, and the state IV–D child support enforcement agencies. These questions regarding implementation include the following:

How many public and private agencies are likely to participate in this program?

The definition of public non-IV–D child support agency as currently drafted would appear to cover any court in the United States having jurisdiction to establish or enforce child support orders, as well as any entity operating a child support registry. This could include thousands of local courts, including those that currently operate child support programs under cooperative agreements with state IV–D child support programs. Will these entities set up parallel non-IV–D child support enforcement programs?

The definition of private non-IV–D child support agency is even broader, and could include any individual, person, or entity that met the state's criteria and entered into an agreement. There are literally tens of thousands of private attorneys, private investigators, private collection agencies, and other private individuals and entities that could seek to get into the child support enforcement business.

If these entities come forward, child support agencies will be deluged with requests to negotiate agreements, with the concomitant burden of overseeing implementation and responding to inquiries from parents, employers, and banks who are trying to figure out who to deal with, all while sorting out data matches from new hire reporting, bank match, tax refund intercept and the FPLS. This will result in a significant diversion of staff energy and computer resources from core child support functions.

How will the IV–D child support agency be able to regulate the non-IV–D public and private entities? What procedures, staff and training will be necessary and how much will it cost? While this proposal purports to promote "privatization" of government functions, it would in fact require significant federal and state taxpayer resources to expand the regulatory bureaucracy. In Massachusetts, the child support program is housed in the Department of Revenue. Because the department is the repository not only for tax and child support data, but also for new hire reporting, quarterly wage reporting, and financial institution account information, protecting confidential data is a high priority for our commissioner. Employees of the department receive regular training reminding us that we are entrusted with information that is among the most sensitive in government, and that any access to, or use of, confidential information must be only by an authorized person for an authorized purpose. Computers containing tax and child support information are monitored by a program that captures every access to these systems, so that internal auditing staff may conduct random testing for unauthorized access. Infractions are investigated and offending employees are subject to a range of disciplinary actions, including fines and dismissal. In addition, violation of child support confidentiality rules is a criminal offense.

It is simply not realistic to expect that similar safeguards could be put in place for a range of diverse entities as contemplated by these proposals. Attorneys are

likely to assert attorney-client privilege in response to any effort to review their files, while private child support collection agencies in most states are not regulated by other state or federal law, leaving the brunt of the regulatory, monitoring and auditing duties on the IV–D agency.

Because they are driven by the profit motive, private collection agencies are all too likely to take actions for which state IV–D child support agencies will ultimately pay the price. Custodial and noncustodial parents alike may be mistreated through harassing collection strategies or unfair contracts. It will be up to the state IV–D agency to straighten out the mess later, when things go wrong. For example, in one Massachusetts case involving a collection agency with headquarters in California, the collection agency first recruited its local Massachusetts sales representative by inviting her to join other successful entrepreneurs "who have tapped into an untouched $70 billion industry .... a lucrative business opportunity." When the noncustodial parent resisted paying, the agency sent dunning notices to his mother and letters to him threatening to send a "public notice" containing his photograph and personal information to his relatives, neighbors, friends, co-workers and community if he did not pay up. Confused since his case was already being enforced by the Massachusetts IV–D child support agency, the noncustodial parent sent a cashier's check for $9,930 made payable to the Commonwealth of Massachusetts to the collection agency in California. The agency promptly cashed the check in a California bank by endorsing it as "Child Support Services—For Deposit Only," closed the bank account, disconnected their telephones, and disappeared.

Other abuses we have encountered include agencies that: harass noncustodial parents at home and at work; threaten employers; alter court orders to change the payee from the Massachusetts child support agency to their company; issue illegal withholding orders on their own stationery; use federal forms to gain unauthorized access to interstate locate information; falsely represent a special relationship with the Massachusetts child support program; engage in unauthorized practice of law by signing court pleadings and appearing in court; demand that noncustodial parents or employers make payments directly to the collection agency instead of to the Massachusetts child support agency, as specified in the court or administrative order; threaten to sue the Massachusetts child support program in federal court or state court for violation of constitutional rights; credit payments to arrears before current support; threaten to sue custodial parents who complain about high fees and poor service; and use names that mislead unsophisticated custodial parents into thinking they are dealing with the Massachusetts child support program (such as CSE of Massachusetts, Office of Child Support Enforcement Services, Child Support Collections of Massachusetts).

Proponents of this proposal will respond that it will be up to the IV–D agency to prevent these abuses. However, it is simply unrealistic to think that the IV–D child support agency can regulate this industry. How can we monitor every letter, every telephone call, every form, and every copy that is made of sensitive data? Some may answer that upon discovery of abuses, an entity's relationship with the IV–D agency could be terminated. But what of the parents who have already been harmed? What of the employers and financial institutions who get pulled into the middle, when all they want to do is follow the rules?

What if one state permits access to its information and other states do not? It is unlikely that all states will opt to permit non-IV–D public and private entities to have access to employment and financial institution records, or that all states will have the same standards and procedures for monitoring the use of any such data that is released. What if one state permits easy access with few controls, accepts requests from private collection agencies and forwards those requests, without identifying their source, to a second state that maintains strict controls on the release of confidential data? How would the second state's standards provide protection for its noncustodial parent citizens? Would the first state in effect serve as gateway to information in the FPLS and the National Directory of New Hires for all the states—access that would be barred if the collection agency went directly to the other states maintaining the data? Because states transmit new hire data to the National Directory of New Hires where it becomes part of the FPLS and because the Federal Office of Child Support Enforcement operates the Multi-State Financial Institution Data Match, will one state's acceptance of this proposal give their collection agencies access to data from all the other states?

This possible backdoor approach would subvert the whole purpose of providing a state option. Once one state elects to allow access to child support information and remedies, the other states' information would be readily available, with no ability for the other states to monitor the use or misuse of data on their citizens. Investigating abuses, breaches of data security, violations of privacy protection and due process will be difficult enough in in-state cases, and virtually impossible in inter-

state cases. While Massachusetts may not elect these options, we are very concerned about what goes on in other states. We have a deep commitment to protecting the privacy of our citizens, and many of the abuses cited above have come from agencies based in other states.

What is to prevent confidential information from being used for other collection activities? The risks that information will be misused by private collection agencies is particularly grave, since many engage in other types of collection activities. The collection agency would learn where the noncustodial parent works and banks if there is a successful wage assignment or bank match. It will be virtually impossible to prevent aggressive collection agencies from using this information for other purposes. Not only might they use the information to collect unrelated debts, they could also sell it for use by anyone, from telemarketers to identity thieves, a growing threat in the age of technology.

What impact will releasing data to non-IV–D entities have on the willingness of employers and financial institutions to cooperate with IV–D child support enforcement agencies? New hire reporting has been remarkably successful in its relatively short history, largely because employers voluntarily comply. State IV–D child support agencies have developed cooperative relationships with employers, responding to their needs and inconveniencing them as little as possible. Similarly, financial institutions for the most part have cooperated in developing procedures that will work for them and their customers. But we must be careful not to overload a system that is not yet fully operational. OCSE currently sends 3.8 million records to nearly 3000 financial institutions. It takes some of these institutions three days to process the data. Not only will more records threaten to choke the system, misuse of this data by anybody will jeopardize the entire program. All it takes is one or two well-publicized abuses by overreaching collection agencies for employers and banks to curtail their cooperation. We also have worked hard to ensure that employers and banks need to deal with only one child support agency in each state. These efficiencies will be at risk if there are suddenly multiple entities sending wage assignments and bank levies to the same overloaded payroll departments and bank data processing centers.

Will the inevitable abuses in one locality jeopardize the national child support program? As one who worked extensively with members of Congress in the adoption of the provisions of PRWORA, I found that the primary concern about the IV–D program's access to information was privacy protection. In weighing privacy concerns against the duty to support one's children, Congress tilted the balance in favor of strong child support provisions. However, even as these provisions are being implemented, concerns have been raised in state legislatures, in the press, and elsewhere about ensuring that appropriate privacy safeguards are in place and that IV–D agency staff are trained and monitored to protect confidentiality of personal data. Regardless of how a problem arises, in this era of mass media, it will have national repercussions. Already there have been articles in the New York Times and Washington Post questioning the scope of information available to the child support program.

Expanding access to child support data is like sliding down the proverbial slippery slope. Where should we draw the line? Child support information is immensely attractive to all sorts of public and private interests. Every Congressional session seems to bring forth a new proposal. Once you open the door, you will be hard pressed to close it again for others who come forward with a plausible proposal.

Who is going to process the money and keep track of the records, especially when there are multiple families for the noncustodial parent and diverse points of collection? What about cases where the custodial parent goes on and off public assistance, while using the services of one of these entities? What if the noncustodial parent exercises his right to apply for IV–D services in a case in which the public non-IV–D or private collection agency is providing services to the custodial parent? Which agency trumps? Since 1975, in response to consistent and widespread criticism that one of the major weaknesses in the child support program has been its historic fragmentation, federal legislation has pushed states to consolidate child support functions under a single entity in state government. We have spent years trying to get accurate pay histories by having child support payments go to one location in each state, and are now developing registries of support orders. This proposal will fracture that work, and encourage development of diverse systems, just as the systems mandated under PRWORA are beginning to come together.

Is this proposal consistent with our recent work on responsible fatherhood initiatives? In recent years, largely inspired by the visionary work of this Subcommittee, child support programs have been developing ways to be more "father friendly," identifying and addressing the multiple barriers which fathers en-

counter in paying child support. These range from no or poor job skills, interference with custody and visitation, orders that are not consistent with ability to pay, to a bureaucracy that focuses only on collections and is resistant to responding to legitimate concerns raised by noncustodial parents. As Executive Director of the Massachusetts Commission on Responsible Fatherhood, I have become increasingly aware and responsive to the barriers faced by fathers—whether "dead broke" or "deadbeat." Turning private collection agencies loose on these noncustodial parents is hardly consistent with this expanded mission of the child support program.

Can information relating to victims of domestic violence be protected under this proposal? The proposal provides for states to set up certain requirements to ensure that public and private non-IV–D entities have procedures for protecting privacy, particularly in cases involving domestic violence. States and OCSE are still working to fully implement the family violence indicator required by PRWORA. It is unclear how the current safeguards, many of them tied to IV–D automated systems, will translate into requirements for non-IV–D agencies. For instance, how will private agencies transmit family violence indicators to the FPLS, or set up procedures for judicial overrides of the indicator in the appropriate cases? How will they gather information from their customers about who needs a family violence indicator? How will the state verify this information?

Are we prepared to give private entities quasi-law enforcement powers to seize income and assets? Giving law enforcement powers to seize income and assets to private collection agencies raises the specter of private law enforcement, a concept of questionable constitutionality. Law enforcement is a public function, not one delegated to private citizens or private entities. This too presents opportunities for abuse of power. We have already seen some collection agencies who "issue" income withholding orders on their own stationery, ordering the employer to withhold child support and threatening to impose sanctions that can be imposed only by IV–D agencies or the courts if the employer does not comply.

Should we instead move to eliminate the FPLS "locate only" access that is available to custodial parents under current law? Instead of expanding access to child support data to a wide variety of public and private non-IV–D entities, perhaps the time has come to curtail some of the direct access granted to custodial parents by current law. The statute that makes custodial parents and attorneys or agents of a child "authorized persons" to seek FPLS information was enacted in 1975, when the information in the FPLS scarcely extended beyond the local telephone book. By contrast in the age of information technology, the FPLS encompasses a broad range of databases, with information on employment, income and child support obligations of millions—a vast store of sensitive, private information that cannot be found anywhere else. Just as with the public and private non-IV–D entities, there is no way the child support agency can ensure that custodial parents or their attorneys will not use the data for a purpose other than child support enforcement, such as alimony, property division in a divorce, custody and visitation, or even continuation of the parties' interpersonal struggle. Yet the existence of this provision is the justification used by private collection agencies that they should also get direct access to this information, since "they can get it anyway from the custodial parent." Perhaps Congress should revisit this provision and evaluate whether in the era of a more effective IV–D child support program it is necessary and appropriate to give custodial parents access to this kind of information about noncustodial parents.

Would it be simpler to incorporate the non-IV–D court cases into the IV–D program? Any entity gaining access to IV–D information and remedies will have to follow the same procedures relating to data security, privacy protection and due process that apply to the child support program. As a practical matter, many states electing this option will simply require the participating entities to use the notices, forms, data elements, computer formats, and procedures that the IV–D agency has already developed. Moreover, many of the objections relating to data security, privacy protection and due process are not applicable to courts that may wish to have their cases benefit from the IV–D information and remedies. Courts after all have as one of their primary functions to enforce such requirements on others and already have a culture receptive to these protections. Rather than "reinventing the wheel," the most efficient solution is to convert the courts' cases to IV–D cases through cooperative agreements. This route is already permitted under current law, and would require no additional Congressional legislation. The cases could be either eligible for the full range of IV–D services or designated as "tax refund and passport sanction only," or "new hire or financial institution data match only." This approach would give the courts the information and remedies they seek, while minimizing any disruption to the IV–D program. It also keeps us on our twenty-five year path of consolidating child support functions, rather than fragmenting them.

CONCLUSION

Passing this controversial issue on to the states and telling us to figure it out may not be the best course of action. Even states that do not want to go this route will have an endless stream of lobbyists for private attorneys and collection agencies beating down our doors and the doors to our state legislatures, trying to cash in on the "lucrative" child support business. This is not a diversion that we need at this juncture. We are on the verge of getting the new hire and bank match systems to work. We are coordinating interstate cases as never before, working out compatible procedures among the fifty-four jurisdictions. We are branching out into responsible fatherhood and access and visitation programs and addressing domestic violence issues in ways we never contemplated ten years ago. We have heeded your call throughout the welfare reform debate to take a broader view of self-sufficiency, and to address whatever barriers stand in the way of a better future for the families we serve.

This proposed legislation has much of value in it. It simplifies the distribution rules while giving more money to former welfare families, it lowers the threshold for passport denial, it places a priority on making sure welfare mothers have an adequate child support order in place before they leave welfare, and it provides for demonstration grants to promote responsible fatherhood for low-income fathers, bringing them into the fold by working with them to get jobs, learn parenting skills, and form lasting relationships with their children who so desperately need their responsible involvement. The provisions opening up child support enforcement to private, profit-driven entities appear out of place in this otherwise progressive legislation. Private collection agencies are not likely to care about these broader goals, and indeed their efforts may thwart them.

Child support legislation has always enjoyed a special place in Congress, passed with strong bipartisan support, and based on broad consensus within the child support professional and advocacy community. By contrast, this proposal to extend child support information and remedies to non-IV–D public and private entities has met widespread and deep opposition from custodial and noncustodial parent advocacy groups and most IV–D directors. Our opposition stems not from a desire to maintain a monopoly, but from our commitment to helping our most vulnerable families receive the child support they need to stay off public assistance and remain independent. This proposal seems inconsistent with the other provisions of this legislation, which are designed to help mothers and fathers have the resources and tools to achieve self-sufficiency.

Madam Chairman, thank you for inviting me to comment on this complex area. I look forward to working with you and other members of the Subcommittee to come up with practical solutions to the problem of nonsupport and the goal of achieving self-sufficiency.

Chairman JOHNSON of Connecticut. Ms. Turetsky?

STATEMENT OF VICKI TURETSKY, SENIOR STAFF ATTORNEY, CENTER FOR LAW AND SOCIAL POLICY

Ms. TURETSKY. Chairwoman Johnson and Members of the Subcommittee, my name is Vicki Turetsky, and I am a senior staff attorney at the Center for Law and Social Policy. I appreciate the opportunity to testify before you today.

My testimony will focus on the proposed changes in the child support distribution rules. I am pleased to give my enthusiastic support both to the distribution proposal that you have made, Chairwoman Johnson, and Mr. Cardin's bill. I commend each of you for your efforts to address this very important area of child support policy, and I also commend the administration for its efforts.

Welfare reform has had a profound impact on the child support program. Enforcement tools enacted into PRWORA are steadily improving the effectiveness of the program. The child support caseload has shifted dramatically toward low-income working families

who no longer receive welfare benefits or who never did. In about one-third of the States, declining welfare collections have destabilized program funding, and there is a new understanding about the diversity of fathers within the child support caseload.

Originally set up to recover welfare cost, the child support program has emerged as one of the largest human services programs dealing with mothers, fathers, and children. This program has much potential to help low-income families; however, it has an albatross around its neck, and the albatross is the mandate to collect and recover welfare costs. The program is often seen as a program to make money from, not a program to help families.

The changes brought about by welfare reform have prompted the child support community to engage in an earnest and ongoing discussion about the central role of the child support program in supporting the goals of welfare reform. In many ways we are at a crossroads. The program has outgrown its original cost recovery purpose, yet its cost recovery financing structure holds it back.

The legislation under consideration by this Subcommittee would substantially increase the amount of child support going to families and help set a clear direction for the program.

Mrs. Johnson, your proposed legislation would build on the 1996 distribution changes, but greatly simplify and clarify distribution rules for former welfare families.

Mr. Cardin, your bill would go further, not only by simplifying post-TANF distribution, but with passing through and disregarding child support to families while on TANF.

I believe that down the road all child support should be paid to the family, regardless of TANF status. Full family distribution that treats all child support as family income would be the simplest distribution rule, and the rule that best complements the family support goals of the Welfare Reform Act.

The best way to get there may be in a couple of steps, with a clear picture of where we are going at the end.

The main stumbling block is fiscal at both the Federal and the State level. Because States use their retained welfare collections to operate their TANF or child support programs, attention to the fiscal impact, the financing alternatives, and the implementation flexibility is warranted.

Here I think the bipartisan record of this Committee will serve us well. I think that the legislation that could be advanced this year is one that meets in the middle of the two bills under consideration here—combining simplified post-TANF distribution with State options to distribute child support to families while they are on TANF—without making a disregard a condition of releasing the Federal share of welfare collections.

There are really two separate policy issues involved with giving child support to families while they are on welfare. One is who keeps the money, and that is the distribution question, whether the State or the family keeps the money. The second question is how the income is treated under the TANF program and other assistance programs, and that is the disregard question.

The option to distribute child support, to give money to families during TANF, I think should be left to the State. The State should be given an option in that area. The question about whether the

support should be disregarded also should be decided by the States separately from the question of whether to release the Federal share of collections. I think this kind of in-the-middle proposal would have broad appeal.

Distribution reform is important for several reasons. First, child support is the next most important income source to families after the mother's earnings for families that do get child support. A welfare policy that builds on the earnings of both parents sends the clearest message about personal responsibility and avoids welfare costs.

By having child support in place and budgeted for at the time the family exits TANF, a full distribution policy would help families transition off of TANF, avoid administrative delays in getting support to former TANF families, and help stabilize the families budget.

The other reasons are well known to this Committee for why to support getting child support to the family, including father involvement and simplicity.

The proposed legislation is very positive; however, the expanded access provisions we strongly oppose, and for the very reasons that have and will be testified to here today.

[The prepared statement follows:]

Statement of Vicki Turetsky, Senior Staff Attorney, Center for Law and Social Policy

Chairwoman Johnson and Members of the Subcommittee:

I very much appreciate the opportunity to testify before you today. My name is Vicki Turetsky. I am a Senior Staff Attorney at the Center for Law and Social Policy. CLASP is a non-profit organization engaged in research, analysis, technical assistance and advocacy on issues affecting low-income families. CLASP has worked on child support issues for many years. CLASP does not receive government funds.

Most of my testimony today will focus on the proposed changes in the child support distribution rules. I am pleased to testify in strong support of the distribution provisions in the legislation sponsored by Chairwoman Johnson, H.R. 4469. Mrs. Johnson has worked on this issue for years, putting "families first" in distribution rules enacted in the Personal Responsibility and Work Opportunity Act of 1996 (the welfare reform law). The proposed legislation would build on the 1996 changes, but greatly simplify and clarify distribution for former TANF families.

CLASP also strongly supports the pass-through legislation sponsored by Mr. Cardin, H.R. 3824, which would not only would get more support to families when they leave TANF, but would distribute support to families while they are still on TANF. There is a growing consensus in the child support community that all child support should be paid to the family, regardless of TANF status. Full family distribution would be the simplest rule. While both bills would move the child support program toward a full family distribution policy, H.R. 3824 would get us there faster.

I commend both of you for your efforts in this area, and hope you will be able to join in bipartisan legislation that would both simplify post-TANF distribution and allow states to start paying families their child support while they are still on TANF.

THE PROPOSED CHANGES WOULD ADVANCE WELFARE REFORM GOALS.

The child support program originally was set up to reimburse federal and state welfare costs. As a condition of receiving cash assistance, welfare families must assign their rights to child support and to cooperate with the child support program. These welfare collections are not paid to the families, but instead kept by states as partial reimbursement for welfare benefits. The welfare collections are shared with the federal government and treated as government revenues. The child support program also serves non-welfare families who have requested child support services and receive all of the support collected on their behalf.

At its inception, the child support program almost exclusively served welfare families. However, the sharp decline in welfare caseloads, combined with long-term trends, have dramatically reduced the proportion of welfare cases in the child support caseload. Today, only about 20 percent of child support cases involve families who currently receive cash assistance.

The vast majority of families in the child support caseload are low-income working families who have left welfare or who never received it. After the custodial parent's earnings, child support is the next most important income source for poor single female-headed families receiving child support. For poor families who get child support, the child support amounts to 26% of the family's budget, or $2000 per year. When families headed by single mothers get at least some child support during the year, their poverty rate drops significantly, from 33% to 22%. The research shows that families who get regular child support are less likely to return to welfare, thus avoiding welfare costs.

These families desperately need the child support income to make ends meet. If low-income single mothers receive child support, they often can forego a second or third part-time job. In 1995, over three-fourths of the non-welfare families in the child support caseload had incomes below 250% of poverty. About half of the non-welfare families receive other forms of public assistance, such as Medicaid or Food Stamps.

Just as a job is about more than a paycheck, child support is about more than money. Child support has a dual quality, important both as cash income for the family and as a way to encourage paternal involvement. Establishing regular payment of child support appears to increase the fathers' involvement in their children's upbringing and improve child outcomes. It may also increase the availability of paternal relatives as a back-up system for child care and family emergencies. Although domestic violence is a concern to some families, many mothers report that they encourage their children's emotional relationship with their father and his family, and try to keep the father involved in the children's lives when feasible.

However, the current child support assignment and distribution rules (which determine whether the state or the family keeps support collected by the state) discourage the poorest fathers from staying connected to their children. The current rules treat child support as repayment for welfare benefits, rather than as a father's financial contribution to his children. These rules work against poor mothers and fathers who want to use their own money to support their own children. Poor fathers and mothers who want to improve their children's financial circumstances, but can not fully support their children without some public help, sometimes agree to informal contributions that by-pass the formal child support system. In addition, the child support program's welfare cost recovery focus often results in child support orders inflated by welfare and Medicaid costs, and uncollectible arrearages that sometimes drive poor fathers underground.

The goals of welfare reform—to promote work and to encourage the formation and maintenance of two-parent families—are best complemented by a child support strategy that respects child support as the family's own money and as the father's financial contribution to his children. The proposed distribution provisions would substantially increase the amount of child support going to families. These provisions (especially Mr. Cardin's approach), would help reorient the child support program toward the goals of welfare reform. The ban on using the child support system to recover Medicaid costs (in both bills), the review and adjustment provisions (in the Johnson bill), and the federal grants program to help support responsible fatherhood programs (in the Johnson bill) are also important elements that help reorient the child support program toward supporting and strengthening working families.

THE PROPOSED CHANGES WOULD SIMPLIFY AND RATIONALIZE THE CURRENT SYSTEM.

The changes proposed by Chairwoman Johnson and Mr. Cardin would make the child support distribution rules much easier to understand and administer. Under welfare reform, the distribution rules were amended to allow families to keep more of the child support that was owed to the family before going on welfare. In addition, the rules changed the order of payment, so that the family's debt is paid before the state debt.

Although the rules were intended to get more money in the hands of families who have left welfare, they are the uneasy result of legislative compromise between contradictory program goals of recovering welfare costs and helping families become self-supporting. The current law is based on an "on-off" approach. Under an "on-off" approach, child support owed while the family is off of welfare belongs to the family, while support owed while the family is on welfare belongs to the state. However,

there are several exceptions to the basic on-off approach in the current law. As a result, the rules are difficult to understand and costly to administer.

The main exception is that support recouped from federal tax refunds are kept by the state. This amounts to more than half of the welfare arrears collected by the state. In addition, the state keeps arrears that were owed before the family received assistance if they are collected after the family starts receiving assistance. This means that families who tried to hold out the longest before going on welfare can lose all of the support owed to them if it is collected after they go on welfare. Finally, there are various phase-in exceptions for families who received welfare at some time before 2000.

The current distribution rules require states to keep track of several different kinds of support payments, depending on time, type, and collection method—"assigned" current support; "never-assigned" current support; "temporarily assigned" arrears; "conditionally assigned" arrears; "permanently assigned" arrears; "unassigned during assistance" arrears; "unassigned pre-assistance" arrears; "never assigned" arrears."

States have tried to implement them, but the current distribution rules are, frankly, unworkable. Parents, state legislators, and workers do not understand them. They are snarling up computer programs and delaying system development. They are leading to accounting, audit and litigation problems. And they are resulting in less money going to families than envisioned during welfare reform.

Simplicity, not complexity, must be the basic principle behind distribution rules. The legislation proposed by Chairwoman Johnson and Mr. Cardin each reflects a commitment to simplify post-TANF distribution rules and to greatly increase the amount of support going to families that have left TANF. The proposed post-TANF distribution rules are simple and clear, and go a long way to addressing the problems with the current rules. However, the Johnson proposal would continue to require that families assign to the state the support owed to them while they were receiving welfare.

The simplest distribution rule is to treat all child support as support for children and income to the family. Researchers studying the Wisconsin demonstration to pass through all current support to families receiving W–2 assistance are finding important administrative advantages to a very simple distribution system. By having child support in place and budgeted for at the time of TANF exit, the child support system would help families transition off of TANF.

Distribution rules which depend on states to identify and change the family's TANF status result in administrative delays in getting support to former TANF families. Families are supposed to start getting current support as soon as their TANF benefits end. However, the child support agency sometimes retains the support improperly for months after welfare exits, because of administrative delays in identifying and changing the family's case status. Instead of stabilizing the family's income before the family leaves TANF, child support is interrupted right at the point of exit and for some months thereafter.

There may be a reluctance to move to a full family distribution system because of concern about retaining families on TANF for longer periods if they receive child support income. However, preliminary results from the Wisconsin demonstration include findings that families move off of TANF faster when they receive child support, that fathers pay more support, and that administrative costs under the waiver are not increased. Preliminary findings in a similar Vermont demonstration also include increased child support payments.

It is our position that all of the money should be distributed to the family, regardless of TANF status. How that child support income is treated in the TANF program (whether it reduces the TANF grant or is disregarded) should be left to states to decide. While there are a number of reasons to support a disregard policy, the main point of a full-family distribution policy is simply to treat all of the child support as family income. A full distribution policy (with or without a disregard) would help families transition off of welfare. It would increase family income once off TANF by encouraging parents to pay through the formal system. It would simplify and rationalize program administration. And it would help change the culture of the child support program by eliminating its cost recovery focus.

THE WELFARE COST RECOVERY MISSION OF THE CHILD SUPPORT PROGRAM IS OBSOLETE.

State child support administrators, advocates, and other members of the child support community are increasingly questioning the fundamental cost recovery premise of the child support program. This program has much potential to help low-income families. However, it has an albatross around its neck—the mandate to re-

cover welfare costs. While welfare cost recovery seemed like a good deal to states in the beginning, there is increasing evidence that it has actually weakened the program's ability to attract adequate resources to the program. From the start, the program was sold to state legislatures as a "money maker." In some states, the political imperative to produce state revenues has forced child support to make do with a too-meager budget and staff.

Its cost recovery role has also undercut the visibility and status of the child support program within the human services community. Even though the child support program now serves several times as many families as the TANF program, closely fits the goals of welfare reform, and is a key income support program for low-income working families, the child support program sometimes has trouble getting a seat at the welfare reform table. The program is often seen only as a limited reimbursement program—a program to make money from, not a program to help families. In order to attract new resources and realize its potential, the message of the child support program has to change. For this to happen, state legislators have to make sense of the program, and the distribution rules make this hard to do.[1]

The proposed distribution provisions in both the Johnson and Cardin legislation represent very positive and exciting steps forward for families and the child support program. State financing options would help states make this transition. To move to a full distribution system, however, both federal and state shares of retained collections should go to families. In the long run, eliminating the program's reliance on declining welfare collections and moving the program to a more stable state appropriations basis will help stabilize and even increase program funding. In the short run, expanding family distribution policies mean divesting retained welfare collections now used by states to help pay for TANF MOE expenditures or (in a third of states) child support program costs.

EXPANDED ACCESS IS INCONSISTENT WITH WELFARE REFORM AND PROGRAM IMPROVEMENTS.

Expanding access to IV–D data and tools to unregulated, and often predatory, private child support collection companies will hurt, not help families who need child support. The Appendix incorporated into this testimony cites complaints alleging abusive, deceptive, and unfair practices by private child support collectors. Unlike private collectors that pursue consumer debt, these companies are not regulated under the Fair Debt Collection Practices Act, 15 U.S.C. 1692. Unlike private companies performing contractual work for IV–D agencies, they are not subject to state oversight and controls. Yet the proposed provisions would turn over vast amounts of data and legal authority to these companies and eviscerate current confidentiality and due process protections for parents, contrary to Congressional promises to preserve the confidentiality of new child support data bases. They would divert public resources for private profit, allow private companies to cream the most lucrative cases from the public system, and claim credit and fees for work performed by the IV–D system.

Expanding access to IV–D data and tools by clerks of court raise a somewhat different set of problems. IV–D structural and work load considerations weigh against expanding this access to non-IVD public agencies. Over the last several years, many IV–D programs have successfully consolidated and streamlined their procedures to improve their performance. Some of these programs include clerks of court who have entered into cooperative agreements with the state and perform as IV–D agencies.

However, some states with locally-elected clerks of court have had difficulty maintaining sufficient political clout to manage the program, resulting in a fragmented state system, weakened political support for the IV–D program, and limited resources committed to the program. Several of these states have had difficulty implementing a statewide computer system and state disbursement unit. Whereas the IV–D program mostly serves low-income families entering through the welfare system, the clerks of court mostly serves better-off families who have entered the system through divorce proceedings and often can afford a private attorney. Given the demographic differences in the caseloads, we are concerned that limited IV–D resources would be diverted away from the low-income families who are in greatest need of public services.

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[1] The answer to the problem of strengthening child support program capacity is not, as Supportkids.com proposes, to fragment and weaken the program further by expanding the access of non-IV–D clerks of court and unregulated private collectors to divert program resources. The answer is to simplify the message and mission of the child support program so that state legislators can begin to see this program as a key program to advance welfare reform goals. Simplifying distribution will help increase the political standing of the program.

CONCLUSION

The distribution provisions of the Johnson and Cardin legislation (and the responsible fatherhood and review provisions of the Johnson bill) would build on the reforms in the 1996 law, and set a clear direction for the child support program. These provisions would put families front and center of the child support program. They would put families first in child support distribution. They would help poor fathers to begin paying monthly support payments and connect with their children. They would help the child support program become more parent-friendly and service-oriented. They would help states further automate and streamline their activities.

However, the expanded access provisions of the Johnson legislation send an entirely inconsistent message to states and families, with potentially devastating results. These provisions would allow the child support program to be used as a money maker for private collection companies. They would put the fee claims of private collectors ahead of support payments to families. They would sanction and extend the abusive practices used against fathers. They would fragment and distort IV–D program operations. We strongly oppose the expanded access provisions and urge you to strike them from otherwise very positive legislation that builds on welfare reform and helps families support their children.

APPENDIX: COMPLAINTS ABOUT THE PRACTICES OF PRIVATE COLLECTORS

Complaints About Abusive and Unfair Practices

"Recently we began receiving calls from [a private collection company]. He was leaving messages for one of our employees. . . . When [our employee] was not able to contact [the company representative], he started getting rude via the phone to myself and my clerk. "He 'ordered' me to withhold from [our employee's] wages. . . . He told my clerk that if I didn't comply with his order that our business license would be pulled. When he was told that he must comply with F.D.C.P.A. not to call again, he stated that there were no laws regulating what he did." *Source: Letter from an Arizona concrete company dated May 20, 1998.*

"In the spring of 1994, Lester Brown's neighbors began receiving 'Wanted' posters. These posters referred to Mr. Brown as a 'Dead Beat Parent,' stated how much unpaid child support he allegedly owed, and claimed that he "has plenty of money to spend on himself but has never paid one dime of child support." A few months later a 'Wanted' poster with Mr. Brown's picture was mailed to his home, accompanied by the threat that the poster would be "mass mail[ed]" to his neighbors if he did not pay off his child support debts." *Source: Brown v. Child Support Advocates*, 878 F. Supp. 1451, 1452 (*C.D. Utah 1994*).

"The collection agency. . . .has harassed our son. . . .called his home at 6:00 a.m., called him at work, and threatened him with jail." *Source*: Letter from a mother of a Texas noncustodial parent, filed with the Texas Attorney General's Office and dated Oct. 23, 1998.

"They demanded $11,000.00 or they would put me in jail. I proposed a payment plan that would allow me to current and pay all the arrearage payments. They responded with threats, disgust, and harassment. They called me names and have gone as far as to boldly state that they want to destroy me personally and professionally." *Source: Complaint filed by a Texas noncustodial parent with the Texas Attorney General's Office, dated April 10, 1988.*

"In March 1998, [a private collection company] called me and said she was to collect child support. . . .I told my mother about the phone call and she talked to [the company representative], which ended in my parents paying her $2,000 on their credit card. . . .On Aug. 19, 1998, [the company representative] made a call to my parents in another attempt to collect back child support. She apparently told my mother that if [$4,200.00] was not paid by Aug. 21st, that I would be arrested. . . .She went directly to my parents because she had gotten money from them before. They are in their 70's and are being harassed emotionally, verbally over the phone. They are not physically well right now, due partly to all this. . . .My parents, without my consent, are charging $3100 today on their credit card. . . .[The company representative] has used threatening, abusive, and emotional tactics in order to try and collect a debt. Since I have refused to pay any thing to a collection agency, she has gone to my parents and harassed them, before all this, she called my church and left a message for my pastor. This has caused a lot of stress to my family, my parents, and myself." *Source: Complaint filed by a California noncustodial parent with the Texas Attorney General's Office, dated Aug. 31, 1998.*

"[My client] again contacted me to discuss the harassing nature of [the company representative.] At this time I asked her for his phone number so I could call him

to attempt to get him to cease and desist in his obnoxious and illegal behavior. I had previously, in my initial conversation with [my client], instructed her to tell [the company representative] never to call or contact them again[.] [S]he informed me that she had so instructed him and he completely ignored her and repeatedly had continued to harass them over this matter. . . .[The client] repeatedly asked them to stop harassing them, to no avail. I then instructed him to never make any telephone or written communications with [my clients] again on this matter. He told me. . . .that he would do as he pleased and he hung up on me. Within five minutes after he terminated our conversation, he called [my clients] and further harassed them on the phone and taunted them about how an attorney would do them no good. . . . Since that date, he has again called and continued to harass [my clients.]" *Source: Letter from attorney for Ohio noncustodial parent's wife, filed with the Texas Attorney General's Office and dated March 16, 1999.*

"They obtained information about myself and my company by not only misrepresenting themselves to a credit agency, but out and out lying regarding their intentions. . . .But in doing this, they have damaged my credit report, as I am in the process of buying a home and the mortgage company keeps getting these reports of me applying for extension of credit, which I have not done, and it further delays the progress of my closing, and interfering with my life." *Source: Letter from a wife of a noncustodial parent, filed with the Texas Attorney General's Office and dated Aug. 26, 1997.*

Complaints About False, Deceptive and Misleading Representations

"Child Support Advocates (CSA), a private child support collection agency, then employed other harassing techniques including 'numerous harassing telephone calls.' All of this occurred after Mr. Brown had received a letter 'formatted to give the appearance of a court document' from CSA, causing his attorney to inform CSA that all further correspondence should come to his office." *Source: Brown v. Child Support Advocates, 878 F. Supp. 1451, 1452 (C.D. Utah 1994).*

"Please find enclosed a copy of the documents my client received from "Child Support Enforcement." She believed that this was an attempt by the State to collect child support and as you can see from the forms, it appears reasonable that my client believed this was an official child support collection case by the State[.] I believe that the collection actions by the "Child Support Enforcement" company are, at the very least, misleading and lacking in the statutory language to collect a private debt." *Source: Letter from an attorney for an Oklahoma noncustodial parent, filed with the Oklahoma Attorney General Office and dated Jan. 21, 1999.*

"[My client] states that the Division of Child Support Enforcement of Virginia (DCSE) [the public child support agency] was not able to collect the monies owed to date and sought my help. . . .After reviewing her paper work it turns out that she was not working with DCSE but with a corporation by the name of Child Support Enforcement located in Austin, Texas. . . .As you can see the corporation sent her forms which, to the normal citizen, would appear to make one think that Child Support Enforcement (CSE) is a government agency. However, they are charging unconscionable fees for said collection. The use of this name appears fraudulent and misleading." *Source: Letter from attorney for a Virginia custodial parent, filed with the Texas Attorney General's Office and dated June 5, 1998.*

"The manner in which [the company representative] spoke was convincing to us, to think she was a governmental agency." *Source: Letter from a Texas noncustodial parent, filed with the Texas Attorney General's Office and dated Aug. 31, 1998.*

"Her legal question. . . .concerned harassing phone calls she was repeatedly receiving from [a private collection company]. Also she was receiving written correspondence from him of a threatening nature[.] [T]he letterhead is entitled "Child Support Enforcement Division." I believe, based upon my conversations with [the client] that the [company representative] was strongly implying, if not outright representing, that he was an agent of the Child Support Enforcement Division of the Texas Attorney General's Office. When I made initial contact with [the client], she was of the opinion that the Attorney General's office was responsible for these threatening calls and other communication. . . .*I very strongly inquired of him if he was a private collections form or if he was a representative of the Child Support Enforcement Division of the Texas Attorney General's Office.* He refused to answer my question and wanted my Bar card number. . . .He, although asked repeatedly by me this question, wholly refused to answer same." *Source: Letter from attorney for Ohio noncustodial parent's wife, filed with the Texas Attorney General's Office and dated March 16, 1999.*

Complaints About Contractual Practices and Unreasonable Fees

"The reason for this complaint is that these people keep 50% of the money until the administration is paid off, and then they keep 33% of the amount each time its received there after, until when ever they want. . . .This is an outrageous fee that [the private collection company] receives and for what service that they don't even provide." *Source: Complaint filed by Texas custodial parent with the Texas Attorney General's Office, dated March 30, 1998.*

"I feel that this company is really taking advantage of people like me. While I realize that I should have made sure I totally understood the contract, which I thought I did, I believe they misrepresented themselves. I believe that the entire agreement is very deceptive. . . .[The private collection company] is taking 50% of my daughter's child support. . . .They're stating that they're getting the amount that's late, but what I want to know is: **if they are currently collecting the late part of what he owes me, what happens to the portion that he should actually be paying me now**[.] I basically want to say that they are very misleading and are not being of a service to anyone of than themselves." *Source: Complaint filed by Texas custodial parent filed with the Texas Attorney General's Office, dated May 21, 1997.*

"I sent a request to [the private collection company] to help me try to collect *past due* child support. . . .When I asked this agency. . .to represent me and before I signed the enclosed document sent to child support of Hawaii, I called and asked [the private company] "Does this document mean you can intercept child support they [the public agency] have already intercepted? I was told *no*, they were not allowed to take money from an active court order and lead me to believe they. . .be would be trying to get unpaid child support from my ex-husband directly, or at least from his insurance co. Recently [the private company] began taken the child support that [the public agency] got from his [paycheck]. Also they may have intercepted his tax returns plus one *small* payment he made on his own to [the public agency.] So far this agency has done me no good whatsoever. They have only managed to help themselves & pay themselves for their services with money I would have gotten without their help, from [the public agency]. I am worse off financially now with their help. If this is all they are able to do for me I'd like them to stop helping me & return my contract. If they continue to take current support paid to [the public agency] and putting it toward arrears he owes which is over $11,500.00 at this point he will *never* catch up and they [the private company] will continue indefinitely to take my child support and take out their cut first which they have not earned at all." *Source*: Complaint filed by Texas custodial parent with the Texas Attorney Generals' Office, dated July 9, 1997.

"In the 4 year time I was on this contract they collected $16,000.00 which means they went 3000 over the amount. I would like to have that money back. Can you help? Please help us. Please help us. Please Please help us." *Source: Complaint filed by Texas custodial parent filed with the Texas Attorney General's Office and dated Nov. 3, 1998.*

"I was contacted by the [private collection company} in regards to my child support. . . .They explained that payments to me would be arriving soon and that they alone were responsible for me getting back support payments. Based on this information, they further stated that I owed a 35% fee on all monies paid since they were the ones to collect it. Since at that time I had a collection agreement with them. . .I did pay them a 35% fee. . .As it turns out, it was DCSE [Arizona public agency] that collected the money, not [the private company.]" *Source: Letter sent to Arizona Department of Economic Security, dated Oct. 29, 1999.*

"Signing the [private collection company] contract was a HUGE mistake. About one month after I signed the. . .contract, [the public agency] found Brian and began enforcing my support order. . .I have asked [the private company] to terminate my contract and they refuse to do so. . . .This particular problem is just one of many that I am having with [the private company]. I am in the process of seeking legal counsel in both the states of Arizona and Texas." *Source: Letter sent to Arizona Department of Economic Security, dated June 2, 1999.*

"I was amazed that [the private company] had initiated all this paperwork in a remarkably short amount of time, when in fact, everything had already been initiated and finalized [by the public agency]. {The private company] had collected 35% of my support checks for the past two years. . . ." *Source: Letter sent to Arizona Department of Economic Security, dated April 6, 2000.*

Complaints About Lack of Verification, Accessibility, and Accountability

"Plaintiff heard nothing from CSE for three years, except for an annual letter informing her that no settlement had been reached on her behalf. Plaintiff told

Schultz [disbarred attorney employed by CSE] that she did not wish to settle her claim, which by then had reached an aggregate sum of almost $32,000, for only $10,000. Schultz pressured Plaintiff to settle. . .Plaintiff called Schultz to inform him that she would not accept the offer. . .Plaintiff received a check from CSE in the amount of [$6,700.00]. . .Plaintiff contacted CSE repeatedly, but was informed by. . .the receptionist that everyone refused to speak with her." Source: Plaintiff's Petition in McDaniel v. Child Support Enforcement, Inc., Cause No. 99–05098 in the District Court of the 353rd Judicial District in Travis County, Texas, filed April 30, 1999.

"The only reason I went to this agency they told me they worked hand and hand with the Attorney General office, whenever they need information from them. What I want is for these people to let me know in full details how much back pay is it left to pay. And I want a statement from them when its paid. . . .And after it's paid out I want them to turn my case back over to the Attorney General's office to the state of Texas. I want to close out for good with C.S.E. I went to these people in 1996 and all I have done is lost a lot of money. I am a poor hardworking divorce mother who's just trying to make ends meet the best I can. . . .who are these people. . . ." *Source: Complaint filed by Texas custodial parent with Texas Attorney General's Office, dated July 18, 1998.*

"[The private company] refuses to cancel my contract. . . .They have not satisfied my repeated requests to furnish info about my account & how things are handled. They haven't by feedback from NCP been professional or courteous in the approach to NPC. . .[They] put me off by telling me I need to speak with supervisor who is never available." *Source: Complaint filed by Texas custodial parent with Texas Attorney General's Office, dated July 20, 1999.*

"They shouldn't be taking my money. They have not done anything on this case like they said." *Source: Complaint filed by Texas custodial parent with Texas Attorney General's Office, dated May 12, 1997.*

"They were not suppose to take any of that money, as a matter of fact this check should not have been mailed to this agency from the Attorney General's office. This agency will not respond to me or the Attorney General's Office by returning our calls. . . .I *do not* want their services." *Source: Complaint filed by Texas custodial parent with Texas Attorney General's Office, dated Sept. 30, 1997.*

"Also the last check they sent me, I could not cash because an authorized signature was on it[.] I called about it and they said we will send you another on the next day. That did not happen until one month later. That one too was not authorized to cash." *Source: Complaint filed by Texas custodial parent, dated Nov. 3, 1998.*

"However, the agency fails to inform the 'debtor' that they are attempting to collect a debt as required by state and federal consumer law. When asked how they verified that my client in fact owed any debt, there was no response." *Source: Letter from an attorney representing an Oklahoma noncustodial parent, filed with the Oklahoma and Texas Attorneys General Offices and dated Jan. 21, 1999.*

"Our research revealed that the Missouri employer was garnishing wages based on the [federal form] issued by a [private collection company], not the IV–D agency. I have not been able to determine the basis on which Mr.———'s wages were subject to attachment. It does not appear that any current support is due, and any past due support would have been very minimal. In fact, it is not clear what authority [the private company] has to issue an order to compel an employer to withhold[.]" *Source: Letter from Mary Ann Wellbank, Montana IV–D Administrator to private collection company, dated March 10, 2000.*

Confusion Created By Multiple Collectors

"Please help me get this situation straightened out. When [the private collection company] contacted me, they told me to stop sending payments to both you and the Clerk of the Court. . . . At the present time I am having difficulty even making payments, so finding out that they weren't even being handled properly really hurts. . . . I will not make any more payments until I find out who to make payments to, and have some official, legal documentation from the State of Arizona clarifying that your office is the correct place to send payments." *Source: Letter from noncustodial parent to the Arizona Department of Economic Security, dated February 21, 1998.*

"It is possible there are too many private companies hoping to cash in on the child support bonanza as we have gotten complaints and demands from [an attorney] in Texas and [the attorneys] purporting to represent a phony company calling themselves Child Support Enforcement Company and the Utah Department of Human Services representing the enforcement arm of Utah. . . . In any event we do not owe nor intend to make payment to you unless and until we have proof of a formal assignment form from Arizona Welfare and termination of Central Clearing House."

Source: Letter from Utah attorney to a private collection agency, dated March 21, 1997.

"My problem is, I will never know how much money is being sent from the Attorney General's Office to the independent organization. I am very concerned about this, because to be quite honest, I am not sure that I trust this independent organization. My question to you is, would you please send me a copy of the monetary transactions that have been made and will be made in the future from you to the independent organization?" *Source: Letter from custodial parent, filed with the Texas Attorney General's Office and dated May 5, 1998.*

"In communicating with Plaintiff, Defendant made several false representation including, but not limited to: 1) attempting to collect on a debt that is not owed to the alleged creditor, rather it is a child support arrearage owed to the State of Michigan; 2) not verifying the validity of the debt; 3) informing Plaintiff that it would be sending an income withholding order to Plaintiff's place of employment for collection on this debt, and there is already an income withholding order in effect from the Friend of the Court in Wayne County, Michigan." *Source: Plaintiff's Complaint in Child Support Network, Inc. v. UAW–GM Legal Services Plan., Case No. 60454 (U.S. District Court, ED, filed Nov. 30, 1998).*

Chairman JOHNSON of Connecticut. Mr. Baldwin?

STATEMENT OF HOWARD G. BALDWIN, JR., DEPUTY ATTORNEY GENERAL, TEXAS CHILD SUPPORT DIVISION

Mr. BALDWIN. Madam Chair, Representative Cardin, distinguished Member, my name is Howard Baldwin. I am the deputy attorney general for child support for the State of Texas. Today I am representing myself and Attorney General John Cornyn, State of Texas.

Although many things in these bills are very positive, I really want to focus on two aspects—one is the distribution changes and the second is non-IV–D access.

With regard to the distribution changes, passing through 100 percent of the child support to former TANF families, what I call "full family first," is very good public policy. Of our 1.2 million cases and two million children served in Texas, 17 percent are TANF recipients, 50 percent are former TANF recipients. This change will provide $30 million a year to help those families reach self-sufficiency, just in the State of Texas.

This change, however, comes with a cost. The loss of retained collections impacts program funding. There is a study—I believe it is last year—from the Office of Child Support Enforcement, the Lewin Study, that indicates that 16 States fund their program in part or in whole with child support retained collections. Those States include Texas, Kentucky, Louisiana, and Oklahoma, which are of interest, I know, to this Committee, as well.

The bill attempts to deal with that issue in two different ways. One, it delays mandatory implementation of the bill until October 1, 2005, to give the States time to prepare. That would give Texas three legislative sessions—we have biennial sessions. That helps. The second issue is it allows retained collections that are lost to be used for TANF maintenance of effort, to be claimed as that. It also allows TANF to be used to replace lost retained collections to the extent it is available.

My concern is that TANF dollars will not be available to the States that need those dollars; that this will force tough decisions for State legislatures that have many worthy programs and waiting

lists for certain social services, and that the choice will be cutting child support program funding. To put it in perspective, if that funding is cut, that $30 million becomes $90 million when you lose the Federal match. That cuts my program, for example, in one half if it is not replaced. And I understand the State would have some flexibility to replace it.

What I respectfully recommend is that you study this issue and deal with it in TANF reauthorization to ensure that this issue is there and that there is a funding source available to deal with this issue.

Second, I want to talk about non-IV–D access. First, the bill provides the mechanism for access by public non-IV–D agencies. In most States, counties or parishes contract to provide IV–D child support services and they get access to every one of these tools. In Texas and some other States we have non-IV–D public child support agencies that have a long history—in fact, a longer history—of providing services than the IV–D program to our citizens. These programs report to elected officials—to district judges who are elected by the people or to county commissioners court, the governing body of the county. They are accountable to the people. They should be trusted with this information with appropriate safeguards, and parents should be able to choose to go to their local county child support office and have the same tools made available to them.

Today, private attorneys cannot access tools available to IV–D agencies. All IV–D agencies do not oppose giving this access. I should state that. There was a statement earlier that implied that. All do not. But, with appropriate safeguards, parents choosing to go to a private attorney should be allowed the same tools that we have paid for with government dollars to create. Parents should be able to choose a private lawyer if they want to do so and have the freedom to make a contract. Admittedly, there are lots of issues that need to be dealt with. We see giving public and private agencies access, with appropriate safeguards, to these services to being akin to putting more troops on the battlefield.

I have 2,500 employees handling 1.2 million cases in the State of Texas. We need more help, and this is a mechanism to get it.

Thank you very much.

Chairman JOHNSON of Connecticut. Thank you very much.

[The prepared statement follows:]

Statement of Howard G. Baldwin, Jr., Deputy Attorney General, Texas Child Support Division

Chairwoman Johnson, Congressman Cardin, and other distinguished members of the Subcommittee, I am Howard G. Baldwin, Jr., Deputy Attorney General of the State of Texas and Director of the Attorney General's Child Support Division which administers the Title IV–D program in the State of Texas. I also serve as a board member of NCSEA, the National Child Support Enforcement Association.

I want to thank you for the opportunity to offer testimony today on the legislative proposal the Subcommittee is considering with respect both to changes in the rules for the distribution of child support collections and to providing State Title IV–D agencies the option of allowing public and private non-IV–D enforcement entities access to certain enforcement resources and remedies.

First, let me offer some observations about the proposed changes in the rules for the distribution of child support collections made by a State Title IV–D agency. There is no question that many State IV–D agencies have found the implementation of the distribution rules prescribed by the Personal Responsibility and Work Opportunity Act of 1996 daunting, at the least. Making requisite changes to automated

systems, training agency staff, explaining the order of distribution to custodial parents—all these tasks have been challenging, particularly in the face of the statutory deadlines within which the 1996 requirements have to be met.

The real problem confronting State IV–D agencies has been, perhaps, the complex scheme of assignment of support rights that underlies the 1996 distribution rules. As you know, families must assign their rights to child support as a condition for receiving public assistance. This has been true since the beginning of the Title IV–D program. The 1996 Act sought to implement the principle of paying the former family first all of the arrearages owed the family, that had accrued before and after the family received assistance, before reimbursing the state and federal governments for the amounts of assistance paid the family. While this is, unquestionably, a worthy goal, the actual process of achieving that end has been fettered by the requirement that State IV–D agencies keep track of the several categories of arrearages that arise from the different kinds of assignments that operate under the Act's provisions.

The legislative proposal before you, which extends the principle of "family first" advanced by PRWORA, constitutes sound public policy. Any amendment of the assignment/distribution rules must comport with that principle, to the extent possible. This proposal would dramatically change the scheme of assignments and, thereby, greatly simplify the rules for distributing support in the case of families formerly receiving public assistance. As you consider this proposal, I would, however, respectfully ask this Subcommittee to keep in mind that historically the distribution of support collections by State IV–D agencies in current and former assistance families is a matter linked to State funding of the Title IV–D program. States have looked to their share of collections in current and former assistance cases—those amounts assigned to the State for reimbursement of public assistance—as an important source of funding for their IV–D programs. A recent study indicates that this continues to be true for approximately 16 States, including Texas. The complete loss of these "retained collections"—including collections made through the Federal income tax intercept—imposes a difficult fiscal burden on those States, one that requires the replacement of the lost funding with State general revenues, unless some alternative source is available. My concern is that state legislatures confronted with difficult choices about which worthy programs to fund may find it necessary to cut child support program funding, thereby depriving families of the services they need to achieve self-sufficiency.

While the proposal before you contains an option for states to use funds appropriated as Temporary Assistance for Needy Families, TANF, some states, including Texas, are concerned that TANF may not be available for this purpose at the time such funding is needed.

Because of the significant fiscal ramifications of the proposed changes to the distribution rules, as well as because of other key issues associated with any change in the distribution process—not the least of which is distribution when two or more States have assignment claims—I would respectfully ask the Subcommittee to defer action on changes at this time. We in Texas share the concern that members of this Subcommittee and other members of Congress have that there be an increased flow of collected support to vulnerable, former assistance families. We want, as do our sister States, to achieve a far simpler financial accounting system in support collection and distribution than the current scheme of assignment and distribution rules allows. We certainly seek to be able to make the assignment and distribution process more intelligible to the families we serve. But we believe that any amendment of the current process requires a more searching analysis of the complex issues inherent in the process than we have thus far been able to undertake. Such issues would be appropriate for consideration during the TANF reauthorization process.

With respect to extending access to certain enforcement resources and remedies to public and private non-IV–D enforcement entities, I am happy to say that we in Texas support the proposal. Indeed, the organizational characteristics of the Texas IV–D program, as well as the structure of Texas Family Law developed by our legislature, already provides a firm foundation for productive interaction and cooperation with non-IV–D enforcement agencies in the State. Let me explain.

Texas has the only Title IV–D child support enforcement program in the country that reports directly to a statewide elected official, and it is one of only a few states that does not place its IV–D program under the umbrella of a human services agency. That was not always the case. Initially, the Texas IV–D program was situated in the State's Department of Human Services, but in 1985, the Texas Legislature acted to assign the administration of the program to the Attorney General. That move meant that the Texas IV–D program would be, as it currently is, a centrally administered, statewide program, delivering services through local field offices (currently numbering 68) and using its own staff (currently numbering 2,524 employees)

including its own attorneys (currently numbering 200) to perform enforcement actions under the aegis of the Attorney General. Unlike many states that deliver services by contracting with counties, the Texas program has only two county-based projects in which, under a Federal waiver and contracts with the counties, all new child support orders are processed as Title IV–D cases, unless the custodial parent declines services.

The 1.2 million child support cases handled by the Title IV–D agency constitute about one-half of all child support cases in Texas. The other one-half is handled by county child support entities, such as domestic relations offices, a "Friend of the Court" system, and local court registries, and by private agencies and private attorneys.

What, I think, is particularly noteworthy about the child support enterprise in Texas is that the Texas Legislature has made available to non-IV–D enforcement entities all the enforcement tools authorized by Congress, as these tools were developed and to the extent permitted by Federal law. For example, public and private non-IV–D providers of enforcement services may—independent of the IV–D agency—use statutorily prescribed procedures for the imposition of liens or license sanctions for child support enforcement. This, I know, is not true in all States, even though there is no restriction under Federal law with respect to the use of these enforcement mechanisms outside the IV–D arena. Similarly, the Texas Legislature has provided under the Texas Family Code access by non-IV–D public and private enforcement entities to a broad range of enforcement information available through the Title IV–D agency—again, subject to any limitations under the Federal code.

The point I would stress with respect to the provisions you are considering for allowing State IV–D agencies to extend certain resources and remedies to non-IV–D enforcement entities is that Texas law already contains all the statutory mechanisms for doing that. There would be no need in Texas for further enabling legislation.

I believe that—at least in Texas—there can never be too many resources brought to bear on the problem of nonsupport. The Texas Legislature has known this and has acted to ensure that, to the extent possible, all available resources in the State—public and private, IV–D and non-IV–D—are enlisted in the fight on behalf of our children to secure for them the financial support they are owed and need.

The legislative proposal before you would enable States to establish more effective relationships between their IV–D programs and non-IV–D providers of enforcement services. No State would be *required* to extend access of IV–D enforcement procedures to non-IV–D entities. Instead—as I understand the proposal—each State could determine the extent to which its IV–D program entered into a collaborative relationship with a public or private enforcement agency. The option provided by the proposal would ensure that a State IV–D agency could pace itself with respect to its own workload so that, in processing requests from non-IV–D entities, it did not slight its own responsibilities. Personally, I do not see that what is being proposed would bring an excessive or unmanageable increase in State IV–D agency activity. What I do see is that it would provide the State IV–D agency with more effective partnership with the valuable resources outside the agency.

As for any concerns about misuse of information or of enforcement mechanisms by non-IV–D entities, I should note that county child support offices report to either elected district judges, or to the elected governing body of the county, the Commissioners Court. I believe that these elected officials can ensure that adequate safeguards are in place to prevent any inappropriate use of these tools and information. I also note that the proposal calls for the Secretary of Health and Human Services, in consultation with appropriate parties, to develop sets of recommendations, including substantive and procedural rules, for the extension of enforcement mechanisms and information to public and private non-IV–D agencies. Moreover, any non-IV–D public and private enforcement agency seeking use of information and remedies would have to satisfy standards and procedures set by the State IV–D agency with respect to data security and the protection of confidentiality, privacy rights, and due process. I cannot imagine a more thorough process for protecting the integrity and appropriate use of the enforcement information and procedures.

Madam Chairwoman, I would respectfully urge you and your distinguished colleagues on this Subcommittee and in the Congress to support this proposal as yet another step we can take in strengthening the child support effort in our nation. Parents seeking child support need all the help we can provide—and their children deserve no less.

Thank you.

Chairman JOHNSON of Connecticut. I appreciate your comments, Mr. Baldwin, because I really find it hard to understand those of you who are just radically opposed to this proposal.

First of all, I do think there is a difference between non-IV–D public agencies. Do you see that as a difference? I don't see why we shouldn't let Texas use its county structure the same way we let States use their State structure. Now, do I have objection to that? I am trying to narrow the focus here..

Ms. TURETSKY. Madam Chairwoman, I will speak for myself. I do have concerns about expanding non-IV–D access to public agencies. There are somewhat different concerns than with the private agencies, and they have to do with the history of the child support program and how the fragmentation of the program has hurt performance and a consolidation of the program has helped. That is one set of issues. I think it had a lot to do with the political structure of the State, but also the political dynamics of the State, and we have seen some concrete evidence of where a fragmented program has great difficulty implementing some of the tools enacted by Congress, such as the statewide system and the State disbursement unit, and it is because of the fragmentation of authority and the ability of locally elected officials sometimes to block requirements from Congress.

Our concerns are structural. Our concerns are the proliferation of access and a lack of—not of due process, but of many users using the system, and our concern that it is a different set of families, and so families being served by the clerk of the court system are entering the system in a different way and they tend to be better off. Since we are advocates for low-income families, we are concerned about conserving resources for them in the public system.

Chairman JOHNSON of Connecticut. Ms. Smith, do you have anything to add to that in terms of non-public agencies?

Ms. SMITH. Yes. There are two issues—

Chairman JOHNSON of Connecticut. I mean non-IV–D.

Ms. SMITH. Right, with respect to public non-IV–D. The first is dealing with employers and financial institutions—banks, in particular—employers with wage assignments and banks with levies to collect arrearages. We spent a lot of time developing relationships with those entities, and they like having one agency that they can deal with for processing any wage assignments and levies and any questions they come up with, so that the process for them is consistent and simple as possible and it minimizes any inconvenience to them.

Having multiple entities dealing with employers and banks is going to make it more complicated. We are concerned that it will erode the great deal of cooperation that we have gotten from employers and banks so far.

The second issue has to do particularly with noncustodial parents who have multiple families. One case may be enforced by one entity, and the other case may be enforced by another entity, with the result you don't have a coordinated way of dealing with the enforcement processes that go on.

Chairman JOHNSON of Connecticut. Say that more clearly.

Ms. SMITH. Suppose a noncustodial parent has two families and one family's case is being enforced by the child support agency and the other case is being enforced by the local circuit court—

Chairman JOHNSON of Connecticut. But is that likely to happen?

Ms. SMITH. It happens all the time.

Chairman JOHNSON of Connecticut. All right.

Ms. SMITH. Yes, it does.

Chairman JOHNSON of Connecticut. So the problem of multiple fathers equals multiple enforcement cases.

Ms. SMITH. Right. Multiple mothers. A father who has several families, and we have some—

Chairman JOHNSON of Connecticut. Often the mother has several fathers.

Ms. SMITH. That is also true. When the money comes in, for example, if there is enough money to meet all the obligations, we pro rate it according to the amount of the current support order. If you have two different entities that are processing the money, then you don't get the kind of equity to the different families that we are able to organize by virtue of the fact that all the money comes to us.

The other issue relates to computer linkages and hookups. There are a lot of technical details that would have to be worked out. But I certainly think that courts are much more aware of and conscientious about privacy protection and due process than the private sector.

Chairman JOHNSON of Connecticut. Anyone else want to comment?

Ms. DURHAM-MCLOUD. Simply to say that this is an exceedingly complex issue and very heartfelt by all of the participants in this process. I can tell you we have our work groups in place working on this issue, trying to come to a consensus, because we believe that if we can form a consensus it will be better for everyone. But I can tell you that Mr. Baldwin and Ms. Smith are both active members of the board, and Ms. Turetsky belongs, as well, so we are not currently in a position to do a positive position.

Chairman JOHNSON of Connecticut. Well, you might take note that if you can't resolve it I might.

Ms. DURHAM-MCLOUD. Thank you.

Chairman JOHNSON of Connecticut. Mr. Primus?

Mr. PRIMUS. I think it goes in the opposite direction of where we have been headed. In other words, the child support system has to deal with employers, banks, credit bureaus, and so forth., and if you have more than one agency in a State responsible for that, I think it sets up fragmentation.

The fact that we have had fragmented programs and we have decisionmaking at many different levels in the system, you know, frankly, has deterred our efforts, for example, getting all of our automation tools up and running. I mean, I really think we come to a place now where we stand on the threshold, because of the new higher database, the child support registry, the disbursement unit, where we can make substantial advances, and now, going in the other direction and allowing more fragmentation, I think is not good.

Chairman JOHNSON of Connecticut. OK. Mr. Baldwin?

Mr. BALDWIN. First, with regard to wage assignments, we have universal wage withholding in Texas. Private attorney, a domestic relations office, or the IV–D agency, or the parent who is owed the support, the obligee, can all serve withholding on people today. Employers do not have one person, one entity to deal with in most States.

Second, most programs are county based in this country, they are not State-administered, State-delivered. We are unusual in that respect. Because of that, employers and other folks are used to dealing with a multitude of people—and I am talking specifically now on the county issue.

With regard to levies, I hear what Ms. Smith says, and we are concerned enough that we are considering centralizing other States to come through us to deal with Texas banks and credit unions when they want to serve a levy on a Texas institution because they won't know our law, and it is very complex, and we are thinking about providing that as a service and have, indeed, applied for a grant from the Federal office to look at that.

With regard to cases handled in multiple places, it happens today. I have it within the State with two child support offices that are both State-administered and try to get them moved in the same location.

When you have a county-based system—California would be a good example—you have 57 counties that potentially could all have a child support case for the same noncustodial parent that you have to deal with in multiple families, so you have problems like that.

There is an answer to some of these issues. That is to require public non-IV–D agencies to come through the State IV–D agency, to let that State agency control that process.

In the day of computerization with web-based technology, we are not talking an incredibly difficult process to resolve. People can enter data on a web application and upload it to the State. If they are big enough, counties can do a data exchange with the State.

We don't see those to be insurmountable problems, and the same thing, frankly, can be done with privates if the will of the Congress is to extend that remedy to them, as well.

Chairman JOHNSON of Connecticut. Thank you. You made two points that I think are important.

First of all, these contracts will be controlled by the State. They don't have to do them at all if they don't want to, and there is no reason why they can't say, "This is the information you can have if you apply to us on the forms we tell you to use, and we will give you the information."

Current law allows the custodial parent or their attorney. Now, you are forcing them to buy an attorney. You don't have to be TANF-eligible to not be able to afford an attorney. So yes, you can allow the custodial parent—it is pretty formidable, and it says also under current law, "or their agent," to obtain through a written application process available in the parent locator service, so they can already do that.

All we are talking about really is an agency that can do that for them, and aren't you better off with an agency that can help them, because now it already says their agent. This just isn't being used

much. Why don't you want to get control of it before it is used much?

They can use the parent locator system to get their Social Security number, address, employer, and employer's address, and similar information, and then they can serve the order.

Now, all we do is to say that, by 2001, a report providing guidance to States on how to implement access to information and enforcement tools would be—this is not direct access. We don't say "direct access will be published by the Secretary of HHS." These recommendations will include substantive and procedural rules that should be followed with respect to privacy safeguards, data security, due process rights, administrative capability with State and Federal automated systems eligibility requirements, such as registration, licensing, posting for bonds, for access to information and use of enforcement tools. Penalties for violations of the rules will also be recommended.

We do not say that the contracts can cover nothing else. We just say, at the very least, HHS is going to make some recommendations about these critical privacy data management issues.

Now, we do say it is State option, and, with appropriate protections beginning in 2002, that then States could, at their option, contract with IV–D public programs and with private agencies.

Now, second, under enforcement options, this is current law: "Private child support agencies—" I am doing this not so much for the benefit of you who work in this all of the time, but I think all of us need to be reminded that under current law agencies have access to enforcement tools such as wage withholding, license revocation, and child support liens.

Now, liens are one of the most hostile tools you can possibly use, in my estimation, because they can cripple the ability of the nonsupporting parent to earn a living. So why would you want to have access to liens and not have access to—now, I appreciate we don't want everyone and his brother going to the bank. And I think Mr. Baldwin's idea that they are going to think about having everybody come through their State agency makes a lot of sense.

Current law doesn't prevent you from doing that, right?

Mr. BALDWIN. No.

Chairman JOHNSON of Connecticut. So we don't want to prevent the development of a system that can honestly deal with information, but when you professionals sit there and say that one of the problems with this is that there are going to be more users, when we were only collecting 22 percent of the child support, listen to what you are saying. We are doing a terrible job. We have better tools. They are improving our effectiveness. We are proud of that. But, in terms of how much of the total child support non-collected money we are getting, it is still bad news.

So it is not an excuse that there would be more users. It is not an excuse that it is a different set of families. In fact, talk about blood boiling, no, if you are rich and you get divorced, you have got the money for a lawyer if there is not a lot of child support. It is the $30,000 families who divorce and then they each have got 15 or less, I mean, there is no room for lawyer payments here.

If I were a State child support enforcement person, I would no more contract with an agency that was going to take 33 percent of the child support than jump over the moon.

Would you, Mr. Baldwin?

Mr. BALDWIN. I have to say this—and I want to be fair about this—there are private contracts between private individuals. If we did our job, people wouldn't make that choice.

Chairman JOHNSON of Connecticut. Right. OK.

Mr. BALDWIN. If we were available, they wouldn't make that choice.

Chairman JOHNSON of Connecticut. Because, in my estimation, the States are not going to contract with everybody. They are going to contract with specific agencies, and there will still be these other agencies out there. And if, for some reason, they are desperate enough, or whatever—I don't know what the circumstances would be that would lead someone to choose that. I hope in the next panel we will get a little bit better insight on that.

But I will tell you, I see no hope. You mentioned, Ms. Turetsky, that the current welfare reform system is depriving our child support agencies of their level of funding. I guess you mentioned that too, Ms. McLoud. I see no hope. I mean, the most we are going to be able to do is somehow get it back up to hold harmless, but there is no big money out there that is going to flow into the system for enforcement. And our enforcement agencies are doing much better, our tools are much better. Why shouldn't some other agency be able to work through the State and the State give them the information from the bank or notify the bank or whatever? Let us work this out. But don't just tell me we can't do it.

We need to identify the problems, we need to identify the solutions, and we give ourselves in this bill a whole year to think about it, then we don't let them in for 2 years. Come on, kids, let us get courage out here. We are serving a pathetic number—I mean, we collected 14 percent of TANF cases, 22 percent of non-TANF. Not a record I am proud of.

That is how strongly I feel about this, to give you some sense of indicator here, and what we need to work on. But I appreciate your going through your concerns, and I understand the concern about too many people using the system, but we have to overcome that. We have to be able to govern the system better than that.

I am aware of all the abuse that has gone on in this, but there are also some good actors, so I think—get your board together. If you can figure it out, you know, how receptive we are to think that you have figured out for yourselves, so you have got your work cut out for you.

Mr. Cardin.

Mr. CARDIN. Thank you, Madam Chair.

Dr. Primus, did you want to respond to that last point? You seemed very anxious.

Mr. PRIMUS. Yes, I would, if I could.

I really do appreciate the chairman's intent behind this provision. I mean, I understand that. I guess the question is: What do you do first? I think the evidence, as some of my colleagues in the second panel suggests, that what you ought to do first is get a hold of this unregulated industry and make sure—it is not just the ac-

cess to the information. It is the charging. It is the advertising practices, and so forth. Then, again, decide what to do about that and mandate that the States regulate, and then decide what additional tools they should be given.

So it is not a question—we are not disagreeing with the intent here.

Chairman JOHNSON of Connecticut. Would you yield on that point though?

Mr. CARDIN. I am glad to yield to my chairman.

Chairman JOHNSON of Connecticut. See, the problem is that, first, we don't like to mandate. It would be hard to get a bill through the Congress mandating that States pass laws to regulate this whole sector when they haven't been regulating them.

Second, they don't know enough to regulate them, frankly. If we let States—if we do this, through those contracts we will see a variety of State solutions, and then we will know whether there needs to be, and so will the States.

In instance after instance, welfare reform, disability reform, many instances, it has been the State experimentation that has led to improved public policy.

I think what you are saying is, "Wait 3 years while we mandate this in the States and they do something." With this collection record, Wendell, do you really want to do that?

Mr. CARDIN. Let me reclaim my time. I happen to agree with the Chair on this point. That is, I don't have a great deal of confidence that this Congress will pass legislation that would set up the regulatory protection for these types of collection agencies for the States to act. I also do not have a lot of confidence that the States have performed very well in this area.

So, getting back to Mr. Baldwin's point, which I think is the right point, that the use of these additional tools should be with appropriate safeguards—quoting your language—appropriate safeguards. We don't have the appropriate safeguards. States already have certain options available to them that they have not used.

Mr. Baldwin, I don't mean to put you on the spot, but you are the only Attorney General that I have here. Looking at Texas, we have some—Ms. Turetsky has attached to her exhibit some rather difficult cases to understand. We don't know how accurate all the information is on complaints that are filed, but in one case the parents of a noncustodial parent were terribly harassed and intimidated to put child support arrearages on their credit card. In another case, a spouse of a noncustodial parent's credit was affected by the way that the private collection agency performed. In another case, abusive practices were used. All of these are pending, I assume, before Texas.

I guess my point is that—and it is Dr. Primus' point—it seems to me that, before you look at expanding and giving this additional power to non-IV–D parties, we should be assured that there are appropriate safeguards in place, and the State record here has not been very good.

The Chair points out—and rightly so—that there is certain information currently available. That is correct. But what the legislation would make available is everything we have under the new hires and under the financial information from the banks, which is

pretty powerful material. This is a new level of information that would now be available that is very sensitive on privacy, very sensitive type of information on which we depend. We have had hearings before our Committees. We depend upon the good will of the private sector to help us in getting this information together, because they are interested in helping us collect child support. They are. But if it is used to get an elderly couple intimidated the use their charge accounts, credit cards, more than they should to help a noncustodial parent who is their son in an inappropriate way, that is something we need to protect against. That could very much compromise the credibility of this information that is currently being made available to collect child support.

I appreciate what everybody is saying here, but I really don't believe we have the appropriate safeguards in place, and I don't think this Congress is going to mandate that you put in the appropriate safeguards.

I will be glad to let you respond to that.

Mr. BALDWIN. Thank you.

One, I think that there is a distinction between where we are now and where we would be with this bill. Where we are now is, as a IV–D program, I have zero authority to regulate private collection agencies. It is not a IV–D function. I couldn't do that today.

The Texas Legislature has considered and passed out of the Senate but not the House last session a regulation, but—

Mr. CARDIN. But the State of Texas could give you that authority?

Mr. BALDWIN. State of Texas could not give me, as the IV–D agency, but could give an entity of the State that authority. You would have to authorize—

Mr. CARDIN. Couldn't they give the Attorney General the authority to do it?

Mr. BALDWIN. Sure.

Mr. CARDIN. So that is—

Mr. BALDWIN. Can I make a distinction? I am not trying to be pedantic here. It is that it is not a IV–D function. It is not reimbursable from the Federal Government for me to regulate. It is absolutely an authority that could be granted to the State Attorney General. We already have a consumer protection division that investigates these complaints. I do not. That is the appropriate forum to investigate.

That is just one point.

Under the bill, if it were passed, I could extract some measure—you could call it regulation or some measure of control over a private or public entity that wanted access to this information through the contract, through the agreement, that I don't have today, because today I have to comply with the Federal law and regulation and release locate information to firms with no control other than—

Mr. CARDIN. I guess my point would be: Why do you think the States would perform better under this authority, where they haven't performed very well under the current authority—that is, the general authority you have in the States?

And it gets me to the second point that I am a little bit perturbed about on the finance. I understand that you work from one budget

year to the next and we never really look at the philosophy on how these things are funded and rationale, but if all programs were financed by the Federal Government as well as we finance child support collection administrative costs, the States wouldn't have to impose any taxes. In fact, they could do some other things, because the system pays, in some cases, over 100 percent.

So there is something here about a partnership and there is something here about trying to develop good policy, and the Federal Government has a major responsibility as a major partner in this, but I think it is a little bit unfair to suggest that, because you—and Mrs. Johnson's bill gives it 5 years before we really implement this, and we do have to give the States an opportunity to adjust to whatever changes we make, and I fully agree with the Chair on that point.

But when we look as to what is the right policy here, the States should be putting more resources into these areas. The Federal Government has done an extremely effective job and a very generous job here, and I think it is not fair to say that the financing here has every—we have got to reimburse the States for all these additional burdens that we are putting on here.

Mr. BALDWIN. I wouldn't contend you have to reimburse the States. We have granted to the States TANF dollars to use in providing services to families to reach self-sufficiency. There is no better program to help a family reach self-sufficiency than the child support program.

A University of Texas study shows that the impact of the child support dollar collected is three times greater than a dollar of earnings.

There is no question. What I just don't want to see happen is the legislature is confronted—and I know you know this—confronted with a tough choice for many worthy programs, that program funding could be cut in the short term while we are dealing with this issue.

Mr. CARDIN. That is fair enough, just so that we start getting some support at the State level for recognizing the fact that the funding here is somewhat out of balance between the Federal and the State in that regard.

Dr. Primus.

Mr. PRIMUS. Just adding to your point, Congressman, I mean, if the States spend an additional dollar, they would automatically get two additional from the Federal, so, I mean, the control of how much we are actually investing here is very much at the State legislative level, and there is an open-ended match.

My concern with the Johnson bill is that, you know, it grandfathers the fact that the Federal Government is going to pay 90, 95 percent of the cost of these distribution changes forever. I think, because it is a Federal/State partnership, you should look at that and see whether that grandfather should last in perpetuity.

Mr. CARDIN. Ms. McLoud?

Ms. DURHAM-MCLOUD. To go back to the call that we made for a commission to look at the financing, let me say quickly that it is not simply a matte of trying to get more money for the program. Anyone who says that they don't want more money for their program, you probably wouldn't believe anything else they said, either.

But it also, in addition to the dollars, provides an educational process for the policy-makers who are addressing that program.

Let me suggest that would work at both the Federal and the State level, because we bring all of those players to the table.

The policy issue I think is just as important as where the dollars will come from. This is a personal Dianna Durham-McLoud opinion, not necessarily endorsed by anyone I know on or off the Board, but I don't believe that many of our State legislators had a real sense of the comprehensive nature of the child support program until PRWORA passed. It was when the PRWORA bill showed up in some legislatures that they went, "Wait a minute. Hold it." Now, I am perfectly prepared, as a former administrator, to say in part that may have been my fault for not doing a better job of getting that message out, but I think the attention to the program is just now, in the last 10 years, starting to be focused there, and you have been very helpful in making that happen.

Mr. CARDIN. Let me just conclude by just focusing, Ms. Smith, on the last point that you were making, because I am not sure I fully understood the issue.

That is, if one agency enters into an arrangement, because these are State options, it affects other States as far as the information. I didn't fully understand that point, if you could—

Ms. SMITH. The way I read the proposal, if in Texas, for example, where they seem more receptive to this proposal than elsewhere, private collection agencies from all over the country entered into agreements, or an agency in Texas that had custodial parents from all over the country entered into an agreement with Texas, they could submit those requests to Texas and it would go up to the Federal Parent Locator Service, and they would have access to all of the information that comes from Massachusetts, where I do come from, which has a culture, by virtue of being in the tax department, that is very, very strict about guarding confidential data. I mean, we are as strict as the IRS, if not stricter, because of the amount of information that we have.

So we would be very resistant to allowing our citizens, whose privacy we are committed to protecting, having their information being submitted to the Federal Parent Locator Service and people from all over the country could access that by virtue of going through one State that has elected this option.

There is a little bit of a Trojan Horse component to this bill, because it looks like there are lots of options here, but the way I read it, and my colleagues have read it the same way, is that if one State goes down this path, the rest of us are automatically on that path, whether we like it or not.

Chairman JOHNSON of Connecticut. He is shaking his head. I just want to make sure—

Mr. BALDWIN. I actually believe that she is correct that under current Federal law—let me just do it that way—anyone can apply in any State and cannot be denied services, so non-Texas residents can apply to the Texas IV–D agency or someone on their behalf, their attorney, can access parent locate today by going through me. In fact, we have a very sizeable private parent locate number of requests.

Mr. CARDIN. Thank you.

Thank you, Madam Chair.

Chairman JOHNSON of Connecticut. If the next panel will come forward, we will be able to hear at least one and maybe two of them.

Thank you very much for your testimony, for your thoughtfulness, and for the dialog. Thank you.

We will be hearing first from Ms. Joan Entmacher, vice president and director, Family Economic Security from the National Women's Law Center.

Ms. Entmacher.

STATEMENT OF JOAN ENTMACHER, VICE PRESIDENT AND DIRECTOR, FAMILY ECONOMIC SECURITY, NATIONAL WOMEN'S LAW CENTER

Ms. ENTMACHER. Chairwoman Johnson and Members of the Subcommittee, thank you for this opportunity to testify on behalf of the National Women's Law Center and for the work you have done to develop the Federal/State child support enforcement program.

The Center strongly supports the assignment and distribution changes proposed in the Child Support Distribution Act, and the even more comprehensive reforms of the Child Support for Children Act. These proposals would move the program even further toward the goal of increasing child support for children.

Unfortunately, the proposal to allow States to increase the powers of private collection companies and non-IV–D agencies, Title III of H.R. 4469, would move in exactly the opposite direction. The Center is concerned that those provisions divert child support intended for children, and collected by the IV–D program, to for-profit companies.

Representatives of the private child support collection industry often justify their high fees—typically one-third of collections, by saying that two-thirds of something is better than nothing. But too often, parents pay one-third for nothing because IV–D has actually collected the money.

Another argument private companies make for increased powers is that they offer consumers a choice. The complaints in my testimony highlight complaints from consumers who tried to cancel the contract and were told they were on the hook indefinitely paying a portion of their child support.

I appreciate, Madam Chairwoman, your statements recognizing the seriousness of the problems that exist, so I won't go through those complaints in my testimony, but I have to respectfully disagree that H.R. 4469 would help solve the problems that already exist. I believe that a better approach would be to study the issues, make sure that effective privacy and consumer protections are in place nationwide to deal with the existing issues before any expansion of authority of these institutions is considered.

I don't want to be defeatist, but I do want to go through some of the issues that should be considered.

First, giving access to additional IV–D tools, such as the tax refund intercept, would just expand companies' ability to take a cut of child support actually collected by IV–D for children.

Second, the bill leaves it to the States to develop protections. You have said that one of the advantages of that approach is that

States could experiment with different approaches. I believe Ms. Smith gave the response to that, which is that if one State develops weak protections, the privacy of all Americans would be jeopardized. That is one reason why the Consumer Federation of America, Consumers Union, and U.S. PIRG joined together to express concerns about the privacy implications of this proposal.

The third point is that just verifying that a request is being made for child support purposes is difficult or impossible, since there is no all-inclusive Federal registry of child support orders. The Federal case registry only includes information on non-IV–D orders entered or modified after October, 1998, and it doesn't include any payment information on non-IV–D cases.

Next, the States also will find it difficult to prevent erroneous or abusive collection practices. Since the Federal Fair Debt Collection Practices Act has been held not to apply to child support debts, each State will have to develop its own legislation to curb the kinds of abuses that are suffered by noncustodial parents that are highlighted in testimony submitted by several witnesses. And, verifying arrearages in non-IV–D cases before sending cases on for such tough tools as tax refund intercept, passport sanctions, and others will be difficult because there is no way to match those arrearage claims against automated records. They don't exist for non-IV–D cases.

Errors that were made in intercepting tax refunds could affect citizens in several States who are owed the refund or who have another claim on those tax refund proceeds.

Finally, the cost of implementing these options would divert IV–D resources away from providing services to families and re-fragment the child support system. I fear that this proposal would reduce rather than help children get child support.

Thank you.

[The prepared statement follows:]

Statement of Joan Entmacher, Vice President and Director, Family Economic Security, National Women's Law Center

Chairwoman Johnson and Members of the Human Resources Subcommittee, thank you for this opportunity to testify on behalf of the National Women's Law Center. The Center is a nonprofit organization that has worked since 1972 to advance and protect women's legal rights. It has been a strong advocate of improved child support enforcement for more than two decades. I and other Center staff have presented testimony on child support issues to this subcommittee on several occasions, commented on child support regulations of the Department of Health and Human Services, litigated child support cases and met with officials in the Administration, Congress and the states in furtherance of the Center's efforts to improve child support enforcement. The Center also provides information to women across the country in English and Spanish on how to exercise their rights to child support through state child support offices, and assists low-income women in the District of Columbia with child support and family law issues.

Since the creation of the child support enforcement program under Title IV–D of the Social Security Act in 1975 (the "IV–D program"), the program has evolved in important ways. Initially, the primary mission of the program was to recover welfare costs, though it also provided services to families that had never received public assistance. Today, the majority of families served by IV–D have not received public assistance, but most are low and moderate income.[1] Since the passage of the the

[1] A recent analysis by the Assistant Secretary for Planning and Evaluation, "Characteristics of Families Using Title IV–D Services in 1995" (May 1999), found that 63% of custodial parents eligible for child support used the IV–D system. Only 23% of custodial parent families in the IV–D system had family incomes of 250% of poverty or above (in 1995, 250% of poverty was

Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, the number of families receiving public assistance has declined sharply. More single mothers are working, but they are still struggling to make ends meet. It is time to complete the transformation of the IV–D program into a program that helps families achieve greater economic security by securing child support for children.

Some of the proposals the Subcommittee is considering represent significant steps toward this goal, giving greater priority to the child support claims of families over government claims for welfare reimbursement. Unfortunately, the proposal to allow states to increase the powers of private collection companies and non-IV–D agencies (Title III of H.R. 4469, the Child Support Distribution Act of 2000) would move in exactly the opposite direction. Those provisions would increase the profits of private child support collection companies at the expense of children and undermine the IV–D child support enforcement program which members of this subcommittee and staff have worked hard, on a bipartisan basis, to develop over the years.

ASSIGNMENT AND DISTRIBUTION REFORMS

The Center strongly supports the assignment and distribution changes proposed in Title I of H.R. 4469, and H.R. 3824, the Child Support for Children Act. PRWORA gave families that had left public assistance increased claims to child support arrearages, but fell short of a true "Families First" distribution policy. Under PRWORA, collections made through the federal tax refund intercept, the single most effective technique for collecting arrearages, continue to go first to the state. Even after the PRWORA distribution changes are fully phased in, families applying for Temporary Assistance to Needy Families (TANF) still will be required to temporarily assign to the state their rights to pre-TANF child support arrears. These and other exceptions to "Families First" distribution create a complex, expensive-to-administer, and virtually inexplicable distribution system.

The assignment and distribution reforms in Title I of H.R. 4469 would give families that have left TANF more of the child support paid on their behalf. They also would simplify the administration of the IV–D program, reducing delays in distributing funds to families and freeing resources for other activities. The requirement in Title II that IV–D programs review the cases of families leaving TANF also would help families secure the child support they need to achieve self-sufficiency.

Both custodial and noncustodial parents also would benefit from the provisions of H.R. 4469 and H.R. 3824 that would limit the amount of the assignment while a family receives assistance and direct IV–D agencies not to collect Medicaid birthing costs. Some states require noncustodial parents to reimburse the state for birthing costs and past public assistance expenditures, creating large debts to the state that are unrelated to and far exceed their ability to pay. These practices can deter fathers from establishing paternity, discourage low-income pregnant women from seeking proper health care, and discourage both parents from working with IV–D. The proposed changes will make it easier for noncustodial parents to focus on providing support to their children, not reimbursing state debt.

H.R. 3824 would provide a more comprehensive reform of distribution than H.R. 4469. It would require states to pass through all current child support payments, including payments for families currently receiving public assistance. This would ensure that custodial parents know how much child support was being collected and eliminate the delays in payment that often occur when families leave welfare. In addition, under H.R. 3824, the federal government would share the cost if a state chose to disregard some of the child support for TANF purposes. This would encourage states to allow the child support payments made by noncustodial parents of children receiving public assistance to make a direct difference in their children's lives. This is an important "fatherhood"—and "motherhood"—issue.[2]

The Center applauds the bipartisan support for distribution reform, and hopes that real progress will be made this year.

$30,395). Over half (53%) of the custodial parent families not using the IV–D system had incomes of 250% of poverty or greater.

[2] The National Women's Law Center and the Center on Fathers, Families, and Public Policy in Madison, Wisconsin have collaborated in the "Common Ground" project to bring together practitioners, advocates, and researchers that work with low-income mothers and fathers to develop public policy recommendations to increase the likelihood that children will receive financial and emotional support from both parents. Participants have emphasized that policies that direct all of the child support paid by the noncustodial parents of children receiving public assistance to the state not only deprive poor children and custodial parents of needed economic resources, but increase conflict and stress within the family.

Proposals to Allow Private Collection Companies and Public Non-IV–D Agencies Access to IV–D Information and Enforcement Tools

The Center is strongly opposed to Title III of H.R. 4469, which would allow States to give private child support collection companies and non-IV–D agencies greater access to confidential information and IV–D enforcement tools. We recognize all too well that although the IV–D program has improved, progress has been painfully slow and uneven. We appreciate this Subcommittee's commitment to continue to explore ways of increasing support for children.

We are concerned, however, that Title III would reduce the child support actually going to children and undermine child support enforcement by:

- diverting much of the child support intended for children, and actually collected by IV–D agencies, into the hands of for-profit collection companies;
- jeopardizing individuals' privacy;
- increasing the risk of erroneous and abusive collection practices; and
- diverting IV–D resources away from providing services for families and re-fragmenting the child support program.

Diverting much of the child support intended for children, and actually collected by IV–D agencies, into the hands of for-profit collection companies

Given the current, largely unregulated state of the private child support collection industry, increasing their access to the information and tools of the IV–D system would expand the potential for exploitation of custodial parents and children. Fees in the child support collection industry are high: 25 to 40 percent of collections, often with additional administrative fees and expenses. Some industry representatives justify these fees by saying "two-thirds of something is better than nothing." But what happens all too often is that custodial parents pay one-third or more of their child support to a for-profit collection company for nothing—because IV–D has actually collected the money. For example [3]:

> A mother in Phoenix, Arizona complained that when she signed a contract with a private collection company, she was not informed that the State IV–D agency had already located the absent parent and arranged for the garnishment of his wages. "[*The company] has collected 35% of my support checks for the past two years for an investigation that was already finalized."*
>
> A mother in Plano, Texas wrote that she had asked a private collection company for help in collecting *past due* child support from her ex-husband. She was already receiving current support through the IV–D program. She was told that the company would not intercept those payments, but would make additional efforts to get unpaid child support. Instead, she complained, the company simply took its percentage out of payments made to the IV–D agency. *"They have only managed to help themselves and pay themselves for their services with money I would have gotten without their help. . . I am worse off financially now with their so-called help."*
>
> A Red Oak, Texas mother had an open case with the IV–D agency when she signed a contract with a private company. She complained: "*They take the check. They shouldn't be taking my money. They have not done anything on this case like they said*."

In the private child support collection industry, the way to maximize profits is to take a cut of collections while letting IV–D do the work. Expanding the access of private collection companies to IV–D information and enforcement tools, as Title III would do, would only increase the ability of private companies to profit from the work of IV–D at the expense of children.

Some may think that while it is unfortunate that consumers enter into unwise contracts—especially when children owed support pay the price—the best approach is to let the buyer beware. But contracts frequently used in this industry are confusing, even misleading. Even more disturbing, if custodial parents realize they have made a bad deal, contract provisions attempt to limit their ability to terminate the contract. Industry representatives have cited "consumer choice" as a reason to give them access to IV–D systems. But many companies try to restrict the ability of a custodial parent to choose to terminate the contract and seek services from IV–D or another entity.

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[3] Examples are taken from complaints on file with State Attorneys General, collected by Amy Collins and Vicki Turetsky, Center for Law and Social Policy. For additional examples, see Testimony of Vicki Turetsky to the Subcommittee on Human Resources, May 18, 2000 and Testimony of Joan Entmacher to the Subcommittee on Human Resources, October 5, 1999.

Some companies emphasize in their advertising that they help collect "past due" support.[4] However, they then claim a percentage of *current* support payments under difficult-to-understand contract clauses that redefine "current support" as "past due support."[5] By applying current support payments first to the arrearage, and refusing to allow the custodial parent to cancel the contract until the arrearage is paid in full, companies can take their cut of child support indefinitely, leaving custodial parents with less child support than if they had written off the arrearage completely.[6]

> A custodial parent from Fort Worth, Texas told the State Attorney General she had written the company in an attempt to terminate her contract: "*It was my understanding that you all would take 30% of the part that he was in arrears. It was certainly not my understanding that you would take away what I was getting currently. This is ridiculous. So cancel the proceedings*." They refused. She wrote the Texas Attorney General, "*I believe that the entire agreement is very deceptive. . .. They're stating that they're getting the amount that's late, but what I want to know is: if they are currently collecting the late part of what he owes me, what happens to the portion that he should actually be paying me now. . ..?*"
>
> A mother from Seagoville, Texas had sought help from a private company in collecting $7,130 in child support arrears. She wrote the Texas Attorney General, "*The contract states. . .[o]nce total amount owed was collected then I would receive 100%. However that was not done— In the 4 years time I was on this contract they collected $16,000, which means they went . . . over the amount. I would like to have that money back. Can you help? Please help us. Please help us. Please, Please help us*."

These common practices also have critics within the industry. One company representative stated, "The entire private child support collection industry needs to admit that it has been taking unfair advantage of custodial parents." He said his company "has looked at the fee structure that is in place throughout the industry and realized that we are charging parents a sizable amount of money when we are no longer providing any viable services."[7]

In some cases, custodial parents end up getting none of the child support payments intercepted by private collection companies. The Illinois Attorney General sued one company for retaining all current support payments until its undisclosed administrative fees were reimbursed.[8] Other companies advertise their low percentage rates, failing to call attention to contract provisions that allow them to claim 100 percent of collections until administrative or legal fees are reimbursed in full.[9]

Finally, private child support collection is being touted as a hot, new money-making venture, attracting scam artists and individuals and companies that simply get in over their head. One company solicited individuals to become licensees:

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[4] See, for example, the website of CSE* Child Support Enforcement (supportkids.com): "Founded in 1991, Supportkids.com has achieved unprecedented success in collecting past-due child support. . .." The CSE contract begins, "I am asking CSE to enforce and collect "Past-Due Support Owed. . .."

[5] For example, the standard contract of CSE* Child Support Enforcement, Co. (supportkids.com), states: "'Past-Due Support Owed' also includes any support and interest that become past-due after the first payment is received by CSE. Regardless of how payments are designated by NCP, a party making payments on behalf of NCP, court records, or any other documents, it is specifically agreed that any and all amounts received by CSE will be first credited to reduce 'Past-Due Support Owed.'"

[6] See, for example, the termination clauses in the standard contracts of CSE* Child Support Enforcement, Co. (supportkids.com)(available on-line), NationalChildSupport.com (available on-line), KIDS, Ltd. (available on-line from their website, collectchildsupport.com). For an explanation of how such provisions can leave custodial parents with less child support than they would have had if they had written off the arrearage completely, see Testimony of Joan Entmacher to the Subcommittee of Human Resources of the House Committee on Ways and Means, October 5, 1999.

[7] Michael McCoy, Managing Director, Child Support Intervention, Press Release dated October 4, 1999 (http://www.deadbeatparent.com/media/contract—pr.htm). While the CSI contract available on-line provides for reduced fees after a period of regular payments, it also restricts the ability of the custodial parent to cancel the agreement.

[8] Office of Attorney General Jim Ryan, Press Release dated September 28, 1999.

[9] For example, the website of KIDS, Ltd. of San Antonio, Texas (www.collectchildsupport.com) announces, "Lowest rate and no set up fees!" "We even pay the attorneys' fees for you, in some cases." But paragraph 8 of the "Exclusive Agency Contract" available on-line states, "That if the AGENCY has made any advanced distribution on behalf of the APPLICANT for attorney fees, court cost, filing fees, and or any other cost of enforcement, that said fees will be reimbursed from the initial proceeds until paid."

> Imagine, for less than an initial $1,000, you can actually own and operate your own prestigious business with a ready market which constantly renews itself and provides an unlimited and unending earning potential for you. (Emphasis in original) [10]

Another advertises opportunities to "Own Your Own Child Support Collection Agency";

> The private child support collection industry is still growing, and it is not too late to enter into this industry as an independent agency. This is still a ground floor opportunity! . . . Operating a private agency can be a profitable venture that can begin as a part-time home-based business. As with any business, the more time and effort that is devoted to the business, the more it will grow, and the profits will grow accordingly. Most agencies are reporting growth rates in terms of revenue in excess of 50% each year. Annual growth of 90% or better is not uncommon in this industry.[11]

Better Business Bureau records reflect complaints against companies that quickly started up and almost as quickly disappear, leaving behind frustrated custodial and noncustodial parents and no forwarding address or telephone number.[12] Custodial parents have complained of money lost to scam artists who collect application fees then vanish into the night, and to companies that collect money from the noncustodial parent—and keep it for themselves.[13]

Before measures to expand the powers and encourage the growth of such companies are considered, effective prohibitions and remedies against unfair and predatory practices by the private child support collection industry should be put into effect nationwide.

Jeopardizing individuals' privacy.

Title III of H.R. 4469 also would give States the option of expanding the access of private collection companies and public, non-IV–D agencies to confidential information. States would have the option of giving private collection companies—indeed, any individual or entity seeking to establish or collect child support—access to any information available in the State Directory of New Hires and any information obtained through data matches with any information in the expanded Federal Parent Locator Service, including the Federal New Hire Directory and Federal Case Registry. States also could make this information available to non-IV–D state and local agencies for child support activities. Private collection companies and non-IV–D agencies also could have access, at state option, to information from private financial institutions—banks, savings and loan institutions, credit unions, money-market mutual funds—under the provisions for expanding the financial institution data match.

Under Title III, states would have to devise their own methods for protecting privacy. No federal consumer protections, enforcement mechanisms or rights of action against private collectors or non-IV–D agencies would be created. Sections 311 and 321 state that private collection companies and non-IV–D agencies must "meet such requirements as the State may establish" and enter into a "binding agreement" with the state "to carry out establishment and enforcement activities with respect to the child support obligation subject to the same data security, privacy protection, and due process requirements applicable to the State agency and in accordance with procedures approved by the head of the State agency." Section 301 of H.R. 4469 does call upon HHS to develop recommendations about how to implement expanded private and non-IV–D access, in consultation with state IV–D agencies and public and private companies knowledgeable about involving non-IV–D entities in support enforcement. However, the consultation would not consider whether expansion was feasible or appropriate, nor what consumer protections or rights of action should be developed. It would not include representatives of custodial or noncustodial parents, children, or consumers, or privacy experts. Recommendations concerning access by private collection companies would not be due until *after* the effective date of the provision. Most importantly, states would have no obligation to adopt the HHS recommendations or something stronger.

It is difficult to imagine how privacy rights could be protected effectively. In theory, information would only be available to private child support collectors and pub-

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[10] Advertisement by Child Support Collection Agency of America, Inc.

[11] Collection Solutions, Inc., http://members.aol.com/gocsinow/private/agencyop.html.

[12] Information from Better Business Bureau files in the National Information System compiled by Amy Collins and Vicki Turetsky, Center for Law and Social Policy, 1999.

[13] Office of Attorney General Jim Ryan, Press Release dated September 9, 1999; Testimony of Geraldine Jensen, President of Association for Children For Enforcement of Support, Inc. (ACES) to the Human Resources Subcommittee, Nov. 7, 1997.

lic non-IV–D agencies about "an individual with respect to whom [the entity] is seeking to establish or enforce a child support obligation." In practice, however, it would be virtually impossible for a state IV–D agency to verify that requests were for the purpose of establishing or enforcing a child support obligation. There is no central registry that includes information about all non-IV–D cases. State Case Registries are only required to include information about non-IV–D support orders established or modified on or after October 1, 1998, 42 U.S.C. § 654A(e)(1)(B). Registries do not include information about non-IV–D cases where orders have not yet been established. And, as of October 1, 1999, 12 states—including California, Illinois, New York and Texas—had not provided any information about non-IV–D cases to the Federal Case Registry.[14]

States confronted by requests for information about hundreds or thousands of individuals purportedly for the purpose of establishing or enforcing child support could respond in different ways. To avoid the cost and burden of obtaining independent verification for every request, some states might decide to accept a general statement from the company that all of the information it requested related to child support. A decision by just one state to allow easy access to information would jeopardize the privacy of individuals across the country, including residents of states who choose not to expand access to information. State New Hire Directories contain information about individuals residing in several states, because they work for an employer located in the state. The Federal Parent Locator Service is a nation-wide system. And financial institution data matches are performed with multistate financial institutions.

Even if the information were sought for a legitimate child support purpose, protecting against its further dissemination and use will be difficult. Personal financial information is a valuable commodity, and many collection agencies seek more than child support debt; the potential for abuse is great. Apart from deliberate abuse, assuring the security of information given to multiple public non-IV–D agencies, and potentially hundreds of private companies and thousands of private attorneys and individuals, with diverse computer systems and staffs with varying degrees of training, will be difficult if not impossible.

Expanded access to information could jeopardize the safety of battered women in particular. Title IV–D requires federal and state IV–D agencies to implement special confidentiality protections to protect the safety of battered women, some of whom, despite the dangers, want to seek child support to become more financially independent. Under the proposal, thousands of individuals and entities could be authorized to request information. It will be difficult for state IV–D agencies to screen all of the requesters and all of the information requested to ensure that release of information will not jeopardize domestic violence survivors.

Ultimately, the privacy problems that are likely to result could undermine all child support enforcement efforts. Over the years, Congress has worked to increase the effectiveness of child support enforcement while protecting the privacy of individuals. In the Family Support Act of 1988 and PRWORA, Congress required the creation of the automated systems and databases essential to effective state child support enforcement, and addressed legitimate privacy concerns by carefully limiting access to and use of the information. If access to these databases is expanded, and abuses occur, a future Congress or state legislatures may conclude that the only way to protect privacy would be to dismantle these databases altogether, permanently setting back child support enforcement.

Increase the risk of erroneous and abusive collection practices.

Title III of H.R. 4469 would allow states to give private child support collectors and non-IV–D agencies access to certain child support enforcement tools now available only to IV–D agencies. These would include intercepting Federal tax refunds, credit bureau reporting, passport sanctions, financial institution data matches, and income withholding from Unemployment Insurance benefits.

Expanding the powers of private child support collection companies would open the door to further abuse. The industry is largely unregulated; courts have ruled that child support collection activities are not covered by the federal Fair Debt Collection Practices Act, which prevents harassment or deception.[15] Noncustodial parents, employers, IV–D representatives and others have complained about deception (e.g., falsely representing oneself as a state IV–D representative or law enforcement officer; claiming powers not granted by law; generating or altering wage withholding

[14] HHS, Office of Child Support Enforcement, FY FCR [Federal Case Registry] Statistics.

[15] See, e.g., Mabe v. G.C. Services Limited Partnership, 32 F.3d 86 (4th Cir. 1994)(child support is not a consumer debt within the meaning of the Fair Debt Collection Practices Act, 15 U.S.C. 1692–1692o).

orders and presenting them as court orders); harassing collection practices against the obligor and his family; demands that noncustodial parents make payments directly to the collection agency, rather than to the court or IV–D agency, resulting in the failure of the noncustodial parent to get credit for payments made; and inability to reach company representatives to resolve questions or complaints.[16]

Title V of H.R. 4469 encourages programs applying for "fatherhood" grants to work with IV–D agencies to help fathers reduce the arrearages owed to the state if they maintain a consistent payment schedule, and to help cooperating fathers improve their credit rating. But Title III, by encouraging greater use of private collection companies, would make it harder to accomplish those goals. Fathers making regular child support payments under a plan approved by IV–D could be harassed at work by private collection companies seeking full payment, or reported to credit bureaus by the private companies.

State IV–D agencies are subject to constitutional and statutory due process requirements. For example, before notifying the Secretary of the Treasury that an individual owes past-due support and initiating the tax intercept process, IV–D must notify the individual of the possible withholding, and instruct the individual on how to contest the determination of the amount of arrearage and how, in the case of a joint return, to protect the share of the refund which may be payable to another person, 42 U.S.C. § 664(a)(3)(A). To initiate passport sanctions, IV–D must certify that each individual concerned has been notified of the determination that there is an arrearage sufficient to initiate the sanction, of the consequences of that determination, and an opportunity to contest the determination, 42 U.S.C. § 654(31). Arrearages may be reported by IV–D to credit bureaus only after the noncustodial parent has been afforded all due process required under state law, including notice and a reasonable opportunity to contest the accuracy of such information, 42 U.S.C. § 666(a)(7).

Although H.R. 4469 says that to have access to these remedies, private child support collectors and non-IV–D agencies must make a "binding commitment" to carry out their activities subject to the same due process requirements and procedures applicable to the state agency, it is unclear what this means. "Due process" is not a concept that has meaning against private companies. It is unclear if, or how, IV–D is supposed to verify arrearage balances or the amounts of withholding orders submitted by private child support collectors or public, non-IV–D agencies before forwarding this information on for federal tax refund intercept, passport sanctions, unemployment withholding, credit bureau reporting, or financial institution data match. Verification of arrearages could require time-consuming, case-by-case investigation. Federal and state case registries are not required to maintain payment records for any non-IV–D cases, 42 U.S.C. § 654A(e)(4).

Under H.R. 4469, it is unclear if the responsibility for providing notice and a hearing in case of disputes would rest with IV–D, or with the private company or non-IV–D agency requesting the enforcement action. It is difficult to see how a "hearing" before a representative of a private collection company could provide meaningful due process protection. And even if the private company or non-IV–D agency agreed to create some type of procedure, it is unclear whether IV–D—which would be transmitting the requests for use of these tools—could avoid responsibility and liability for their misuse.

An increase in erroneous, unfair or abusive child support collection practices would hurt noncustodial parents most directly. But the adverse effects of these practices would be felt more broadly. They can create increased tensions between noncustodial and custodial parents, who may be unaware of the tactics being used or the fact that payments were made. They also can undermine the whole IV–D system by discrediting child support enforcement efforts; causing employers to doubt and refuse to comply with legitimate wage withholding orders; creating confusion about when child support payments have been made; and undermining support for tough enforcement tools.

Diverting IV–D Resources Away From Providing Services to Families and Refragmenting the Child Support System

Encouraging the growth of private collection companies and non-IV–D agencies would increase, not relieve, the burdens on the IV–D program, making it more difficult for state child support agencies to provide the enforcement services families need. As discussed above, any IV–D agency that seriously tried to prevent privacy abuses or misuse of enforcement tools would have to devote substantial resources

[16] A summary of such complaints is included in the testimony of Vicki Turetsky, Center for Law and Social Policy, to the Human Resources Subcommittee, May 18, 2000.

to the task. The potential burdens posed by the public, non-IV–D provisions would be less than those posed by the private access provisions, but there still is no apparent rationale for them. The IV–D system has developed effective, automated enforcement procedures; there is no reason to duplicate those systems in non-IV–D agencies.

After struggling to overcome the historic problem of fragmentation of child support enforcement services, the IV–D program is finally moving toward the automated, integrated, nationwide system envisioned by PRWORA. The centralized computer systems and new databases that make IV–D automated case processing and data matching work are producing results. That is why representatives of for-profit companies and non-IV–D agencies want access to IV–D tools. But allowing the IV–D system to be used in that way could destroy it, and undermine child support enforcement efforts now and for years to come.

Chairman JOHNSON of Connecticut. I guess I had better go vote. We do have one vote after this, so it will be about 10 minutes, or maybe 15.

[Recess.]

Chairman JOHNSON of Connecticut. OK. Sorry for that break.

Ms. Kadwell.

STATEMENT OF LAURA KADWELL, DIRECTOR, CHILD SUPPORT ENFORCEMENT DIVISION, MINNESOTA DEPARTMENT OF HUMAN SERVICES

Ms. KADWELL. Madam Chair and Members, my name is Laura Kadwell. I am director of the child support program in the State of Minnesota. I am pleased to be here this morning, and I thank you for the opportunity to comment on the bills now under consideration by the Subcommittee.

Since passage of the Personal Responsibility Act, I believe we have all come to realize that the bill set the stage for a radical change in the mission of child support. As long as AFDC provided cash for families, child support functioned largely as a reimbursement program. After passage of the act, however, we all began to realize that the end of the entitlement, coupled with universal access to child support under the 1984 amendments, positioned the program for a mission consistent with its name, a program supporting children.

I will make three points in my remarks this morning. One, the Child Support Distribution Act of 2000, your bill, Mrs. Johnson, takes several solid steps consistent with the new and evolving mission of the child support program.

Second, the bill responds to taxpayers' legitimate desire for cost effectiveness and consumer service in the child support program.

Third, provisions in the act that would allow non-IV–D access to data and collection tools jeopardize many of the steps taken for families and taxpayers.

First, the steps taken by the act that will increase support for children. Under the bill, except for the time when the family is on assistance, arrears are paid to families before they are paid to the State, regardless of the source of payment. We applaud this change in the bill from the current policy, primarily because it is good for families. Families leaving welfare, as has been noted many times this morning, are often in the most precarious financial position.

This change will give them the very best chance of remaining free of dependency on public assistance, and we applaud this step.

This bill limits assignment to the lesser of unreimbursed assistance or the amount of support that comes due while a family is on assistance. In addition to making more money available to families through this provision, it acknowledges that noncustodial parents, primarily fathers, usually do not have unlimited capacity to repay the State for assistance, another positive families first provision.

By funding fatherhood programs, the bill underscores the importance of fathers to their children and acknowledges the relationship between child support and other contributions responsible fathers make to their children. For too long, the child support program has acknowledged only one kind of father, the one who evades his responsibilities if he can. Some fathers fit this mold. Most, however, pay their support when they can. In Minnesota, for example, over 70 percent of our collections come through income withholding. Other fathers may be reluctant to pay for some reason—may not know their responsibilities or may be unable to pay. Fatherhood programs will allow States to work more realistically with these fathers.

We were pleased to see that preference is given in fatherhood programs to agencies that have agreements with the IV–D program. This is important, because it will help ensure that fathers get consistent messages about the importance of establishing paternity and support.

The act also responds to taxpayers' needs for cost-effectiveness and good customer service. In addition to helping families, again, as you have heard this morning, the proposed distribution changes simplify what is now a complex and incomprehensible system of distribution child support payments.

We thank you, Madam Chair, for moving the program toward simplification. This is important because it is more cost efficient and because it is more customer friendly.

We in Minnesota now spend about 6 percent of our State administrative costs on maintaining the distribution system. This will increase as time goes on and we implement the 10/1/2000 changes. Each bucket has its price. The more complex the system is, the more time it takes to accomplish a task in the system. All tasks—adjusting payments, running monthly processes that calculate interest and arrears, training workers and community partners—all take longer, cost more, and present more risk when the system is more complex. If we can simplify distribution, we will stem the rising cost of maintaining the infrastructure. We will also be able to provide better customer service. You have heard about this also this morning, in that we will be able to explain better to parents where payments are going.

We would like to see the bill move further by allowing full distribution of child support to families while they are receiving assistance. Child support is income and should be treated as income. It is really that simple. The relationship between child support and other programs should be reversed. Other programs can decide how to take into account the income that families get from child support.

I am troubled, however, by the non-IV–D access provisions. I know you have spent a lot of time on these provisions this morning. I will just summarize my concerns.

First, I am concerned about releasing powerful data to private businesses, not because some will not be able to handle the data well and do "what they are supposed to do," but because we will be left with the responsibility of regulating the use of that data. Ms. Smith referred to this earlier in her testimony. We spend a lot of energy and effort making sure that the data that are in our program are carefully guarded and that the information is used for the purposes for which it is supposed to be used.

I am very concerned about taking on the role of regulating private businesses that are using government data, and I am worried because—and this goes to Mr. Primus' point from earlier—if the data are not carefully guarded by everyone who has access to these data, the ultimate result will be a retrenchment of the program. Policymakers like yourself at the Federal level and like State legislators will take back the power that we have to use the data and ultimately hurt the families that are now in the system getting services.

I am also concerned about what I believe to be some very basic inconsistencies between allowing non-IV–D access to information and enforcement tools and other parts of this bill.

In the bill, Congress would prohibit States from keeping collections that now go to States, but allow States to give information to private businesses, who then can keep a similar share of the collections they make using that information. This does not seem to be consistent public policy.

In the bill, Congress says, "Families first," yet, the non-IV–D access provisions open the door to all manner of unregulated arrangements for distributing child support. Federal law says current support gets paid first. Current support is not paid first when collected by entities other than IV–D. I am troubled by these inconsistencies.

I will make just one other short point, and that is: I would encourage you to look at the non-IV–D access provisions from the point of view of the noncustodial parent. To the extent that some States allow access and others don't—and we had a noncustodial parent, for example, in Minnesota whose bank account is being attached from another State—He will turn to us for information, for help, for understanding how this attachment relates to other cases he has in our system, and we will not be able to answer his questions to ensure that the money he pays is handled according to Federal law.

We have been striving for the past couple of years to consolidate cases, to distribute money across cases, and to distribute them based on the noncustodial parents' orders. And if we are now opening the door to an entry into the system that really is based on custodial parents turning to private agencies for assistance, I fear that we are going to erode the progress we have made toward consistency in the child support system.

Thank you, Madam Chair, for your attention. Again, we applaud the direction that this bill is taking, and the distribution changes, especially.

[The prepared statement follows:]

Statement of Laura Kadwell, Director, Child Support Enforcement Division, Minnesota Department of Human Services

Madame Chair and members of the Subcommittee, my name is Laura Kadwell. I am the IV–D Director for the state of Minnesota. I am very pleased to be with you here today to offer my thoughts on the "Child Support Distribution Act of 2000" and thank you for the opportunity to do so. The topics with which you are grappling are complicated and important to the families and children of this country. I commend you for attempting to resolve these difficult issues in a way that will meet the needs of many stakeholders in the child support program while remaining focused on the well being of children.

As you are well aware, the child support program is both increasing in complexity and growing in importance. No longer simply a cost recovery program, the program is charged with helping to move families off assistance and keep them self sufficient in this era of welfare reform. This is a simple mission with complex ramifications. Those of us who administer the child support program spend countless hours and many resources navigating program intricacies in a technically sophisticated world, with myriad interfaces to other programs and systems that help us get support to children. The challenge we are all facing is to honor the importance of the program by reducing its complexity and increasing its accessibility to families.

It is in this light of a simple goal, yet complex world, that I reviewed the bill before the committee. I think there are several changes in the bill that will help states like Minnesota continue to use our finite resources wisely and achieve our mission. At the same time, there are some provisions of the bill which could divert us from the mission on which we need to stay highly focused. I will discuss these in turn.

DISTRIBUTION CHANGES ARE A STEP IN THE RIGHT DIRECTION

I cannot emphasize enough the importance of the changes to simplify the distribution process as outlined in section 101. As I mentioned, we have a multitude of factors that add layers of complexity to our job. We do not need to make the job more complicated than it needs to be. It seems to me that the proposal in the bill will make it markedly easier for states to focus their technical resources where they can be most productive. More importantly, the program will be more understandable and beneficial to families.

The current distribution scheme is neither family friendly nor comprehensible. I know that you have heard from many people about the problems with the current distribution scheme so I will not belabor them here. Suffice it to say, we need to simplify distribution if we are ever to achieve our actual potential. Expending valuable resources to program, operate and explain the current distribution is extremely unproductive and wasteful.

I applaud the committee for eliminating the provisions with regard to assignment of pre-assistance arrears and for limiting the amount of the assignment. Also, removing the exception for the treatment of collections made through the federal tax intercept will get more money to economically fragile families and make distribution much easier for families to understand.

Simplifying distribution will help taxpayers as well as families. In Minnesota, we now spend approximately 6% of our state administrative costs on distribution. This percentage will rise with implementation of the 10/1/2000 changes. What it boils down to is that every bucket of arrears has its costs. To the extent that we can simplify distribution, we will need less time to adjust payments; to run monthly processes that calculate arrears, interest and bills; to explain to parents how distribution works (whether by notice, automated phone system or brochures); and to train workers and community partners who need to understand child support. These are just a few examples of the costs now incurred by state and federal governments to maintain the current distribution scheme—costs that will be ameliorated by the changes in the bill.

Minnesota supports the changes you are contemplating even though we know it will mean less money recovered by the state. Some of the lost recoveries will not be actual losses but rather delays in recovery since the family, and not the state, will get paid back first from collections. And some of the lost recoveries will be permanent losses. This bill ameliorates the financial impact of distribution changes on states by (1) allowing states to finance the distribution changes with TANF dollars or MOE credit, at least for the short term, and (2) delaying the date by which states are required to complete the changes. This choice is important to states. Some states, including Minnesota, may choose to implement these changes earlier than others. Because states vary widely in the way they finance their child support programs, however, the option to delay implementation is important to the financial stability—and, therefore, the continued operation—of the program.

A FULL PASSTHROUGH OF CHILD SUPPORT IS THE ULTIMATE SIMPLIFIED AND FAMILY FRIENDLY POLICY

The changes you are making in this bill do facilitate the transformation from child support as a cost recover program to child support as a program that supports families and children. However, while the distribution provisions of the bill are commendable, I encourage you to go even farther toward making the program more family friendly. I encourage you to think about reversing the roles of child support and other family assistance programs by treating child support as a primary source of family income, even when the family is receiving assistance. Because child support has been a cost recovery program, we have been the "clean up crew." The AFDC program, for example, paid families a grant and then asked us to help collect back from the other parent. We should reverse this order. The first source of support for families should be the money parents earn—both parents, father and mother. If one of the parents needs assistance, the assistance program can then figure out how to treat all income of the family (earned income, child support, etc.). We have it backwards now.

The child support program should collect child support and distribute it to families. All families. In all situations—regardless of their receipt of TANF benefits or medical benefits or any other kind of public assistance that that family might be getting. When a family receives child support, it is up to the other agencies administering the various assistance programs to figure out how to treat that child support money. Some of them, like TANF programs, may decide that they are going to count some or all of the child support collected as income available to the custodial parent. Others, like low-income energy assistance programs, might decide they are not going to count child support income. That is their responsibility and prerogative.

As things stand now, we are spending resources trying to figure out what is assistance and what is not assistance—so that child support can be assigned against assistance payments. These discussions are vestiges of the outmoded cost-recovery mission of the program. Child support needs to be in the business of collecting and distributing money to families, not in trying to figure out whether certain kinds of support are or are not assistance. Distributing all child support is the way to accomplish the true mission of the program.

The bill before you allows states to pass through the state share of collections for families that are receiving TANF or for arrears assigned to the state by TANF families. I encourage you to allow, if not require, states to distribute all child support to all families. Distributing—or passing through—all child support is the ultimate distribution simplification; it will also make the child support program more family friendly and accessible to noncustodial parents.

This past legislative session, the Governor of Minnesota sought legislation authorizing the full passthrough of child support and a 50% disregard of the child support for TANF purposes. We did this, in part, because of our conviction that it is the right policy for Minnesota families. The disregard did not pass the Legislature, but the passthrough did. Beginning January 1, 2001, we will be distributing all child support to all families. We will be paying the federal government its share of collections; so we will be putting in place the financial and technical infrastructure to support a "partial passthrough." This distribution will help fathers see how they contribute to the well-being of their children. It will also prepare families for their exit from TANF by showing them what income they will have from child support when they leave assistance.

We are beginning to learn more about the passthrough of child support through our participation in one of the NPCL Fragile Families Demonstration Projects. Our project, called the FATHER (Fostering Action to Help Earning and Responsibility) Project, assists young, unmarried and un-or under-employed fathers in gaining employment and getting involved in the lives of their children. The Project is a collaborative venture between Minneapolis Way to Grow, the State of Minnesota IV–D agency, the Hennepin County IV–D agency, the Minneapolis Neighborhood Employment Network and the Minneapolis Employment and Training Program. The FATHER Project director, Mr. Guy Bowling, recently submitted a letter to a conference committee at the Minnesota legislature that was contemplating a child support passthrough proposal. He wrote: "As the FATHER project director, I work each day with fathers who have difficulty paying their support. In discussions with these fathers, I hear that they are frustrated by a system which requires them to pay child support but if their child and his or her mother is receiving [TANF], the child support is kept by the state. Passing through child support directly to these families would help low income fathers feel like they are really contributing to the support

of their child. They feel a sense of empowerment that motivates them to fulfill their obligation as a responsible dad."

In addition to fostering the involvement of noncustodial parents, full distribution has other tangible benefits to offer. It will result in administrative simplification that can not be achieved by a passthrough of the state share alone. Full distribution will reduce the level of effort to develop, support and maintain many parts of the existing infrastructure. Costs for information materials, functional and technical work, reporting, staffing and training would all be reduced. I need to note that these savings are available in the long term only. In the short term, full distribution will require significant effort, primarily in the costs of design, development and education. These costs will be incurred in both the child support and TANF programs.

The bottom line is that children need fathers, and child support has a role to play in facilitating fathers' involvement. A full passthrough of child support is one crucial step. While I appreciate the option to pass through the state share to the families, the potential of passthrough will not be attained until and unless the federal government shares in its cost. There are two reasons for this. The first, mentioned earlier, is that we cannot achieve full simplification while still paying the federal share of collections. Second, state legislators will not be inclined to give up the state share if the federal government retains its share. Over the past four months, we have been trying to convince our state legislature to pass through and disregard the state share while returning the federal share. One of the common refrains we encountered was hesitation by state legislators to give up the state share of collections while still having to pay the federal share of collections.

FATHERHOOD GRANTS CAN PLAY A SIGNIFICANT ROLE IN CHILD SUPPORT

We support the inclusion of money for Fatherhood grant programs contained in the Child Support Distribution Act. Fatherhood programs can contribute enormously to the mission of the child support program by (1) helping us learn what public policies advance the purposes outlined in the Act, (2) giving us a positive opportunity to emphasize the importance of financial and emotional support to children, (3) providing an excellent means for Child Support Enforcement to communicate its goals and methods to parents, and (4) allowing us to communicate the message that we are willing to work with parents to help them gain the skills they need to support their children. Through Fatherhood programs, child support gains an opportunity to eliminate negative perceptions and convey the positive message that we put children first.

Just within the past few days, I received a letter from a Minneapolis low-income social services program, commending us on publishing a booklet of services for fathers. The writer said, "I see this as tangible evidence of the changing atmosphere in Child Support Enforcement (and in all DHS for that matter) with regards to helping fathers be the parents their children want and need them to be." This is an excellent example of the strides we can make by partnering with community-based fatherhood programs.

Some Suggestions for Eligibility for the Fatherhood Grants

We support the basic eligibility criteria outlined in the draft legislation, especially the fact that a father could qualify simply by being low-income. We would also support raising the ceiling to 200% in order to allow fathers to support themselves after paying child support.

We support the inclusion of a preference in awarding grants to organizations that obtain written agreements from state IV–D agencies, although we caution against allowing local IV–D agencies to enter into agreements without the explicit agreement of the state agency. It is critical that IV–D agencies be involved in Fatherhood programs so that all parents get consistent messages about the importance of establishing paternity and paying child support. It is also critical that IV–D agencies be permitted to make such agreements conditional on continued payment of current support, to consider whether there are domestic violence concerns in the case, and to avoid encouraging situations that may be detrimental to the best interests of children. The IV–D agencies must be allowed to create agreements that contain appropriate incentives and penalties for failure to comply with an agreement.

It is important and constructive that the legislation encourages collaboration among TANF agencies, Welfare to Work agencies, and IV–D agencies. As I mentioned earlier, Minnesota's FATHER Project includes several of these partners. The working relationship we have established has helped us to target a variety of intensive resources to fathers in an effort to improve their ability to find a job, keep a job, and/or to enhance their employability and increase their earnings. The com-

prehensive goal of these efforts is to increase the parents' ability to support their children.

Collaborative efforts like PFF and the FATHER Project are valuable because they facilitate communication among state agencies with similar goals and clientele. With each collaborative effort agencies establish working relationships that will facilitate future coordinated activities and in the process are able to deliver comprehensive services to families in need.

The remaining preference criteria—rapid enrollment, practical recruitment strategies, assistance with visitation, improving credit rating—are important elements of a successful program. We caution against expanding the role of IV–D agencies to include providing some of these services (visitation, credit rating). These are appropriate activities for the programs, but they should be the responsibility of the program sponsors, and not the IV–D agencies.

Access to IV–D Collection Tools Problematic

While I support many of the provisions of this bill, I cannot support the sections of the bill that give states an option to allow access on the part of nonIV–D agencies to certain IV–D collection tools, namely federal tax refund intercept, credit bureau reporting, passport sanctions, financial institution data match, and income withholding for unemployment insurance benefits. The bill addresses separately the issues of access for private vendors and access for public nonIV–D agencies. I believe that is wise because I believe nonIV–D access raises different issues with regard to private vendors than it does with regard to other public agencies.

Since the onset of discussions about expanding access to IV–D enforcement remedies, the committee has been trying to balance the interests of expanding access while protecting consumers and safeguarding information. This bill attempts to reach those goals by creating a state option to expand access and requiring the Secretary to develop recommendations that states would use in regulating access. The question is whether this combination of state option with federal recommendations will adequately protect consumers and safeguard information. I believe it will not.

On the surface, state options always have a certain appeal. As a state administrator, I appreciate having the ability to set policies and procedures for the program in my state. It would certainly seem as if states should be able to expand access to child support services in ways of their choice. The problem in this instance is that one state's decision can erode another state's work. In order to be effective, the child support program must operate efficiently, fairly and, at least to some extent, uniformly across state lines. State option for private access jeopardizes this goal.

Here is an example: The State of Wisconsin decides to contract with a private vendor to collect child support. On behalf of a custodial parent, the private vendor gets information from the State of Wisconsin that the noncustodial parent has a bank account in Minnesota. The private vendor seizes the bank account. Even under the best of circumstances, where the private vendor secures all data and follows all due process laws, the noncustodial parent will expect the Minnesota child support agency to be able to tell him what is going on. This is especially true if he has other child support cases in Minnesota or in other states. He will complain to us if things don't work out the way they should. He will ask us what due process protections he can expect. He will turn to our Attorney General if he has consumer complaints or questions. And the public will assume that if mistakes are made, we made them.

These issues are especially troubling because the child support program does not enjoy a sterling reputation in the eyes of either noncustodial parents or legislators at this time. As I have indicated earlier, Minnesota, like most other states, strives daily to change the culture of the child support program to one that is family friendly, one that works with fathers, rather than against them. One of the ways we believe the child support program can be more responsive to fathers is to honor all the responsibilities fathers have. To that end, we have all invested technical and customer services resources in programming computers and explaining to parents how child support is distributed across cases. When a father has more than one family, the money we collect is distributed according to an algorithm developed by the federal government. If private collectors are allowed to go around the IV–D program, we will be shortchanging the families we are striving to serve.

In addition to our concern about fathers who have more than one child support order, we are concerned about our ability to retain the powerful tools now at our disposal should these tools be misused by vendors over which we have no control. This year in Minnesota, we returned to the Legislature to refine the seizure laws we use when we find matches with accounts in financial institutions. Many legislators expressed reluctance to use the FIDM (financial institution data match) procedures; and they increased protections for obligors whose accounts are matched in this process. Across the country, legislators are already skittish about protecting

and using wisely the enormous amount of data we have in the child support program. It would be extremely counterproductive to put data in the hands of private entities not subject to the same controls governing use of the data by all levels of government.

Legislators in Minnesota are listening to noncustodial parents who feel as if the child support program already has too much power and too much information. Most legislators become comfortable with our authority when they understand the due process and privacy safeguards that are in place, when they know who to call with questions, and when they can be assured that their constituents will be treated fairly. We can give them no such assurances under the example I described earlier. Private companies are not held to the same standards as are IV–D agencies through state and federal laws, rules and constitutional protections. I am concerned that activities beyond our control will lead to legislative retrenchment at the state or federal level, ultimately eroding our ability to do the job for families in the IV–D program. Legislators are not shy about challenging our tools if they feel their constituents are being harmed.

The last concern I want to discuss about private access to IV–D tools and data is the fees charged by some private companies. Simply put, I am having trouble reconciling the distribution mandates on states with expanding private access. States must distribute money to families first, a direction we applaud; and we must pay current support before any arrears. But private companies can pay arrears first (against federal law for states to do this) and can charge fees that reach 25, 30% or more. Where is the "families first" provision for private companies? I understand why collection companies charge fees. What is hard to understand is why Congress would allow this option while so strongly promoting "families first."

I would like to share with the committee a perspective I bring to this issue from my earlier years of practicing law. I was in private practice and I saw clients who simply could not afford to bring private actions to set, modify or enforce child support. I needed to tell them what it would cost for me to do what they wanted to do and often sent them to the local IV–D agency for assistance. They could not pay me for the work needed to establish an order of, for example, $100 a month, even though that $100 meant everything to that family.

The government provides IV–D services in large part because that scenario is repeated over and over and over among families in this country. It is cost-effective for government to provide child support services that individual families cannot afford. The difficulty with now providing access to government data for private companies is that government and families both will be paying the cost of getting, assembling and distributing the data needed to enforce the cases.

While access to public nonIV–D agencies is less problematic because data will be subject to the same protections as in the IV–D program, the issue with access for these agencies is one of cost-effectiveness. Does it make sense for a state to fund two agencies to do the same kind of work?

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) promotes mass processing of cases, efficiency of state operations, and consistent handling of cases statewide and nationwide. These changes are supposed to benefit taxpayers by producing savings. We are just now beginning to see the savings promised by PRWORA. In Minnesota, for example, federal fiscal year 1999 marked the first time automation produced savings in the child support program. We went from a net expenditure of $16 million in systems costs to a net savings of $17 million. Two other facts about automation may be of interest: (1) Minnesota shows an increase in collections of over $30 million per year because of six specific highly automated changes: on-line manual, voice response system, COLA (automated adjustment of orders), driver's license suspension, new hire reporting, and locate enhancement. (2) We are also seeing a dramatic increase in collections per worker, from $292,583 in fiscal year 1998 to $348,530 in fiscal year 1999 (19%). It seems to me that allowing other publicly funded child support programs the use of IV–D data and collection mechanisms will at best dilute these efficiencies. At worst, it invites chaos.

I have one strong suggestion regarding the sections on expanded access to IV–D tools: do nothing now. I know you have heard this advice before, but I offer it again. It is too early to reach the conclusion that additional access to child support services is necessary because we have yet to realize the promise of PRWORA. At best these changes are premature. At worst, they will divert state agencies from accomplishing our mission as set out in PRWORA. Further, if private access does go forward, conditions must be regulated, not "recommended" as in the current bill. Consumers and other states need safeguards and protection against misuse of data, usurious fees, and policies that subvert the child support program. Regulations would need to be developed and in place for a period of time before states would be allowed to con-

tract with other entities. The bill now under consideration does not regulate and does not allow enough time between the date "recommendations" are due and the date states are allowed to begin contracting with private vendors.

I will close by commenting briefly on a few smaller provisions of the bill. Minnesota will not be impacted by the change to review and adjust because we have an automated COLA in our state. We have been using a COLA since the early 1980s and find it to be both efficient to operate and beneficial for families. We support the proposal to require a review when families leave TANF assistance. This is a way of targeting resources to some of our most fragile families. Implementing this provision will require a strong interactive partnership and careful coordination between child support and TANF agencies. It will take time to develop the kind of relationship and tools that will make ensure the success of this provision.

We also support the change in section 403 regarding use of the tax offset program to collect past-due child support on behalf of children who are not minors. This is a very welcome change that will result in a meaningful change in child support collections.

Again, Madame Chair and members of the Subcommittee, I thank you for the opportunity to testify today—and I commend you for the work and thought you have put into this bill and others before the committee. One of the most challenging aspects of our complex child support program is its financing. This bill takes a significant step toward serving families while preserving financing options for states.

Thank you.

Chairman JOHNSON of Connecticut. Mr. Smith?

STATEMENT OF VICTOR SMITH, PRESIDENT, DADS AGAINST DISCRIMINATION, PORTLAND, OREGON

Mr. SMITH. Thank you, Madam Chair and Mr. Cardin, for having me here to speak to the Committee.

I represent Dads Against Discrimination, a nonprofit, tax-exempt charity for fathers who have domestic relations issues and wish to take charge of their families.

I won't go into the history of DADS necessarily. It is not important. However, on this particular bill, and especially the part that has come to the attention of the room and the Committee who have gathered, the section that deals with privacy, I know of no one that wants to support that section of the bill that deals with private agencies collecting child support.

I would agree with the testimony that has been given at this table that it is not necessary. There might be a suggested adding of a performance bill being required by such private agencies, a contract dispute resolution process provided to the clients, that there might be an agreement or a requirement that any employees will pass a criminal background check for such activity. I think if we could line these particular issues up—performance, bond being provided, and so on—then maybe private agencies might be allowed to enter into the system.

That section of the current bill that interests me, however, I would like to spend a little time on, under title seven, section 702, deals with an accounting process for moneys collected but not delivered.

I have often wondered what happens to that money collected and not delivered. And if we could possibly have moneys collected and not delivered because perhaps the obligee moved away, that money should be returned to the obligors, tax free, because he has paid taxes on it, and with interest.

So if an agency sits on money for more than a year and it cannot be delivered to the obligee, why not return it the obligor. The money hasn't reached its intended purpose, which is for child support. So if it doesn't get to the intended purpose of child support, then the money should be returned to the obligor.

The section of the bill that interests me is the fatherhood section, of course. And we haven't had much discussion about that, but, of course, any fathers' group would support the fatherhood section of the bill. We want to promote that section of the bill. That is very important to fathers.

The other sections that came to my attention were those sections of the bill that dealt with the veterans' money and the taking of veterans' money. That is thought to be a bad idea. Those guys who have veterans' benefit need to be left alone for that particular purpose.

We have some States—Oregon being one of them—that makes a provision for disabled veterans and anyone who is on disability, where their child support on the current basis has been suspended, so people who are on disability forms don't have to pay child support on a current basis.

The other sections that are of interest would be the passport obligation. If this bill is going to reduce the arrearage amount where you take the passport from $5,000 to $2,500, we say that is overkill. The reason that is overkill is that there is already a criminal law on the books, under U.S. Code 18, section 228, that if an obligor leaves the State he can be put in jail. So it would seem to me that, if you are going to take his passport—that means he is leaving the state—you don't need to do that. You don't need to take his passport. If he leaves the State, you put him in jail. So that particular section of the bill, under 401 that deals with passports, should be deleted.

Now, I would like to get back to DADS for just a moment and say that we have been in business for some 23 years as a nonprofit, tax-exempt charity. I have talked with fathers from coast to coast for years. I can even tell you that fathers out of the State of Texas don't particularly care about private agencies going into the child support collection business. There is a group in Dallas that is very much opposed to that. We have had a conversation, coincidentally, about that.

Those are some of the things that I have learned. If there are any questions about DADS or anything else that fathers want to do—they do want to participate—I am here to answer those questions.

Thank you.

Chairman JOHNSON of Connecticut. Thank you.

[The prepared statement follows:]

Statement of Victor Smith, Dads Against Discrimination, Portland, Oregon

Madam Chair and members of the Subcommittee, thank you for the opportunity to testify on behalf of DADS AGAINST DISCRIMINATION, divorced fathers and those fathers who were never married.

DADS AGAINST DISCRIMINATION, DADS, is a non-profit tax exempt charity set up to help Fathers who have domestic relations issues and wish to take charge of their families. Fathers' problems such as child custody, child support, child visitation and parenting time were being ignored by the Federal and State Governments as reflected in the lack of funding services in the past for Fathers and their families.

Fathers noticed that women had government funded services while Fathers had none. For example women had government funded telephone crisis lines programs and shelter homes while Fathers had none. Women received free information and services about child support from State agencies while Fathers were threatened with collection notices , wage garnishments and jail for failure to pay child support. No one seem to listen as to whether the fathers were employed or employable, or whether the father was in the hospital or in jail or part of a labor union strike for which he no control over but experienced a reduced his income just the same.

Because it was believed that there should be an organized effort to assists fathers during the stressful period of divorce and/or family breakup, DADS was created in 1977 to address these social imbalances in services for fathers. Now, after some 23 years of serving fathers by DADS offering a telephone crisis line to listen to father's concerns and trying to resolve their issues, providing an attorney referral service, and paralegal services for those who can not afford an attorney and has chosen to do it themselves. DADS also offer a network of "Fathers Rights" contacts across the US who believe that fathers should be involved in their children's lives with respect to Father Custody or parenting time. DADS also has a call-in talk television program that focuses on fathers and their family issues as they see them. DADS also has a web site that has had more than 60,000 hits in the past year alone on the front page. DADS receives e-mail questions from around the world at 10 different sites. We believe that we have created an opportunity for open minded people to begin to question many of the false assumptions of the past about Fathers abilities to raise his own children and other domestic relations issues.

As a further result of DADS services over the past 23 years to fathers, DADS has become a focus of some media attention, and some of which has become a matter of record within DADS web site, (www.dadsusa.com/ news1.htm). Where DADS has been sought out and interviewed by the Associated Press wire service, the Christian Science Monitor, Washington Times, News Week Magazine, Red Book Magazine, The Wall Street Journal and Bloomberg wire service. DADS has also been sought out by every network news broadcast service in the country at one time or another, including the CBS evening News 20 second interview during the O. J. Simpson trial dealing with the Marsha Clark's personal domestic relations issues.

DADS is proud to announce that currently fathers are asking some real impact questions concerning domestic relations issues. For example in Portland, Oregon, Dennis Crocker is asking the State Supreme Court why he should be required to pay child support to the age of 21, when married parents are not being so required. Dennis Caron, of Columbus Ohio is asking both State and Federal Courts why he should be made to pay child support after divorce when his ex-wife had another man's child, Ira Teller, in Fort Lauderdale wants to know why the school teacher does not include him as "Father" of his child, in a "Parent-Teacher" conference. and all fathers across the country want to know (how?) and (why?) a woman can go to the Courthouse a lie about "domestic violence" that did not happen, and get the man kicked out of his own home, and then later using this as a tactic to secure child custody and divorce.

It is with this background, and offices where telephones are constantly ringing, and fathers stopping by the office some with appoints and some without appoints, and all of whom are looking for help and answers to their domestic relations problems that I come here today from the front lines of the fight that American Fathers have in becoming fully respected as a parent able to raise his own children after divorce or family breakup.

TITLE I

Sec. 101. Distribution of child support collected by States on behalf of children receiving certain welfare benefits.

Any and all child support distribution should include accounting elements that provide for moneys collected by the agency, and did not get used for it intended purposes, such as money that was returned by the post office as undeliverable because the party moved away without leaving a forwarding address. Such money should be returned to the obligor tax free and with interest on a yearly basis.

If the obligee is no longer on State assistance, then that fact should constitute a change of circumstances, and require that both parties share the repayment of State debt.

As a suggestion new laws should not be proposed by using language from the old law taken out of context and without reference as to the purpose and meaning within the old law as it is very confusing, and there can be no agreement on the exact out come of the new law.

TITLE II

Sec. 201. Mandatory review and modification of child support orders for TANF recipients.

At any time there is a review of child support Orders, then there should also be a review of the total order including child custody, in the best interest of the child. The proposed language in this bill uses excerpted language taken out of context and causes confusion as to the true meaning and results of this section of the bill.

TITLE II

Sec. 301. Establishment and enforcement of child support obligations by public non-IV–D child support enforcement agencies.

Since child support is already a regularly occurring event, it is not dear in this proposed section of the bill what the real changes might be, because this sections of the bill continues to use language from the current law excerpted and taken out of context to apply to a proposed new law.

Sec. 302. Use of certain enforcement mechanisms.

Since current law already provides for the use of the "certain enforcement mechanisms" as listed in this section of the bill, and this section of the bill continues to excerpt language from the current law, and use it out of context in a proposed new law, the value of any change is questionable.

TITLE III SUBTITLE B

Sec. 311. Establishment and enforcement of child support obligations by private enforcement agencies.

Private child supper enforcement agencies should be kept out of the business of collecting and distributing child support money, and further kept out of the personal and private financial records of dozens. This is a point that those in the field of domestic relations can agree upon. The National Women's Law Cent's Joan Emtmacher gave testimony on this subject as recent as Oct. 5th, 1999. In addition, because the DAIS office in Portland, Oregon holds public meetings with the State office of Child Support Enforcement, we have teamed that there are some employees of the State agencies that question the wisdom of allowing private corporations into the area of child support collections. However, if there exists some law that suggests that private agencies should be allowed and inducted in the collection of child support then these private FOR PROFIT CORPORATIONS should be required to address the following: (I) Post a performance bond in all States that business is conducted. (2) By contract be disallowed to trade and profit from selling personal financial history airy citizen with a "non-commercial" douse. (3) Provide all their clients with a "Dispute Resolution Process': and make a provision for judicial Review by the State in which collection is done. (4) Sign a State guarantee that all employees have past a criminal background deck.

Sec. 312. Use of certain enforcement mechanism.

No private child support agency should be allowed to issue as IRS tax intercept.

TITLE IV

Sec. 401. Pass Port

Reducing the amount of arrearages from $5000 to $2,500 is "over kill" and pointless, because under US Code IS section 228, if an obligor leaves his State and owes $5,000 or more in back child support, he can go to jail already. It appears that if he were to use his pass port he weld be committing a crime.

The problem with this section of the bill is that their is a continued failure of attempting some degree of continuity in the language of the old law and the objectives in the new proposed laws that comes abet by excerpting the old laws, and taking the language out of context far a new proposed law.

Sec. 402. Garnishment of compensation paid to Vets.

Is a very bad idea reflecting hostility towards men in the military, or were in the military and will have an adverse affect on getting men to enlist to serve this country's future needs.

TITLE IV

Sec. 402. Garnishment of compensation paid to Vet. (continued)

This very bad idea is flawed for many reasons such as: Many States already allow credit for certain payments paid for child support paid from the Federal Government. In Oregon there is a State supplied "Child Support Calculation" work sheet where such money is figured as part of the child support paid. Furthermore in Oregon Law under ORS 25245, those who are considered disabled and getting paid by a federal government program are exempt form paying child support.

A DAD in North Carolina e-mail his concern and complaint about this section of the bill saying that it would allowed obligees and the State to "double dip" a Veteran who has already paid his dues to society, and generally' impoverishing him. He point out the State of Texas as a good example of how this issue should work.

This section of the bill is an example of an issue with diminishing returns. It is further an example of agency thinking in terms of "the end justifies the means ; and that kind of thinking is foreign to this country. The agency here shows that it need a 'brighter staff or "better concept" to follow.

TITLE V

Sec. 501. Fatherhood Grants

Any and all Fatherhood programs are welcomed and encouraged, and this should that "brighter Star" or "better concept" to follow as referred to in my response to section 402 of this bill above. Our Society should be trying to bring fathers into the social main stream and not exclude them with DRACONIAN CHILD SUPPORT COLLECTION EFFORTS.

Four example, if Fathers are behind in child support, there should be an office to check to see if the Father needs a job first, rather than first running the father down with a Court Order to Appear an SHOW CAUSE why he should not be held in contempt of Court for failure to pay child support. Recognizing Fathers as part of society and remembering that Fathers play an important roll in society would be the best attitude for child support workers to have. An attitude of economic search and destroy does not make good fathers available in the future, and same women trying to make a go as a seed wife will lose out, along with their children in the long run.

Pasted experience with "Fatherhood" funding programs is that States will not forward Federal Grant money to Fathers' Support Groups. Generally States are staffed so heavily with men and women so closely related to the child support collection programs, it becomes impossible for the same staff to relate to Futhers and their interest for an opportunity of sots custody of our children after divorce or family breakup. DADS has found that there are those who will suggest that Fathers become "involved." but will not say that "Fathers should have "sole Custody" of their children To marry of us Fathers using the euphemism of "involved or involvement" is so that we can pay the bills of child support, is misguided. These are the same people that need to understand that Fathers are capable of love, not just money, and that Father have the ability to raise their own children with little to no use of welfare money from tax payers.

Additionally it should be brought to the subcommittee's attention that the "Fatherhood Grant" section of the bill should not inducts HIV and AIDS education money because those issues are "health" issues with plenty of funds from existing sources, of which is generally not shared with Fathers arid their "Parenting" issues.

TITLE V SUBTITLE B

Sec. 511. Fatherhood Projects of National Significance

Most Fathers as does DADS would welcome all Fatherhood Projects without question. It is very important to finally have the Federal Government focus some attention on Fathers and their children, so bring on the programs.

TITLE VI

Sec. 601. Elimination of set-aside of welfare to work hands far successful bonus.

This is another section of the bill that the proposed language is excerpted and taken out of context to make a new law. Because of the style of the author of it is not clear what the value of any change would be. This section needs to be clarified.

TITLE VII

Sec. 701. Change dates for abstinence evaluation.

This is another section of the bill that is proposed by excerpting language from laws already in effect, taking those word out of context, and proposing another law, and it is not possible to make a response from suds information.

TITLE VII

Sec. 702. Report on undistributed child support payments.

Hurrah ! Finally something that makes sense, however, there should be language added to this section of the bill to the effect that such moneys received by the agency, but not delivered for its intended use of child support within on year and after all state debt has been paid, then such undelivered money should be returned tax free with interest to the to the obligor, and if he is not found then such money will be "credited" to his tax account with the IRS for a 1040 credit.

Sec. 703. Use of new hire information to assist administration of unemployment compensation programs

This is another over kill section of the child support staff, however, language news to be added in this section that whenever it is found that the income of the obligor on unemployment is at or below the US Government's "Poverty Level" then the child support is suspended.

There should be a general rule for the obligor'so allow for **"Family Formation and Stabilization"** and perhaps we have the makings of a new call an "Act', herein.

Sec. 704. Immigration provisions.

State agencies should make it clear that is the United States of America, and lives else where the will terminate.

Sec. 705. Correction of errors in the conforming amendments welfare to work programs and child support of 1999

No comments.

TITLE VIII

Sec. 801. Effective date.

No comments.

Chairman JOHNSON of Connecticut. Ms. Diaz?

STATEMENT OF VANESSA DIAZ, EXECUTIVE, SUPPORTKIDS.COM, AUSTIN, TEXAS

Ms. DIAZ. Madam Chair, Congressman Cardin, thank you for the opportunity to testify today on the important role of private child support enforcement agencies.

I am a mom. My name is Vanessa Diaz. I am an employee of Supportkids, the largest private child support enforcement agency in the country, and I am very proud to be part of a company that has made such a difference in the lives of many families.

I come before you today to tell you my own personal story about my effort to collect child support. I was divorced in June, 1986, and my husband was ordered to pay $300 a month for the support of our two sons.

After several months without support, I decided to seek help through the government IV–D agency. Initially, I was very naive about the process. I thought I would at least have money to spend on my children for Christmas that same year.

Although my ex-husband lived 10 minutes away from me, he was working, and he saw my children all the time, my support went unpaid for five Christmases thereafter. My ex-husband thought there was no need to provide child support, since I was working. And, although visitation was never an issue, he had no idea that during those 6 years without support we lived in what I can only call a "survival mode." I worked two jobs. I was tired all the time. And I wasted so much energy for waiting and hoping for a check to come, instead of expending that precious energy on my children.

I have a 4-year-old daughter now and I find myself feeling guilty at times. Every time she asks me to read a book or she wants a new toy, I can't help but think about the times I was not able to give those things to my boys. It was a constant battle, and it is very real.

Raising my boys without child support and having to deal with an overwhelmed government agency, it was a time-consuming task that left me emotionally drained week after week.

After many years, I finally decided to seek outside help. I turned to a private attorney. He wanted his retainer fee up front before he would even listen to me. I could not afford to give up several weeks of my grocery money, and there went another door slammed in my face.

At the time I applied for services from Supportkids in 1992, I was in despair, but I really felt I had nothing to lose and everything to gain. Within 6 weeks, Supportkids recovered all of my past-due child support and I was finally able to get closure on my case.

Since then, I have been helping parents in their own effort to secure child support. I now understand why I was not able to get my court order enforced more effectively from the IV–D agency. I see it now as a harsh reality about the way things are. Instead of feeling personally violated about how my case was handled, I have a better understanding as to the constraints in the IV–D agency all over the country.

I have worked with clients for over 8 years who are going through the same situation as I just described. By listening and effectively communicating to these parents, I do believe I am able to help them put some degree of closure on their daily struggle.

The number one point I want to make today is that every woman should have the right to choose which agency they want to collect the child support that is owed them. I find it disturbing that someone should decide for me which enforcement option is best for my kids. I believe the same tools and information should be available to me to get what my children deserve, whichever enforcement option I may choose.

It would be a monumental step in the right direction if all private entities could provide effective services using the same tools and information as are available to the government agencies.

All too often in my work, I am confronted with turf issues, and it is troubling to see how easily one can lose sight of the real issue—taking care of the children. I do believe that Supportkids, combined with a collaborative effort from the IV–D agencies, can help change the quality of life for many children.

Thank you.

Chairman JOHNSON of Connecticut. Thank you, Ms. Diaz.
[The prepared statement follows:]

Statement of Vanessa Diaz, Executive, Supportkids.com, Austin, Texas

Madame Chairwoman, Congressman Cardin, and other distinguished members of the Subcommittee: thank you for the opportunity to testify today on the important role of private child support enforcement agencies in attacking the problem of non-support in our nation and the need of those agencies for access to enforcement tools already authorized by Congress, but now restricted in use to the government Title IV–D child support program.

My name is Vanessa Diaz. Currently, I am an executive responsible for improving legal processes at Supportkids.com, the nation's largest private child support enforcement organization helping custodial parents collect unpaid child support. In 1986, however, I was a divorced mother of two children, holding down two jobs in a struggle to make ends meet without the benefit of the child support ordered in a divorce decree. I had wrongly assumed that my former spouse would respect the court's order that he pay $300 a month in support of his children and that within 30 days of the decree I would begin receiving support payments. That did not happen. In spite of my efforts to ensure that my children would continue to have a close and loving relationship with their father, he decided that he owed them nothing by way of material support and that I could look to my mother and any other willing relatives to help me provide additional resources for our children.

When my former husband ignored the court's order for child support, I turned to the government child support enforcement program by applying for "free" services with the state IV–D agency. What I quickly learned is *that "free" services mean little or nothing if, in fact, no services are provided*. In spite of the fact that my former husband lived only 10 minutes away from my residence and that I was able to provide the IV–D agency with all the information they could possibly need to bring enforcement actions against him, the order went unenforced—*and my children went without*. But even back then I was aware that the services the government agency was supposed to be providing me weren't really "free" at all—that, in fact, *I, as a taxpayer, was paying for these services*. Indeed, according to the most recent (FY 1997), available data on the program, these services are costing over $3.4 billion in federal and state funds. There is nothing "free" about them.

For six years I aggressively pursued the matter with the IV–D agency, repeatedly visiting the local office and repeatedly pleading for effective action. Repeatedly my children's father successfully walked away from contempt orders and other enforcement efforts of the IV–D agency. What I did not appreciate at the time—but do now—is because the workload of IV–D agencies is so great and their resources so limited, they cannot pursue effective enforcement of child support obligations in every case, no matter how much information they have about the delinquent parent. I naively assumed, however, that *my* case really mattered to the agency simply because my children were my number one concern. I did not know, as I do now, that the *thousands* of dollars in past-due support owed us was not even the proverbial drop in the bucket of the *tens of billions* of dollars in past-due support that go uncollected, year after year, in the government program.

For years my children and I lived in what I can only call a "survival mode." Working two jobs, I had no time to "invest" in my children's individual lives, and they had to be manage their own lives, as best they could, as "latch key kids." My mother did try to help us out with the occasional bag of groceries, but her means were limited, being a divorced woman herself who had to raise six children on her own, two of them physically disabled.

Some friends suggested that I turn to public assistance, but welfare simply was not an option for me: I could not imagine relinquishing even the small margin of self-reliance and financial independence I possessed. Others suggested that I turn to a private attorney for help in securing the current and past-due child support owed me. That, too, however, was not an option because of the retainer fee which the attorney wanted "up-front' and which I simply could not afford—unless I was prepared to give up several weeks of family grocery money. Then, by chance, in 1992 I saw a billboard advertising child support enforcement services through a private agency—the company for which I now work—and, although I was skeptical at first about a private agency's achieving success where the government agency had failed, I decided to apply for services from Supportkids.com.

Within 6 *weeks*, Supportkids.com accomplished what the IV–D agency could not do within the prior 6 *years*: namely, recover nearly $14,000 in past child support. Because of the efforts of Supportkids.com, I not only received *support arrearages* due me, but I now also receive on a regular basis *current support payments*. The years

of frustration and emotional exhaustion in the struggle to receive court-ordered child support ended, and I suddenly found that I was able to put aside funds for my children's education and that I was able to give my children the time and emotional energy I had always wanted to give them.

I relate my personal story not because my experience is unique; it is not. There are hundreds of thousands of custodial parents who continue to wait for results from the government child support enforcement program, just as there are tens of thousands of custodial parents who have received results from private firms. I tell you my story because I know that the government agency cannot serve all families equally well and because I believe that custodial parents ought to have the choice of turning to private enforcement agencies and, through them, to have access to all the enforcement resources and remedies authorized by Congress.

It seems to me inherently unfair that I—or any other custodial parent—would be denied the use of valuable enforcement tools provided under federal law and paid for by taxpayer dollars unless I agreed to have my case worked by an overburdened government program currently capable of making collections (usually only partial collections) in only about 1 of every 5 cases in its staggering caseload. It seems to me that there is an issue of fundamental fairness here with respect to parents who seek help outside the IV–D program—particularly when that program has failed them. What possible justification is there to deny parents useful information available to the IV–D agency if these parents choose to collect the support owed their children through public or private non-IV–D enforcement agencies? After all, non-IV–D custodial parents are taxpayers who also paid for the development and operation of databases to which some interest groups would deny them access for use in helping them obtain their rightful child support.

I do not understand how anyone with a genuine concern about the plight of families who suffer from nonsupport would say that these families should not have viable choices of sources of enforcement and that they *must* accept government services if they want access to all the enforcement tools authorized by Congress. Unless one is prepared to say that private attorneys, private agencies, and local government agencies should be banned from providing child support enforcement services—even though they provided these services before the IV–D program existed—then it makes no sense to say that these non-IV–D providers should not have access to the same resources and remedies available to the IV–D program. What public policy is served by creating an incentive for custodial parents to seek IV–D services at taxpayer expense through the denial of enforcement tools to these same parents when they freely choose an alternative enforcement route as a first preference and at their own expense?

I am aware that there are those who believe that the government's IV–D program can and should do it all—that it is only a matter of time before all the new, required automated systems will kick in and all cases in the burgeoning caseload will be processed expeditiously and effectively. To these individuals I can only say that it is, indeed, a matter of time—a matter of years of waiting, suffering deprivations, struggling with frustration and emotional exhaustion.

The fact is that child support enforcement—no matter how sophisticated our automated procedures and enforcement tools may be or may become—is still fundamentally a human enterprise when it comes to the employment of those procedures and tools. The heart of enforcement remains the work of child support personnel who deal with custodial parents, negotiate settlements, or perform the work for judicial or administrative hearings. It is here where the IV–D program is faced with the greatest probability of inadequate resources to meet the demands of its overwhelming caseload. Given the shortage of these human resources in the IV–D program, the need for effective use of non-IV–D resources is clearly indicated. But non-IV–D resources can be most effective only if they are provided with the same tools and information that are provided the IV–D community.

If, in time, the IV–D program is efficiently able to provide effective enforcement services to all families needing those services, the services of non-IV–D providers will not be the alternative used very much by custodial parents. Today, however, families like mine seek the assistance of non-IV–D providers simply because the government program cannot provide efficient, effective enforcement services to all families needing them—let alone to all cases currently in its caseload.

If we are to have the kind of competition between the public and private sector that elected officials and government and public policy experts have encouraged over the past decade, then we need a level playing field. The private sector needs to have access to the same tools the government IV–D possesses. This legislative proposal would support a degree of fair competition through the sharing of information and other resources that are currently available only to the public agency, although provided through the tax dollars paid by our clients, as well as by other citizens.

Moreover, just as I was naive in thinking that a support order and excellent locate information ensured that the government agency would secure support payments, so these individuals are, I believe, naive in thinking that there will ever be enough resources for the government enforcement program to "do it all." The need is so vast that it exceeds the ability of the government program to provide effective services in every case. *All available resources—public and private—are required in the battle against nonsupport, and both the public and private agencies engaged in this critical battle need all the tools that Congress can provide—and, indeed, has already provided.*The legislative proposal now before you for your consideration contains provisions that, as an option—*and only as an option*—would enable state IV–D agencies to enter into partnership with private child support enforcement agencies to share certain enforcement tools and, thereby, more effectively to share the work of providing families with enforcement services. Believe me, there is more than enough work to go around, and state IV–D agencies would never suffer for lack of customers were these options provided to them. *The only ones who would be adversely affected by the collaborative efforts of public and private child support enforcement agencies under this legislative proposal are the tens of millions of noncustodial parents who every year successfully escape paying the support which they owe and which their children urgently need*.

Specifically, the proposed legislation provides that state IV–D agencies have the *option* of accepting requests from private enforcement agencies for information available to a state IV–D agency that may be useful to a private agency in its efforts to establish and/or enforce child support obligations. A private provider making such a request would, however, have to satisfy the state agency that it is capable of ensuring the same data security, privacy protections, and due process requirements applicable to the state agency, in accordance with procedures approved by the agency's director. No state agency would allow the wholesale downloading of data to any private attorney or private agency. The state IV–D agency would have to be satisfied that there is a genuine need for the information requested on any particular case. Because this is only an *option*, a state IV–D agency would set the procedures and standards appropriate to its own operations in providing enforcement information to private providers, as well as to non-IV–D public agencies.

The proposal would also allow state IV–D agencies to provide private agencies access to certain enforcement remedies now restricted in use to IV–D agencies. These remedies include interception of federal income tax refunds for child support arrearages, the reporting of arrearages to credit bureaus, imposition of passport sanctions for past-due support, financial institution data matches to locate assets of delinquent obligors, and the garnishment of unemployment benefits for child support. The use of these remedies would, again, be controlled by the state IV–D agency, subject to procedures set by the agency and subject to safeguards established under federal and state laws.

Not only would the collaboration of a state IV–D agency and a private provider of support services (including private attorneys) be at the option of a state IV–D agency, but the costs of such collaboration would be borne by the private provider. Quite simply, the intent is that neither the state nor the federal government would bear additional expenses. Whatever mode or extent of interaction a state IV–D agency might choose to have with a private provider would be on *a fee-for-services* basis. Moreover, a state IV–D agency would be able to determine—if not all services—which services to make available to a private provider. *The point here is that a state IV–D agency would itself judge, in light of its workload, the extent to which it is able to interact with private enforcement providers*.

I am aware of the objections posed by some members of the IV–D community—as well as by some special interest groups—to the sharing of IV–D enforcement resources with private attorneys and child support enforcement agencies. The notion seems to be that private providers of enforcement services would, for some reason, not use these resources responsibly. I find this bewildering and deeply troubling. It is as ill founded a notion as the idea—advanced by some special interest groups—that state IV–D agencies do not take their responsibilities seriously and for that reason do not serve all their customers well.

I am proud of the work that I have done over the past 8 years in Supportkids.com. I am proud, as well, of my co-workers and their dedication to the interests of the clients we serve. I am proud that Supportkids.com has collected over a quarter of a million dollars in child support for its employees alone. I am proud of the fact that people in our company have been able to leave the welfare rolls to assist other families in their struggle for financial self-sufficiency. We at Supportkids.com work hard on all our cases. We most certainly do not get the "easy" cases. On the contrary, we get the cases in which the government program did not provide effective services

and made no collections. If these were the "easy" cases, they would not have come to us; the government agency would have taken care of them.

My experience, both as a custodial parent and as an employee of a private agency, is that private child support enforcement providers are no less responsible in their dealings with their customers or less caring about achieving effective results, within the boundaries of the law, than their IV–D counterparts. Together we share a commitment to the families we respectively—and often jointly—serve, a respect for the use of appropriate legal procedures, and a concern about the welfare of the children for whom we seek support. For those reasons, we should also be able to share the valuable enforcement resources and remedies which Congress has authorized for ensuring that parents fulfill their financial obligations to their children.

Another, related issue that I have heard expressed about this legislative proposal is that it would compromise the privacy rights of individuals about whom information would be released to private and public non-IV–D enforcement entities. Quite simply, there is no privacy issue here. Not only would the state IV–D agency control what information is released, but also the only information released would be related to the legitimate purposes of child support enforcement and no other purposes. In this regard, the proposal is not different from current federal law that authorizes the disclosure to a custodial parent of certain otherwise confidential information concerning a parent available through the Federal Parent Locator Service for the purposes of establishing and enforcing child support obligations.

Underlying most of the objections to any proposal for allowing non-IV–D providers of enforcement services to share IV–D enforcement resources is, I believe, the concern that there is something intrinsically wrong about charging fees or receiving payment for performing child support enforcement services. This concern seems rooted in the misperception that the government provides "free" services and that charging for child support services is like taking bread out of the mouths of children. (Of course, some state IV–D agencies *do* charge fees for services, and in 1992 the General Accounting Office recommended that *all* IV–D agencies charge fees in their non-welfare cases to cover administrative costs. How, then, is it "wrong" for the non-IV–D enforcement community to charge for its services, but not "wrong" for the IV–D community to do so?)

I understand the visceral pull of this concern—and I agree that it is wrong and a cruel injustice for a family to receive less than the full and timely paid amount of child support owed it. I agree because I have experienced that injustice and injury. For 6 long and difficult years I received not a penny of the support the court had ordered for my children.

Ideally, we taxpayers should not have to bear the costs of collecting child support from "deadbeat" parents, but we do because we believe that it is imperative that children have the financial support due them. Ideally, I should not have had to seek assistance from a private provider to secure the child support the government agency couldn't secure, but I did because my children needed the support due them. I suppose one could say that it is "wrong" for a tenant to incur legal expenses to recover a deposit from a landlord or for a consumer to recover damages for a defective product. But it is important not to overlook the simple and obvious fact that the "wrong" has been committed by the party who withheld the amount due in the first place. *In the case of child support, the wrong lies with the parent who fails to provide the support, not with the enforcement provider who finally secures the support*.

No one could reasonably expect the IV–D program to operate without taxpayer dollars. Similarly, no one could reasonably expect a private enforcement provider to operate without compensation or a local government to bear the entire expense of a child support enforcement program. Therefore, to say that non-IV–D public and private enforcement providers should not be compensated for their services is tantamount to saying the non-IV–D enforcement should not exist. I suspect, however, that there are special interest groups that do believe just that. Curiously, these are the same groups which believe that there should be no restrictions on how a custodial parent chooses to spend child support payment—presumably of the benefit of the child for whom the support is paid. Yet these very groups also oppose the right of a custodial parent to expend their child support for the purpose of recovering it in the first place, if the custodial parent enlists the assistance of a private enforcement agency.

Payment of contingency fees to a private provider of enforcement services is the most important tool a custodial parent has to obtain justice when the IV–D agency is unable to provide effective services. Would anyone risk losing household money on a 2 in 10 chance of success with the government agency? Would anyone risk food on the table for such a 2 in 10 chance? An informed custodial parent is a responsible parent who should be allowed to make an informed, responsible choice with respect to taking the best course of action to ensure his or her family's financial well being.

The clients we serve are informed, responsible adults who know the difficulty of the work that we are prepared to undertake on their behalf to secure the support they are owed. They know they need the expertise we can—and do—provide. They know they need an advocate who has the time and resources to invest in their case. For them, the payment of contingency fees is the key to justice being done.

Yes, it is wrong for a child not to receive the benefit of all the support due. But given the fact that each year millions of children are so wronged, should custodial parents and their children not have the right to more alternatives for enforcement rather than fewer? Is the mother who has failed to obtain her children's child support through the IV–D program to be effectively denied the opportunity of recovery through other, non-IV–D options? And should that mother be denied access to the enforcement resources available only through the IV–D agency? I believe that the time has come to move beyond parochial perspectives to a broader view of the child support enforcement problem in this country and to engage a new vision for dealing with that critical problem.

Over the past 25 years, this subcommittee and its parent committee of the Congress have so often taken the lead in strengthening child support enforcement in this country through innovative and visionary legislation. The legislative proposal now before you offers yet another opportunity to advance the purposes of child support enforcement. It would provide a much-needed bridge between the IV–D community and public and private enforcement agencies. It would open the door to productive collaboration among all of us and to a working partnership that, in the last analysis, can only benefit the families who seek—and need—our help.

Madame Chairwoman, you and your distinguished colleagues on this subcommittee are, I know, well aware of the desperate circumstances in which millions of custodial parents in our country find themselves today because of the unlawful and immoral failure of noncustodial parents to pay child support. As someone who has personally and painfully known the plight of such custodial parents, I do not see how we, as a nation, cannot but choose to enlist all available resources, public and private, in fighting nonsupport.

The establishment of the government child support enforcement under Title IV–D of the Social Security Act 25 years ago was a major achievement for the welfare of our children. But there is a wealth of resources outside the IV–D program—locally funded public agencies and private providers—that need to be brought more fully into the national child support enforcement effort. Under the provisions of the legislative proposal now before you, these resources can be made a more integral component of that effort without significant—if any—additional federal taxpayer dollars and without compromising in any manner the safeguards Congress has wisely provided for the protection of privacy and due process rights. With respect to private providers, the proposal offers *custodial parents* the *option* of choosing services from these providers *without*, however, having to forfeit the enforcement tools Congress has authorized and their taxpayer dollars are paying for. It also provides *state IV–D agencies* with the option of entering into partnerships with private providers to bring more resources to bear upon the intractable challenge—and national scandal—of parental irresponsibility.

I respectfully urge the subcommittee and the Congress to use this legislative proposal as an opportunity to strengthen the cause of child support enforcement and, I believe, thereby to bring us more quickly to a day when a story such as mine need never be told.

Thank you.

Chairman JOHNSON of Connecticut. Mr. Bacarisse?

STATEMENT OF CHARLES BACARISSE, HARRIS COUNTY DISTRICT CLERK, HOUSTON, TEXAS

Mr. BACARISSE. Thank you.

Madam Chair, Congressman Cardin, thank you for your time today. I am pleased to be here.

I come before you today to lend my total and unequivocal support to legislation that would give non-title-IV–D enforcement agencies additional tools so they will be even more effective in enforcing support.

My name is Charles Bacarisse, and, as district clerk of Harris County, Houston, Texas, one who oversees a support registry that moved more than $261 million in payments last year, I have seen child support enforcement on the national level fall behind at such a rate that empowering local assistance outside the title IV–D program is desperately needed.

By passage of this legislation, the Congress will ensure that deserving recipients receive their monthly checks. Kids' lives and futures are at stake.

In Houston, my staff processes more than 5,000 transactions totaling more than a million dollars each working day. The average payment is about $150, so we have a registry that serves all types of socioeconomic classes. In fact, based on the most recently available Federal data, if Harris County were a State, it would rank about 33d in the Nation in total collections—that is IV–D and non-IV–D together. So I appear before you as someone with firsthand knowledge necessary to demonstrate how highly critical this situation is.

How serious is the problem being faced by the title IV–D program nationwide? You are well aware of the numbers. Basically, what I could add to that is that there is roughly $50 billion that remains uncollected from prior years in cases enforced under title IV–D.

Let us just think about that a minute—$50 billion. Jesse Jones, perhaps one of the best-known Houstonians in history, ran the Reconstruction Finance Corp. for Franklin Roosevelt in the thirties and forties. Through the RFC, Mr. Jones spent $50 billion rebuilding the U.S. economy. Think how far $50 billion in child support would go today toward rebuilding families and allowing custodial parents to work fewer hours potentially and spend more time with their children. Yet, the amount of uncollected child support grows every year.

The reason is simple: The government title IV–D program has more to do than it can reasonably handle. A successful, full-scale attack on this problem requires enlisting all available resources. Those include locally funded, non-title-IV–D government enforcement entities, members of the private bar that offer child support services, and responsible private firms specializing in support collection.

This attack makes sense from a taxpayers' standpoint. Title IV–D enforcement services cost the taxpayers more than $3 billion annually. Locally funded child support enforcement agencies such as ours offer services at zero cost to the Federal taxpayer.

Harris County operates its own child support enforcement agency. It is the Harris County Domestic Relations Office, and about a dozen domestic relation offices exist in Texas' largest counties, and other organizations like these county-funded operations exist in other States, as well.

The Harris County DRO is funded by fees that are paid by those who use its child support and visitation enforcement services and county tax dollars. The user fees are based on the client's income and ability to pay. Unfortunately, Texas' domestic relations offices and similar non-IV–D public support agencies in other States are unable to use some of the enforcement tools that are currently

available to the IV–D agency, such as locate, for example. That simply adds to the burden on the IV–D agencies.

A lot of discussion has been brought up this afternoon about privacy issues. I might mention that currently these non-IV–D agencies and the private interests have access to data in the new hire database, but it is through quarterly reports through the State employment security agencies. So what the bill asks for is nothing new, but what it will do is automate that access so that we won't have to wait 3 months to track down someone that we are looking for.

In order to get help for our challenges, we can get it with the tools that are outlined in H.R. 4469. Of course, all these measures would come with the appropriate safeguards on access to and use of confidential information. Any non-IV–D entity or private attorney seeking use of specified tools and information would be required to register with their IV–D agency. That is important.

I think I would also like to mention, just for a moment, as I sum up, that a lot has been made of the use of confidential information. As an officer of the court—and there are thousands like me across the Nation—I handle confidential information every day. I handle all the county's juvenile records. Our State, for example, has passed parental consent for abortion. All of that data is confidential. We handle that. We currently also handle all criminal databases that connect directly into the FBI's NCIC criminal database. So we are used to, capable of, and certainly understand the importance of handling confidential information.

I appreciate the opportunity to appear before you today.

Thank you.

Chairman JOHNSON of Connecticut. Thank you very much.

[The prepared statement follows:]

Statement of Charles Bacarisse, Harris County District Clerk, Houston, Texas

Madam Chairman and distinguished members of the committee, I come before you today to lend my total and unequivocal support to legislation that would give non-Title IV–D enforcement agencies additional tools so they will be even more effective in enforcing child support.

My name is Charles Bacarisse. As the District Clerk of Harris County, Texas, and one who oversees a child support registry that moved more than $261 million in payments last year, I have seen child support enforcement on the national level fall behind at such a rate that empowering local assistance outside the Title IV–D program is desperately needed. By passage of this legislation, the Congress will ensure that deserving recipients receive their monthly checks. That is a moral obligation: Kids' lives and futures are at stake.

In Houston, my staff processes more than 5,000 transactions totaling more than one million dollars each and every working day. In fact, based on the most recently available federal data, if Harris County were a state, it would rank about 33rd in the nation in TOTAL collections (that is, IV–D collections in both public assistance and non-public assistance cases). My county would rank 37th among the states in terms of collections in non-public assistance cases.

So, I appear before you as someone with the first-hand knowledge necessary to demonstrate how highly critical this situation is.

How serious is the problem being faced by the Title IV–D program nationwide? Consider that in FY 1997, $9.5 billion in child support was collected. However, this $9.5 billion represented, at best, only 54 percent of current support due that year. Only about 7 percent of past due support was collected in FY 1997.

That left $8.1 billion in current child support uncollected and $41.4 billion in past due support uncollected. Going into FY 1998, $49.5 billion remained uncollected from prior years in cases enforced under IV–D.

Nearly $50 billion. That's a huge number. That's a really significant number to a history buff from Houston like me. Jesse Jones, perhaps the best-known Houstonian in history, ran the Reconstruction Finance Corporation for Franklin Roosevelt in the 1930s and 1940s. Through the RFC, Jesse Jones spent $50 billion rebuilding the U.S. economy.

Think how far $50 billion in child support would go today in rebuilding families, in allowing custodial parents to work fewer hours and spend more time with their children. Yet the amount of uncollected child support grows every year.

The reason for this unconscionable dilemma is simple. The government Title IV–D program has more to do than it can reasonably handle in serving both welfare and non-welfare populations.

You may not be aware that of the more than 19 million cases currently in the nationwide IV–D caseload, more than 40 percent lack support orders. In those cases having orders, full or even just partial collections could be made in fewer than two of five cases because of the difficulties inherent in enforcement.

While state IV–D agencies struggle to increase establishments and collections, their caseloads continue to grow by the hundreds of thousands—and backlogs in establishments and enforcement actions continue to mount.

While the problem is monstrous by any standard, the solution is not. A successful, full-scale attack on this problem requires enlisting all available resources, including locally funded, non-Title IV–D government enforcement entities, members of the private bar that offer child support services and responsible private firms specializing in support collection.

This attack makes sense from the taxpayers' standpoint. Title IV–D support enforcement services cost the taxpayers more than $3 billion annually, at a cost-effectiveness ratio of less than $4 in collected support for every $1 of administrative expenditures. By contrast, locally funded child support enforcement agencies and private attorneys can offer services at zero—zero—cost to the federal government.

In this crisis, Harris County custodial parents needing assistance in enforcing child support are more fortunate than those in some other areas. This is because Harris County operates its own child support enforcement agency—the Harris County Domestic Relations Office.

About a dozen DROs exist in Texas' largest counties. The Harris County DRO is funded by fees paid by those who use its child support and visitation enforcement services. The user fees are based on income and ability to pay.

Unfortunately, Texas' domestic relations offices, and similar non-IV–D public child support enforcement agencies in other states, are unable to use some enforcement tools available to the IV–D agencies. The result is that custodial parents may be forced to go to the IV–D agency for certain types of service, such as income tax intercept. This simply adds to the burden on the IV–D agency.

One way to decrease the dependency of custodial parents on IV–D agencies would be to allow non-IV–D agencies to run their cases through national databases, such as the federal new hire database. This enhanced data matching would allow a faster response to a custodial parent's request, while ensuring the privacy of those involved has been respected.

As one who deals with this matter daily, my suggestion for involving capable non-Title IV–D enforcement entities must come with federal legislation to allow the following five enforcement tools:

The Equal Use of Income Withholding from Unemployment Benefits:

Current law—42 U.S.C. 503(e)—permits the withholding of child support from UEB only in cases enforced by a state Title IV–D agency. Because this law restricts the enforcement of support in cases being handled by a local government agency or private attorney, it forces the custodial parent to use the Title IV–D agency.

Equal Use of Federal and State Tax Refund Intercepts:

Again, current law—42 U.S.C. 664: 666(a)(3)—allows only the state Title IV–D agency to intercept state and federal income tax refunds to collect past due child support. This ability should be given to non-IV–D entities.

Extension of Data Matches with Non-Title IV–D Entities:

Any new law should enable an approved private attorney or approved local government enforcement agency—upon payment of a service fee—to request that state IV–D agencies include a non-IV–D case in the data matches and to require financial institutions to provide information and respond to notice of lien or levy in non-IV–D cases as they would in a Title IV–D situation.

The Ability to Report Child Support Delinquencies to Credit Bureaus:

Currently, the federal Fair Credit Reporting Act restricts such reporting to state or local enforcement agencies, or to amounts that can be verified by local, state or federal government agencies. Any new legislation should amend the law to allow a registered private attorney, on behalf of a custodial parent, to request a state IV–D agency to report to a credit bureau the name of a non-custodial parent owing past due support and the amount of the past due support.

The Ability to Revoke Passports:

Any new law should enable an approved local government enforcement agency to request that the U.S. State Department revoke a non-custodial parent's passport due to failure to pay child support. This enforcement tool would only be used when certain legally established requirements have been met.

Of course, all of these measures would come with appropriate safeguards on access to, and the use of, confidential information maintained in government databases. The legislation should require any non-IV–D entity or private attorney seeking to use specified tools and information to register with the Secretary of Health and Human Services. The use of the specified tools and resources would be solely for child support enforcement purposes.

My office, which processes both IV–D and non-IV–D child support payment has worked with both public and private child support organizations on many occasions. My view is that the more resources that can be applied to improving the collection of child support, the better for the children owed the support.

Federal legislation and policies should encourage participation in child support enforcement by responsible public and private agencies and attorneys. This subcommittee can begin that process today by considering the recommendations I have presented, as well as those of my co-panelists here today.

Madam Chairman and members of the committee, I hope I have clearly defined the gravity of this situation and left you with at least part of the solution. The need for legislation is great. New laws should be enacted as soon as possible to combat and curtail this growing problem. Millions of children across America are depending on you.

Thank you for allowing me to testify before your committee.

Chairman JOHNSON of Connecticut. Mr. Bacarisse, to your knowledge, are all the other non-IV–D public agencies associated with the court?

Mr. BACARISSE. To my knowledge and experience, we are either clerks of the court or we are associated with the court through enforcing of the orders, such as my colleague from Broward County. She is not a clerk, but she operates the Broward County child support division and she enforces the orders of the court that way.

Chairman JOHNSON of Connecticut. And are you aware of any other non-IV–D public agencies in the country that aren't associated with the judicial system?

Mr. BACARISSE. That are not in some way?

Chairman JOHNSON of Connecticut. Yes. I really don't know this, and you may not know this.

Mr. BACARISSE. No, ma'am. I am not aware of any.

Chairman JOHNSON of Connecticut. Well, those of you who are listening, we will look into this, because that certainly makes a tremendous difference, the fact that you are accustomed to handling information that is of a private nature, and certainly getting people like you into the system ought to be a no-brainer.

Mr. BACARISSE. Thank you.

Chairman JOHNSON of Connecticut. I want you all to think about that. There is a difference in these categories out there. Given the number of people not getting help, we do need to—it may be methodically opening up to people who are officers—you know, collec-

tion agencies that are associated with the court, or whatever. But I think we need to think about this definition.

Ms. Diaz, why, when you could give the IV–D agency your husband's name and address and where he was working, why couldn't they get the support order enforced?

Ms. DIAZ. Well, that was a question I had many years ago.

Chairman JOHNSON of Connecticut. As you said in your testimony, now you see why they couldn't help.

Ms. DIAZ. Right.

Chairman JOHNSON of Connecticut. What is it that you see now?

Ms. DIAZ. The overwhelm. When I was going through it, my own, personal battle, it was a very personal case. It was individual. I thought my caseworker, as naive as I was, I thought my caseworker was helping me, and I thought she had my interest on her plate. I had no clue that there were thousands in front of me. I was not on welfare. It wasn't important. Maybe it was important, but I didn't know it. If they were working my case, I wasn't being communicated to.

Keep in mind, during this time I wasn't sitting back waiting for something to happen. I was aggressively pursuing my own case.

Chairman JOHNSON of Connecticut. With the agency or with your former husband?

Ms. DIAZ. No. With the agency. My former husband did visit my children quite often, and that was very—I didn't want to—I wanted to keep the child support issue between my ex-husband and myself, and I didn't want to bring the boys into it, so I didn't use them as leverage, like I hear some parents do.

But I think it was just a matter of being naive then and not knowing that there were thousands of other clients just like me in the same boat. I thought it is just a matter of time and I was in a line.

Chairman JOHNSON of Connecticut. And what did it cost you when you decided to go through Supportkids?

Ms. DIAZ. One-third, 33 percent.

Chairman JOHNSON of Connecticut. And since they got it all apparently in kind of one payment, they took a third of that? Do they continue to take a third of every support payment that follows?

Ms. DIAZ. No. Actually, my contract was very clear. The child support arrears at the time was approximately $17,000 or $18,000, and that is what I understood was going to be worked to get $18,000. Once that amount is recovered, then, if the payments continue, I get 100 percent after that, and they continue to come in.

The 33 percent was taken off of the lump payment that I received. My ex-husband decided again not to pay me. The contract ended with Supportkids, and I had the option of—actually, the way the court order read is that he was going to be given a free year, and I wanted him to get—what I had asked, if he could—one of the provisions, I would be willing to give him a free year to get on his feet to do what he can to get a good job, and if, in fact, the $300 a month would continue on the 13th month. That money did not get paid, and therefore the entire year became back owing to him.

So I did stay with the—in fact, I stayed with the IV–D agency until 1996, and I had already been a client with Supportkids since 1992. The only reason I stayed with them was I thought maybe

there was a chance I could get maybe an IRS intercept or maybe there were some tools there that the IV–D agency had. I was trying to get the best of both. I wanted any possible way to get my support, and I would have gladly paid more than 30, believe me.

Chairman JOHNSON of Connecticut. So, actually, if Supportkids had had the authority, they could have collected for you, charged you a third of that, but put in place a wage withholding system. Then you would have never had to worry again?

Ms. DIAZ. That is correct.

Chairman JOHNSON of Connecticut. That is interesting. So, because they didn't have the authority to do that or the access to do that, you ended up having to go back in. Did you have to pay the second time when you went back?

Ms. DIAZ. No. In fact, the fee—you know, I hear these things about the cost and about the fees. I want you to know, I am a parent and I am the voice of millions of mothers out there. My case is not unique. It is very typical. I really do think—you know, when I read some of these testimonies and I see in here about how the IV–D agency offers free service, why would any parent in their right mind want to go to an agency that charges a third? Free service is only, in my opinion, when you get something out of it. When you get no service, it is not free.

Mr. CARDIN. Would the gentlelady yield for just one moment?

Chairman JOHNSON of Connecticut. Go ahead.

Mr. CARDIN. I am going to have to excuse myself because I have some appointments I cannot miss.

I just wanted the witnesses to know how much I appreciated your testimony. It is extremely helpful to us. This is an issue in which there is disagreement, but, as I said in my opening statement, I really do hope that we will be able to work out some legislation, particularly as it relates to the distribution rules, because that is clearly one which we know that the current setup just cries out for change.

Let me thank you all and apologize for our delays. It was not our fault. We can never tell when a vote is going to take place.

Chairman JOHNSON of Connecticut. Thank you, Ben. Thank you for being here through all the testimony, in spite of all the delays.

Ms. DIAZ. Excuse me. I was just going to add that the 6 years was a hefty price that I paid.

Chairman JOHNSON of Connecticut. Right.

Now, as an employee now of Suportkids, is the general policy of Supportkids to charge a percent of arrearages and a percent of payments? Now, in your case they didn't charge a percent of payments ongoing. Would you talk a little bit more about what the policy—

Ms. DIAZ. Well, the contract is very clear. It is a money contract. It is not current support, arrears—

Chairman JOHNSON of Connecticut. Is it the same for everyone?

Ms. DIAZ. Yes. In fact, it just depends. We have several different services that we offer that are different fee structures. The third, the 33 percent that you hear about, it is one-third of the amount, when the parent comes in, of the arrearages at that time. It is a money contract. When that amount is paid in full, we go away, the contract is ended, and the parent continues to get 100 percent of payments thereafter. It is simply a money contract. It is not sepa-

rated into current and arrears and so forth. It is a money contract for the arrears that are owed at the time.

Chairman JOHNSON of Connecticut. And does that entitle you to help any time your support payments stop or you have problems?

Ms. DIAZ. Right. If we are contracted to help a parent—$10,000 is a good example. Of the noncustodial parents that we pursue, most of them aren't going to have $10,000 hanging around in some bank account to go seize, so we do have to go after their source of income or monthly payments. And yes, there is sometimes, quite often, a break in those payments, and we are right on them within—our systems require that within 20 days of a missed payment, we immediately are on it again looking for that employment and searching for the next payment.

But when that amount is paid, again, be it in a lump sum or over a course of monthly payments, that is when the contract ends.

Chairman JOHNSON of Connecticut. So after the contract ends, then, if there are problems with the flow of support payments, the person cannot come back to Supportkids?

Ms. DIAZ. Absolutely. Certainly, the ideal situation would be for the child support to continue. What we have established, it does continue. The parent gets 100 percent. If at some time after they have gone through Supportkids their child support should stop, then, again, their options are there again. If they are with a IV–D agency, they can continue that route. They can continue to go through DRO office and county-based child support services. Or they can go through a private attorney. Their options are there again.

Chairman JOHNSON of Connecticut. But if they came back to Supportkids and only 2 months support had been missed, then your 33 percent of, say, $600—

Ms. DIAZ. No, ma'am. It would go down to 20 percent. We have different services. If they are owed less than $5,000 and they know where the employment is, it is a 20 percent service.

Chairman JOHNSON of Connecticut. And that is 20 percent of the arrearages?

Ms. DIAZ. Yes.

Chairman JOHNSON of Connecticut. And would you take them if the arrearages are only 2 months?

Ms. DIAZ. Yes, ma'am. We have payment monitoring. If, after the contract is over, they wish to continue with our services, it is only 15 percent. It just varies as to what services they might be looking for.

Chairman JOHNSON of Connecticut. But they could come back into the system after 2 months payment missing and get, for 20 percent of those 2 months, help in reinstating the payments?

Ms. DIAZ. Right.

Chairman JOHNSON of Connecticut. So that would cost them $200 then? That is cheaper than a lawyer and faster than a State agency.

Ms. DIAZ. And cheaper than waiting around in line. Right.

Chairman JOHNSON of Connecticut. OK.

Ms. DIAZ. And keep in mind, we don't deviate from a court order. These court orders that come in, the parents—in my case, I was

provided with a document, which was a divorce decree. It was a tool. It wasn't doing me any good because it wasn't being enforced.

What we do, we take this tool, we find ways to enforce it, and we get it paid. I really do—in not all cases we were able to collect, but I really do think that there should be options more so than what is out there today. I mean, these parents should not have to be forced to stay in a government agency, in my opinion.

Many times I am having to encourage parents to keep their case open just so that they can get the resources that the IV–D agencies have. It would be really nice to be able to give them a complete package, regardless of where they go.

Chairman JOHNSON of Connecticut. Thank you.

Ms. Kadwell, I appreciate your giving us statistics to show how very costly—and some of the others of you did—this distribution rule is in terms of administrative expenses. If we can fix that, you will have more resources to serve more people in a timely fashion.

I do hope, though, that you, as well as others, will think about how we might enlarge our tools, because it simply is—I mean, we only have Ms. Diaz here, but I have heard this story. One of the reasons I took the lead on the child support bill when we were in the minority, and then again when we were in the majority, in spite of the fact that, as you know, it is very complicated legislation that takes an enormous amount of staff time and prevents you from doing other things, but I was just hearing too many situations like Ms. Diaz.

The system isn't serving all the people it should, and simplification will definitely help, but most of the concerns you raise are just abusive collection practices. Why can't you write a contract that prohibits the use of those collection contracts? We are not throwing the door open to private agencies. We are just saying to States, "If you want to contract with one private agency, write a contract and govern that agency's actions. If it works, spread it to five, spread it to ten."

I really don't, in good conscience, want to write a bill just about distribution rules, even though I have been fighting that battle since 1995 and personally was responsible for getting the changes that were included in the original bill, but it is not enough. It is not enough. And, as you know, we can't pass and you don't want us to pass child support legislation every year, because it is problematic. We get all kinds of neat ideas that sound good in hearings and we have put in there. We don't want to do this and churn the system.

So I think not to take this opportunity to set in motion a process between the Federal and State governments and the private sector would be, frankly, irresponsible and a neglect of my duty.

So I am very open to your help, because I like to do my duty in a way that I feel proud of, and I don't feel particularly happy when the whole community opposes me, but I will tell you, the evidence, the basic, gut evidence is so great that there are too many Ms. Diazes out there. I really can't go forward with a bill that doesn't begin to reach them.

I think the IV–D agencies—I mean, we tried in the fatherhood bill. I am glad you mentioned it, Ms. Kadwell. We want the fatherhood programs to grow within this framework, but the IV–D agen-

cies don't have the agencies to get in, in a sense, the social support system, but they have got to be a part of it.

So if we want more holistic system, why is it we can't do business with the private sector? Because every week we don't they are still out there. They are still doing it. So if we end up in 2 years or 3 years, we have got to stay with contracts with 10 private agencies. I will tell you, every other private agency in that State is going to be in a different position than those that are contracting, and those that are contracting are going to set best practice standards and it is going to have ramifications and it will definitely have ramifications in the State legislature.

So I just am not satisfied that we can do what my friend Wendell Primus wants us to do—that is, tell the States to do this. And I am one of them writing them letters and telling them what I thought they ought to do anyway and have gotten some good effect from that bully pulpit, but I know how worrisome this is.

I think you have raised some very good points. There were some information points you raised, Ms. Entmacher, that I know you and Ms. Smith from Massachusetts will be able to help us understand better, that there may not be information in the system in certain cases.

Also, I am not hung up on direct access. What would be the fee that you would want to provide information?

So, you know, my message to you is I am still going to be up here plugging, and I would appreciate your working with me, and I would hope that we could find some solutions that will give us all a feeling that we are responsibly looking at the future.

Thank you very much.

Did you want to comment?

Ms. ENTMACHER. If I may?

Chairman JOHNSON of Connecticut. Yes. You have waited all this time. I can wait a little longer.

Ms. ENTMACHER. Thank you.

I just want to say that I have been involved in child support advocacy for 10 years and the National Women's Law Center has been doing it for 20 years, and we have heard and met and talked with many mothers in the situation of Ms. Diaz, which is why we have kept on doing this work.

The problem is that, while it is possible that in some States you would get the type controls that you are talking about, it is also possible that some States would have very lax regulations, and through the Internet companies can advertise for custodial parents nationwide to contract with them, and it is precisely because I see the potential for great abuse here that I think we have to proceed with very great caution.

Chairman JOHNSON of Connecticut. So ask me to put in the legislation that HHS has to sign off on the State regulations or in the State contract that the State agency develops to govern their relationships with private entities.

All of these are solvable problems. I appreciate what your concerns are, but honestly, even if we don't make all the tools available—we don't have to make all the tools available—but why is it we can't help private agencies much more rapidly find out who the father is and where he is working and just some basic things?

You know, I think we have to think about this. I am not throwing this open.

I had one person at the hearing yesterday on China trade say, "Why should we throw America's markets open?" America's markets were open. Wait a minute. What are you paying attention to here?

So I don't want to carry on this debate in the newspapers about the wrong issue. I am not going to throw the private sector—give them total access to all the collection tools without any governance by the government and without any control. In fact, if we are going to give so much control it may not work. That is my fear, is that the HHS regulations will be so cumbersome—this is what happened with Medicare choice plans. They didn't work. They were supposed to be the private sector equivalent and the agency came up with 780 pages of regulations. Well, this is not private sector insurance.

I am offering a lot of protection, in my estimation—so much so that it may not work, but I am willing to do it because I want to see what do the people in the real world who work in this all the time, what kind of contract will they work out.

We have got to collaborate. How do you govern collaboration? We have no choice but to collaborate. We can't do it all. We aren't doing it all and we aren't going to be able to do it all.

The challenge is collaboration, so let us begin. That is all I am asking.

Mr. Bacarisse.

Mr. BACARISSE. Madam Chair, if I could just add one point on the collaboration issue—and I think Victor and I were talking about this before our panel—one thing that the Harris County Domestic Relations Office focuses on with their clientele is the visitation issue. This goes to your fatherhood initiative.

Again, we are talking about money and payments and things like that, but what we really want to foster is responsibility and family.

Victor and I were sharing a story. I said, "Victor, you know what the biggest point of payments in our child support registry every year is?" A lot of people think it is Christmas. No. It is August, because what has happened is the kids have been together with the dad for the summer and they have developed a bond and now dad believes he should start paying, and it is back to school time.

It is amazing. You can just look down year after year after year. Our biggest volume of payments come in the month of August, and it is because we have got the energy at the local level and the initiatives to push these fatherhood initiatives and these visitation initiatives that the IV–D program doesn't have time to do.

Chairman JOHNSON of Connecticut. That is really a wonderful issue, because if there is anything I get a lot of complaints about from fathers, it is, you know, "I am supposed to pay this money and I am not allowed to see my child."

Mr. BACARISSE. Sure.

Chairman JOHNSON of Connecticut. "It is not my former wife. It is her mother that won't let me in the door, even though I have a court order."

That is very, very interesting. It reminds you so often that when you are dealing with human issues you have to get down to where people can talk to each other.

Let me conclude this hearing by an absolutely fabulous quote. It happens to be from Dianna Durham-McLoud in the newspaper. I love it. It sums it all up. "These are tough issues. That is because it is all about sex, power, and money." That is true.

Thank you.

[Whereupon, at 2:12 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

Statement of Geraldine Jensen, President, Association for Children for Enforcement of Support, Inc., Toledo, OH

ACES members are families entitled to child support. ACES has 45,000 members, and 390 chapters located in 48 states. We are representative of the families whose 30 million children are owed $50 billion in unpaid child support. We have banded together to work for effective and fair child support enforcement. ACES has surveyed our membership to gather information from families as they make the transition from welfare to self-sufficiency. We have asked welfare recipients about the actions taken or not taken by child support enforcement agencies that have assisted them to become self sufficient. Collection of child support when joined with available earned income allows 88% of our membership to get off public assistance. Collection of child support enables our low income working poor members to stay in the job force long enough to gain promotions and better pay. The collection of child support means our members can pay the rent and utilities, buy food, pay for health care, and provide for their children's educational opportunities. Lack of child support most often means poverty and welfare dependency.

PRIVATE COLLECTION AGENCIES ARE NOT THE ANSWER TO CHILD SUPPORT PROBLEMS

Private collection agencies for child support do not work any better than the government child support agencies. These agencies do not and should not have access to confidential IRS information, Federal Parent Locator Service which includes Social Security Numbers, Credit Bureau Reporting, New Hire Directories or Financial Institution Data Matches. They should not have access to state information such as tax records, employment records, worker's compensation records, or any other protected government records. The private agencies collecting child support are currently not regulated. In fact, the U.S. Supreme Court ruled that these agencies do not fall under the regulations of the Fair Debt Collection Act. **Private collectors are a bad solution to a hard problem. It is a better investment to fix the child support enforcement system.**

Opening the door to confidential financial, IRS, and Social Security information to private collectors is a bad idea. This would make private data readily available to a multitude of sources. Controlling the appropriate use of this data when it becomes available to any agency or individual who calls itself a private collector violates the public trust in the government. It will create a situation where identity theft, false reporting, and the holding hostage of financial records and other private information can become an everyday occurrence.

Giving private collectors access to report people to the credit bureau could also be dangerous. There are no adequate safeguards that can be put in place to ensure that those reported as "deadbeats" owe child support. Those reported by private collectors may not have an open IV–D case and there would be no way to verify if they owe child support. Nor would it be good use of our tax dollars to pay state workers to verify what private collectors submit for credit bureau reporting, bank matches, new hire registry matches etc. State child support workers are already overburdened.

Under the proposed legislation state IV–D agencies can be forced to report anyone who is identified by a private collector or public non IV–D agency to the IRS for a tax intercept. One of the worst scenarios that could occur if this legislation is passed would be that a private collector could use this tax intercept process to steal tax refund money from someone who is due to receive a large tax refund. The private collector could identify the victim to the IRS as owing an arrearage. The IRS would then attach the refund and forward it to the private collector. The private collector could then keep the money. The people identified by the private collector to the state IV–D agency might be innocent, and not even owe support. Since there

is liability protection, if the private collector makes a "mistake" nothing can be done to them. With the information a private collector could obtain just by asking the IV–D agency to obtain it for them, a crooked private collector could easily perpetrate an identity theft by gathering copies of tax returns, bank account information, passport information or any other information.

There are no standards in the bill requiring the type of state system that must be used to verify that a private collector is legitimate. This means that some states could adopt a non interference system and do little or no verification on the legitimacy of the private collector. Some existing private collectors have already used schemes with "dummy" corporations to rip off innocent families.

If a private collector had access to data from the New Hire Directory, they could literally go through the phone book to gather names and submit them to the state. The state would send back all the information necessary to identify where the victims work, their social security numbers, etc. Passports, credit reports, taxes and banking information could all be held hostage by the threat of false reporting. Worse, people could be ruined financially by false reporting. Even if the private collector is not a true criminal and they are just incompetent, can you imagine what life would be like if you woke up one day to discover that your credit was ruined, your taxes intercepted, and your passport canceled because some private collector made a false report about you? In the proposed legislation, collectors get liability immunity, so there is no recourse for the injured party.

Custodial parents who have used private collection agencies have encountered many problems. Some of the problems encountered include:

• **Private collectors take huge fees on money they had no part in collecting** *Private collectors literally get 30–40% of the children's money for merely mailing a piece of paper to the state IV–D agency.* They have taken no action to collect the money, they are not involved in selecting the cases to be submitted—states are required under federal law to submit all cases with a $500 or more arrearage to the IV–D agency. The private collectors are not involved in preparing the case for submission, they are not involved in verifying arrearage, handing arrearage disputes etc., yet they still get 30% of the children's money. For example, private collectors get paid by taking their 30% fee from an IRS refund that the state government child support agency attached. This type of action is currently occurring in states like Texas, where the private collector merely notifies the state IV–D agency that the family has given them permission to collect the support owed and requests that all child support collected by the IV–D agency be sent to the private collector rather than to the family. Then, after the State IV–D agency prepares the case for submission for IRS and State offset by verifying the arrearage, name, and social security numbers, preparing the documents to be sent to the Federal government, handing any issues that arise from the non-custodial parent after they receive notice of the attachment such as a dispute as to the amount of arrears, new spouse claim,—the state IV–D agency receives the check from the IRS, processes it, and sends it onto the private collector. The private collector then takes their fee, *usually 30% of the amount of the check, and sends the remainder to the family.*

Here are some examples of problems families have had with private collectors:

• Yvonne Best is the mother of two children, owed thousands of dollars in back support. She and her children live in San Francisco. She had an open case with the District Attorney. To support her children Yvonne was working two jobs. The childrens' father also worked two jobs. The District Attorney attached his earnings from his second job but not his primary job. She was only receiving $30–50 per month from this wage assignment.

Out of frustration she opened a case with **CSE, now known as Supportkids.com.** She paid her application fee, but they did nothing for months. After seven months, CSE sent her a notice that they put a wage assignment in place. Yvonne thought she was getting somewhere. But all that CSE had done was change the payee to themselves on the wage assignment for $30.00–50.00 per month. They took their 30% and sent her the rest. After months of talking to "case workers" and supervisors and getting nowhere, she finally was let out of her contract with CSE.

• Burnelle White of Dallas, TX saw an article in the Dallas Woman's Magazine about Blue Moon Child Support Enforcement and Collection Agency and what a great job they do. Burnelle is the grandmother of a 12-year-old girl. Burnelle is trying to collect from her son-in-law, who lives in Royce, TX. He owes are about $7,000 in back support. Burnelle received custody of her granddaughter in 1991 when her daughter died of breast cancer. Child support payments are set at $180, plus $210 payment on in arrears. The child's father is paying support now but never paid regularly except for in 1994 when he was on probation. He is a self-employed landscaper. In January of 1994, Burnelle saw the article about Blue Moon and

signed the contract because she hasn't received any help from the Texas Attorney General's Office. Blue Moon started collecting the money, but she did not receive the correct amount. When she contacted Blue Moon Child Support Enforcement and Collection Agency, they yelled at her and told her that she had to wait, and that Blue Moon had three weeks to get the money to her. Burnelle received a letter from Blue Moon (see attached).

She never received all of the child support collected by Blue Moon collection agency from her son-in-law for support of his daughter. In June of 1999, Burnelle contacted the Texas Attorney General's Office, Consumer Division, to file a complaint and was told that she was one of several complainants. The Better Business Bureau said told her that because she had signed a contract and because the private child support collectors are not regulated there was nothing that they could do. The Better Business Bureau also told her that all the collection agency had to do was change names and move down the street, and even if some action had been taken against them before, they could be back in business. Blue Moon kept 25% of the child support collected, plus additional fees that she wasn't told about. The Texas Attorney General was able to get the contract canceled with Blue Moon. Burnelle still can't account for approximately four checks that she never received from Blue Moon. In July 1999 Blue Moon went out of business and their phone number was disconnected. Recently Burnelle went back to court and was able to successfully enforce her court order.

• Vicky Gorman has two children, ages 15(boy), and 12(girl), the childrens' father lives in Kansas. He owes $48,877.26 which has gone unpaid in the past seven years since the divorce. She hired a private collection agency, Child Support Advocates, and signed a contract on May 22, 1996. Child Support Advocates collected some child support payments. Vicky's support order was for $550.00 per month. The first check Vicky received from Child Support Advocates was for $63.00, even though they had collected $250.00. Child Support Advocates charged a $250.00 application fee, even though they told her there were no fees. She had to hire a private attorney to have the contract terminated in March of 1999. Vicky says this of her experience with private collectors, "Private collectors are not regulated, they only care about what they should receive, and if you call they tell you that you can't call and bug them. The contract states that if they collect any amount of money in the first year that the contract stays in effect until all is collected, and that part is hidden in the small print."

If federal law requires State Disbursement Units to send child support money collected from wage withholdings (interstate or local), attachment of unemployment compensation, attachment of bank account, etc., to private collectors. The private collectors will profit from the work of the state at the expense of the children.

If someone has a IV–D case open, federal law requires automatic submission via the new computers for attachment of most type of assets upon a 30 day default. The proposal to require State Disbursement Units to send the child support checks to private collectors is merely a way for private collectors to make a windfall profit while doing no or little work.

If there is a non IV–D case and a family signs up with a private collector and the private collector does the work of finding the employer, preparing an income withholding order and claims, the private collector has a right to be paid for this service. *If private collectors provide a service not part of the IV–D system, they should be paid but not at the expense of the child. Instead they should be paid by the non-custodial parent who failed to meet their obligations and caused the custodial parent to need to seek services to collect the support.* The non-custodial parent should be required to pay the fee, usually 30% in addition to the child support. The fee should only be allowed to be collected after child support due to the child has been paid.

• Some private collection agencies collected payments from the non-custodial parent but never sent the payments to the family. This is literally stealing money from the children. Since private collection agencies are not required to follow the Fair Debt Collection Act, families have no recourse in dealing with agencies who act inappropriately. We have had reports that private collectors laughed at one custodial parent when she told them that the child's father said he had paid the money to the collector and she has not received it. The private collector told her, "sue us for it!" Most of the families who turn to private collectors out of desperation for support payments are in serious financial distress. They do not have money to hire a private attorney, they have not received efficient services from the state IV–D agency, and then they get ripped off by a private collector. Many give up and eventually end up on welfare, or working two or three jobs to support their children. The children suffer financially and emotionally because now they have lost both parents, the one

who has abandoned them financially and emotionally and the other who cannot be home to nurture them because they are working all the time!

• Roxanne Roderick of Dallas, TX had an experience with a collection agency that collected the child support but never gave her the payments. Roxane is divorced and has an eleven-year-old daughter. The father rarely paid support unless he was taken to court and moved from Texas to Atlanta and back to Texas. Roxanne was attracted to DSS collections from advertizing. When Roxane went to the office, she thought it was strange that the office was behind locked doors, and talk you had to talk through an intercom system. When Roxanne questioned how the office was set up she was assured that it was because that they sometimes have non-custodial parents get mad when they go after them for money. There was also an angry woman, in the office that was pulled aside so no one could find out what was going on. When Roxanne filled out the collection paperwork and signed the Power of Attorney paperwork she had no idea she was signing an agreement giving up her legal rights. At the same time as Roxanne was starting her paperwork with DSS collections, her daughter's father got married and moved out of state. DSS collections told her they could not collect from anyone out of state.

Roxanne was still in contact with her ex-mother-in-law, who told Roxanne that she had been making payments to DSS collections for her son. Roxanne never received these payments. Roxanne called DSS collections to question them as to where the money was, and they got angry and told her to look at the source of her information. DSS sent her several nasty letters. DSS also refused to give payment information to the Texas Attorney General, so they had no idea that payments had been made.

Most states have large amounts of undistributed child support payments on hand. Thirty-four states responded to our request for information about undistributed/unidentified funds. They reported that they are holding almost $200 million. This is very similar to the problems of private collectors not sending money onto the family. However, the difference is that citizens can call for a state auditor to check records of the state child support agency, and state IV–D agencies can be required to follow federal regulations about payment distribution. Neither of these remedies is available for resolving problems with private collectors. ACES recommends that language be added to the Fatherhood Initiative legislation which requires States IV–D agencies to use the Federal Parent Locator System and New Hire reporting system to find the addresses of families for whom payments are being held.

• **Contracts used by some private collectors have hidden clauses which define all support as back support so that fees can be collected from current support payments (E.g., Supportkids.com) others require families owed support to pay additional court costs and attorney fees on top of the 30% fee taken from the child support collected. (E.g., Child Support Collectors Inc.)** Some private collectors require contracts or power of attorney agreements that are binding for the entire childhood or are renewable for a full year if even one payment is received, such as an annual collection through the IRS Offset program by the State IV–D agency.

• **Some private agencies have closed down and totally disappeared after custodial parents have paid application fees of hundreds of dollars** Since there are no state or federal laws or regulations which govern the practices of private collectors on child support cases, these problems continue to occur unanswered.

• **Some private collectors have violated contracts. Agreements were made for taking percentage out of arrears; instead they took a percentage of current support.**

Here are some examples of what happened to families using private collectors:

• A mother in Texas has one child that is owed over $50,000 in unpaid child support. She signed a contract with Child Support Enforcement (CSE now know as Supportkids.com) in Texas more than one year ago. Since signing the contract, Phyllis had to go on Public Assistance. CSE/Supportkids.com did not close her case when she went on welfare and turn it back over to the state as they are supposed to do. When she asked CSE/Supportkid.com if the case should be turned back to the state, CSE/Supportkids.com told her it did not matter because this was an interstate case. CSE/Supportkids.com has taken 32% of the current support but has not collected any money on the arrearage of $50,000.

• A mother in California had a $60,000 arrearage. She went to a private collection agency. Nothing was done on her case so she canceled her contract in writing. She came to ACES and learned how to collect the back support. When she was due to get the $60,000, the private collector notified her that she owed them 30% of the arrearage, even though the contract had been canceled. The private agency even tried to foreclose on her house to get their portion of the $60,000.

NON IV–D AGENCIES HAVING ACCESS TO IRS OFFSET

Many states have several different government child support agencies. In some communities these are local Clerk of the Courts offices or court trustees. Before statewide distribution, many of these offices had a cooperative agreement with State IV–D agencies for payment processing, income withholdings, and other services. These agencies were quick to refer families to State IV–D agencies in the past for services such as Parent Locator and IRS Offset because the family still had a case open at their agency and the agency received federal funding via the cooperative agreement. Now they do not like to refer cases to IV–D because families chose full IV–D services rather than using both agencies. Because of the history of cooperative agreements, local offices hired staff and often used child support positions as part of the local political patronage system.

When states moved to using the State Disbursement Units, these offices began looking for a way to continue to keep their staff and continue the local patronage system. The newest method to further this intent is to get access to the IRS Offset system so that families will keep their case on file with their office rather than change over to the State IV–D system. This is good for some families who have had success with collection by these non IV–D government agencies, such as those where the mother, father, and child all live in the community and the non-custodial parent has been making regular payment on their own through this agency. Since employers now send all income withholding payments to the State Distribution Unit so that they have only one government agency to deal with, since almost 40% of the cases are interstate, and since contempt and criminal non-support actions are done by attorney under contract by IV–D at no charge to families in most states, it no longer makes sense for most cases to be handled by these local offices.

For the few families continuing to have open cases at local agencies it does not make sense to create a system where the local agencies can access enforcement to the IRS Offset. It does make sense to set up a system where state IV–D agencies must accept cases referred from these offices and ensure that the cases are forwarded to the IRS. They can require these offices to provide the same information that they do of custodial parents opening cases for IRS Offset. This process includes forwarding a copy of an arrearage statement certified by the court or, in affidavit form, the name of the non-custodial parent, their last known address, and social security number.

ACES recommends that federal law require State IV–D agencies to accept and process these cases to ensure services to these families. This would enable these offices to provide services to the families who have cases on file where other collection services are working. If the case on file at the Clerk of Courts or Trustees' Office is not receiving regular payments, these offices should be required to notify the custodial parents in writing that full collection services for locating absent parents, income withholding, attachment of bank accounts, unemployment, etc. are available at the state IV–D agency.

DISTRIBUTING CHILD SUPPORT PAYMENTS AND REVIEW FOR MODIFICATIONS

ACES would like to see these sections of the bill expanded to ensure that families receive more child support rather than having the child support collected being used to pay off welfare debt.

ACES supports the sections that:

- Determine that assignment of child support is only the amount that accruals under an order while a family receive TANF
- Determine that when the family is off TANF the amount of support due to the state to pay off a welfare debt is the amount of support that should have been paid while on TANF or the amount of TANF given to the family, whichever is less.
- Allows States to use TANF funding to make up any difference that occurs due to implementing this new distribution system or using the difference to meet the Maintenance of Effort requirement

ACES encourages states to take advantage of the new distribution regulations rather than waiting until 2005 to implement them.

ACES supports IV–A notifying IV–D when families leave TANF to facilitate establishing and enforcing child support orders and to obtain modification of orders for reasonable amounts of support payments.

ACES opposes the section of the bill which requires review and modification for TANF families. ACES believes parents should have the right to make the choice of seeking a modification. Our members state they do no want to jeopardize often fragile emotional relationships between parents due to untimely and unwanted modifications.

Fatherhood Programs

ACES support programs which assist fathers to become employed so that they can meet legal child support obligation. ACES supports programs which educate fathers about the importance of regular and adequate child support and emotional support to their children, foster communication and cooperative efforts between mothers and fathers, and protect women and children from domestic violence. We are concerned about the many groups which present themselves to be advocates for this but in truth are groups which are merely seeking to lower the amount of child support non-custodial parents' pay under state guidelines, or are working to change custody laws so custody is awarded to the parent with the highest income rather custody decision being based on best interest of the child.

Current federally funded Access/Visitation Projects fail to reach families most in need of help in solving visitation problems. States that have set up mediation/counseling programs to help families resolve visitation problems set up programs that are often voluntary and therefore don't reach families with ongoing disputes. Voluntary projects have successfully helped families establish visitation orders and custody agreements at the time child support orders were entered. Programs such as the Fatherhood Initiative have had minimal impact. For example, the Los Angeles Fatherhood Initiative told ACES in July 1999 that they had only 39 fathers enrolled in the program.

There are 650,000 open child support cases in Los Angeles. Manpower of New York reviewed the fatherhood program by establishing a control group of non-custodial parents to determine the effectiveness of the program. The review showed that 30% of the fathers participating in the fatherhood programs paid child support and 30% of the fathers not enrolled in the program paid child support. The program did successfully "smoke" out those who were really working because, after the court ordered them to attend job training, they began paying child support to avoid losing their jobs!

ACES recommends that programs be expanded to include more fathers so that more children benefit. In the past, programs have spent millions of dollars to serve a few fathers, of whom only 30% paid child support. **Establishment of paternity, if needed, should be a prerequisite** to participation in the program since the goal is to provide fathers' job and parenting training needed to successfully financially and emotionally support their children. Any organization receiving federal funding for Fatherhood programs should be required to include services to non-custodial mothers and should have anti-domestic violence curriculums.

When parents see that the support paid actually benefits their children, it encourages them to meet legal child support obligations. Passing child support collected to families on welfare rather then keeping it to pay off welfare debts helps children and encourages non-custodial parents to meet child support obligations. Child support payments passed on to families should be counted toward TANF eligibility in the same manner as earned income.

Federal law should encourage states to establish amnesty programs for parents who owe the states welfare child support debts. Parents should be allowed to make arrangements to pay current support obligations based on the state child support guidelines. These guidelines use actual parental income and cost of raising children information to determine the amount to be paid. The non-custodial parent should be allowed to enter into a legal agreement with the state that sets up a process which states that if the non-custodial parent meets current child support obligations and past obligations owed to the child, the state waives the arrears owed to them. If the parent violates their agreement, they become liable for the debt owed to the state.

REFORM THE CHILD SUPPORT ENFORCEMENT SYSTEM MAKE CHILDREN AS IMPORTANT AS TAXES

In 1995, the U.S. Census study of children growing up in single parent households showed that 2.7 million children received full payments, 2 million received partial payments, and 2.2 million who had support orders received no payments. About 6.8 million children received no payments because they needed paternity or an order established. About 32% of the families who do not receive child support live in poverty. In single parent households, 28% of Caucasian children, 40% of Black children and 48% of Hispanic children are impoverished.

There are now 30 million children owed $50 billion in unpaid child support according to the Federal Office of Child Support Enforcement's 1998 Preliminary Annual Report to Congress. If we are truly serious about strengthening families and promoting self-sufficiency rather than welfare dependency by making parents responsible for supporting their children, it is time to get serious about setting up an

effective national child support enforcement system. Taking care of the children one brings into the world is a basic personal responsibility and a true family value.

Preliminary statistical reports from the U.S. Department of Health and Human Services, Administration of Children and Families, Office of Child Support Enforcement show that the average state collection rate for 1998 is 23%.

ACES recommends that congress should enact, H.R. 1488, sponsored by Representative Henry Hyde (R) IL and Lynn Woosley (D) CA. It sets up a federal and state partnership to collect child support throughout the nation even when parents move across state lines. These interstate cases now make up almost 40% of the caseload and are the most difficult to enforce. State courts or government agencies, through administrative hearings, would establish orders within the divorce process or through establishment of paternity and would determine the amount to be paid based on parental income, modifying orders as needed. Enforcement would be done at the federal level by building on the current system where employers' payroll-deduct child support payments. Instead of the state government agencies in each state having their own systems to do this, the new law would have child support payments paid just like federal income taxes. Withholding would be triggered by completion of a W–4 form, and a verification process. Self-employed parents would pay child support quarterly just like Social Security taxes. At years' end, if all child support due was not paid, the obligated parent would be required to pay it just like unpaid federal taxes, or collection would be initiated by the IRS.

For low income and unemployed fathers, states could continue to operate fatherhood programs. Such programs offer fathers, many of whom are young, an opportunity to develop parenting skills and job skills that will allow them to financially support their children. About 40% of the children who live in fatherless households haven't seen their fathers in at least a year. Census Bureau data shows that fathers who have visitation and custody arrangements are three times as likely to meet their child support obligations as those who do not. If collection of child support were accomplished through the tax collection system, local Domestic Relations Courts would have more time and resources to focus on visitation and custody issues.

Statement of Deborah Weinstein, Director, Family Income Division, Children's Defense Fund

Improvements in the Distribution of Child Support Collections and Services to Enable Non-Custodial Parents to Contribute More to their Children

The Children's Defense Fund commends the Subcommittee on Human Resources for holding this hearing on ways to improve our nation's system of collecting and distributing child support and to help fathers to contribute more to their children's support. We believe that provisions in two bills before the Subcommittee, H.R. 4699 and H.R. 3824, would make real progress in increasing the amount of child support actually received by the custodial family. Making such progress is vital to improving the well-being of children.

Almost half (46.1 percent) of children in single-mother families are poor. In 1998, less than one-quarter (23.1 percent) of government child support cases received any collections. For children receiving TANF or in foster care, the track record was worse: only 13.9 percent of cases have child support collections. The average payment for all government cases with collections was $3,180 in 1998; for TANF or foster care cases receiving child support, the average payment was $1,840. When added to earnings and other sources of income, child support can better enable the family to afford rent and other necessities, providing some measure of the security and stability that all children need. These bills will increase the likelihood that child support is collected and will provide help to absent parents (usually fathers) so that they can pay more support and also whenever possible play a greater role in their children's lives.

We evaluate proposals to improve the child support collection system by several criteria: (1) collections to the greatest extent possible should result in a net gain to the custodial family and should help families in their transition from welfare to work; (2) simpler administration will lead to more collections; (3) the system will be strengthened to the extent that custodial and non-custodial parents respect its basic fairness, and to the extent that it incorporates basic protections from violence or unwarranted invasion of privacy; and (4) low-income parents, custodial and non-custodial, can increase their contributions to their children's support with job training and placement help. Many of these principles are embodied in the two pieces

of legislation before the Subcommittee, but improvements are necessary in order to ensure that basic protections and fairness are achieved.

Collections to the greatest extent possible should result in a net gain to the custodial family and should help families in their transition from welfare to work. Families should receive support collected on their children's behalf. H.R. 3824, sponsored by Mr.Cardin (with Mr. Jefferson, Mr. Stark, and Mr. Matsui), is strong in requiring states to pass collections along to families receiving TANF, and encourages states to allow families to keep at least some of those dollars in addition to their TANF benefits, by reducing the amount owed to the federal government by the state. We strongly favor H.R. 3824's forgiveness of reimbursements due to the federal government to the extent that child support payments are disregarded in calculating TANF benefits. H.R. 4469, sponsored by Mrs. Johnson, allows states the option of distributing all collections to families, but provides no similar encouragement to states to provide at least some of the child support in addition to TANF benefits. There are provisions in H.R. 4469 that allow states to use federal TANF or state maintenance of effort funds to cover the costs of distributing child support collections to families. We are hesitant about such use of funds, since in effect this would allow states to use federal funds to draw down federal IV–D matching funds. If states are to be given this very favorable treatment, it should be in return for disregarding the child support provided to families in calculating TANF benefits and should not be indefinite, but should only extend for a limited number of years.

Both bills are helpful in limiting states' claim to the child support dollars collected to the period during which families are receiving TANF assistance. It is extremely important that custodial families receive child support directly so that children's needs may be better met, and so the absent parent sees the value of paying support. Further, when payments are made directly to the family, they continue without interruption when the family leaves welfare for work. Under current practice in most states, most or all of child support is retained by the state for families receiving TANF. When they leave, current child support is supposed to be paid directly to them, but frequently there is a three-to six-month lag before collections are properly directed to the family. If child support were paid to the family even when they are receiving TANF, this loss of support during the critically important transitional period would be avoided.

Seeking recovery for Medicaid childbirth costs from non-custodial parents is prohibitively burdensome and works against other helpful provisions in H.R. 3824 and H.R. 4469 that would result in payments being made to custodial families, not to the state. At the time when fathers are deciding whether to acknowledge paternity, it would be far better for their support payments to result in help for their children. We support the provisions in Section 7 of H.R. 3824 and Title I of H.R. 4469 to end recovery of childbirth costs.

H.R. 3824 offers an important protection for custodial families when child support is distributed to the family, especially when states do not disregard child support income, and therefore replace TANF with child support dollars. Section 5 requires the state to certify that procedures will be implemented to ensure that assistance payments will be timely in the event of delayed child support payments.

Simpler administration will lead to more collections. Many analysts have concluded that our current child support distribution rules are so complex that they are almost impossible to administer. Providing child support directly to families whether they are receiving TANF or not has the virtue of simplicity, in addition to its other advantages to families. We strongly favor simplifying the rules so that child support owed during the periods before or after a family receives TANF goes to the custodial family, and not to state and federal governments. We support the provision in both bills that when families have left welfare they receive all arrearage payments owed to them, eliminating the current exception for support collected through federal tax intercepts (which under current law remains with the state). When fathers see that their children benefit from the support they send, it is a natural incentive to pay.

Strengthening child support through basic fairness and protections. We oppose giving more information and enforcement mechanisms to private child support collection agencies, as provided in Title III of H.R. 4469. These agencies are unregulated. Courts have ruled that the federal Fair Debt Collection Practices Act does not extend to private child support collection agencies, so consumer protections available under that statute do not apply to these entities. Private collection entities now have access to "locate only" data through the Parent Locator Service, and there are questions as to whether this access has resulted in unwarranted invasions of privacy. Examples of abusive private agency practices are compellingly related in the testimony of Joan Entmacher of the National Women's Law Center and in the May 18 Washington Post story, "Problems at Child Support Inc." They include in-

stances in which mothers were unable to terminate a contract with a private collection agency, despite the fact that the agency was simply taking its cut from current child support payments generated through the state's IV–D agency.

We are concerned that in the absence of regulation more abuses would inevitably occur, affecting both custodial and non-custodial parents. These abuses would undermine support for child support enforcement generally and might result in the loss of some of the enforcement tools which are only now beginning to show positive results in the IV–D system. Until some form of regulation of these entities is in place, they should not be given access to such highly sensitive information.

We are also concerned that custodial parents and children be protected from domestic violence. We favor proposals that would require fathers' programs to collaborate with domestic violence experts or at least to show preference in funding programs that demonstrate such collaboration under Title V of H.R. 4469. We also support adding domestic violence expertise to the qualifications for potential appointees to the panels that award grants under this title.

Helping low-income parents to work and contribute to their children's support. We continue to favor providing grants for fatherhood programs that offer help in assuming the role of responsible parent, in part through job training and placement assistance, and also through counseling and mentoring. As noted above, we believe that some fathers need help to avoid domestic violence, and that conflict resolution and other relevant counseling provided by domestic violence experts should be incorporated in programs receiving these grants. We continue also to believe that both custodial and non-custodial parents need access to effective job training and placement services, since both parents are needed to support their children. We urge the Subcommittee to include these grants in the proposed legislation, but also to adjust TANF requirements so that custodial parents may participate in education and training in order to enhance their earning capacity.

The costs of H.R. 4469 are not fully offset within the legislation. We would oppose funding the bill by cuts in other programs serving low-income people. We have heard that cuts in TANF supplemental grants or in the Earned Income Tax Credit for childless workers are being contemplated as offsets, actions we strongly oppose. With budget surpluses continuing to grow, there is no possible justification for cutting other programs that benefit low-income people.

Thank you very much for your attention to this testimony. The Children's Defense Fund (CDF) is a private, nonprofit advocacy organization whose mission is to Leave No Child Behind(TM). We receive no government funds. CDF provides a strong, effective voice for all the children of America who cannot vote, lobby, or speak for themselves.

Statement of David L. Levy, President, Children's Rights Council

HEARING ON CHILD SUPPORT ENFORCEMENT

We are writing to clarify incorrect information submitted to you regarding Fatherhood Grants. This information was included in the legislative proposal to changes in rules for the distribution of child support collections under H.R. 4469.

We agree that fathers and mothers should be included and supported in the law regarding family issues. We therefore support the basic goals of the Fatherhood Program. However, our concern lies with unsupported and incorrect information presented to you regarding shared parenting. We would like to set the record straight.

Mr. Victor Smith, from Dads Against Discrimination, asks "you [to] regard a request of sole custody opportunities as a fundamental right." in his testimony on H.R. 4469. Although this bill does not affect custody determinations, it is important that you understand family issues, such as this, when creating any type of legislation affecting families. Sole custody, in many cases, damages children. Prior to the 1920's fathers were almost always granted sole custody of their children.[1] After the 1920's, the preference switched to mothers as the usual recipients of sole custody. Currently however, shared parenting is preferred by both psychologist and courts, for children and families. Children need both parents involved in their lives, in more than just a minimal or monetary sense. A longitudinal study conducted by noted researcher Sanford Braver, Ph.D., found that when parents have no input into how their children are raised and their usual parenting rights are taken away, they withdraw

[1] Alexander Hillery II, The Case for Joint Custody, The Best Parent is Both Parents, David L. Levy, ed. at 29 (1993).

from the obligations of parenthood financially and emotionally.[2] Policies, such as joint custody, that support noncustodial parents by giving them more control in their children's lives, increase financial child support compliance and prevent the occurrence of the problem.[3]

In addition, shared parenting was described by Mr. Smith as "a political concept which is rejected by those who know of the failure rate." However, joint custody is neither a political concept nor has a high failure rate. In fact, psychologists have been increasingly successful in educating the courts on why joint custody is beneficial to the child. Once implemented, shared parenting has been found to be extremely successful as a positive alternative for continuing custody disputes. Some examples of this include:

- By 1993, forty-eight states and the District of Columbia had accepted some form of joint custody
- Currently, twenty-six states plus D.C. have a presumption for shared parenting in their laws.
- 90.2% of parents with joint custody paid their child support, 79.1% of parents with access paid their child support, and only 44.5% of parents with neither joint custody nor access paid their child support, as reported by the Census Bureau in 1992.
- Joint custody is an extension of the drive for equality that is so important to America today.[4]
- Sole custody sends a message that only one parent should have responsibility. Joint custody sends the message that both do, legally and financially.[5]
- Children raised by two parents are more likely than children raised by only one parent to have higher self-esteem, higher school achievement, and less involvement in crime and drugs. Statistically, children with two parents are at less risk than children with only one parent.[6]
- Section 16 (School Psychology) of the American Psychological Association similarly found "favorable outcomes" on a variety of measures relating to children when shared parenting was practiced, including: father involvement, best interest of the child standard, financial child support, relitigation and costs to the family, and parental conflict.[7]

The involvement by both parents in the life of their child(ren) is not only important but also *necessary*. Studies have shown not only do the children fare better, but the government does not to bear as much of a responsibility for the support of children.

Thank you for taking the time to create legislation in support of children and families.

COOPERATIVE PARENTING FOR DIVIDED FAMILIES
PITTSBURGH, PA 15221
June 1, 2000

A.L. Singleton, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C., 20515

RE: CHILD SUPPORT ENFORCEMENT

Thank you for giving our organizations a chance to present information on child support.

Cooperative Parenting for Divided Families has, in some ways, been involved in the concerns of child support since 1984. We are all part of a larger collaboration of organizations. Some of these are national and statewide with thousands of mem-

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[2] Sanford L. Braver, Sharlene A. Wolchik, Irwin N. Snadler, Virgil L. Sheets, Bruce Fogas, and R. Curtis Bay, *A Longitudinal Study of Noncustodial Parents: Parents Without Children*, J. of Fam. Psych, 9, 20, v.7, no.1, (1993).

[3] *Id.* At 21.

[4] Hillery II, *supra*, note 1 at 51.

[5] *Id.*

[6] *Id.* at 52.

[7] *See Parenting Our Children: In the Best Interest of the Nation*, Report of the U.S. Commission on Child and Family Welfare, 96 (Sept. 1996).

bers throughout the country. We have an excellent reputation, dedicated staff, a high quality of helping, reliability, and offering of free services.

I personally have been a child-first advocate for over 17 years. My organization believes that every child is entitled to child support and quality time-sharing from both parents, regardless what that parent might be like. This is why we provide supervised visitation in order to prevent harm to any child or parent.

We have many concerns with both child support issues and the access and visitation problems in our county. We have tried to bring these concerns to our Pennsylvania Commonwealth Court of Common Pleas of Allegheny County Family Division. Our efforts have been unsuccessful because certain individuals in the court say that we are only an interest group and have chosen not to involve us in helping to improve the child support and visitation system. I have included our offer to the court and their response to us.

Our members and those we help are the indigent, the common parents from low to middle class families, the handicapped, the disabled, those who cannot get or do not have fair representation in the courts, and those who feel that they have been given the run-around by the court system.

What we see here in PA is that the courts do not use every resource to which they have access regarding local, state, and federal laws. The agencies do not cooperate with one another, and there is a lot of red tape and incompetence within family division. The agencies do not inform one another of the laws and their duty to uphold them. When people become educated and aware of their legal rights and remedies, and then go to the court to ask that those rights be enforced, the court does not follow laws and rules handed down by the government to better child support and visitation enforcement. The court either ignores them or does not have a clue to the laws and their responsibility to follow up on all leads, information, or laws available to them. One of the things we have learned is that attorneys get to go in the front door of the court. Organizations like ours, being non-attorneys, have learned to go in through the back door. Thus we have more insight into the actual whole picture.

Cases can sit for months on a desk without ever being looked at. Even when cases meet certain criteria as required by law for action, they can sit on a desk for months before they are moved to another department where nothing is done on them for more months. When the federal government with all its resources goes to family division and gets no help or respect, it's not surprising when the courts cannot find a parent not in hiding, let alone a parent who IS hiding. Most actual deadbeats do not hide at all; they do not worry that the courts might be looking for them. This is a really big problem in our court system. Family division does not have an answer to how to fix the problem, so they say there is no problem at all! Some judges have stated that they are giving the best services available. Some of the records and statistics look good, but if you can compare the number of cases where support is collected against the cases closed (so those numbers won't interfere with their collection of bonus incentive monies) you would find a large discrepancy.

Child support enforcement should be removed from the court system but not put into the hands of profiteers who could also benefit from the suffering and misery of families in distress. Family court is a billion-dollar business for everyone but the families who need their support. It should be separate from family division. CSE has to wait until family division does its job, then forwards the case; if it's inefficiently help up in someone's office for weeks and months, CSE cannot act until they receive it. Harrisburg's answer to the caller is that they are only here to assist you in getting child support. This office would do better if removed from the control of the court, or at least given their own division within family division where the people can go and talk to a CSE officer themselves instead of relying on FD to take their case to the enforcement office. In Allegheny Co., the court is set up so that the people can have no contact whit CSE officers. A person should be able to leave the court and go to the enforcement office, or just visit the enforcement office when they have a need, or when they have new information on a non-custodial, non-compliant parent.

A case should be followed all the way through, just like the "by one judge, one case" or "by one case, one counselor"(DRO meaning Domestic Relations Officer here.) A case should be able to move through the court the same day and decisions should be made on that case immediately instead of having clients sit in court while the person holding the case has no power to make decisions—they make "suggestions." A case should be able to follow the proper channels straight to a judge or the motion (floating) judge on the same day for immediate action to be taken. Now the case should go to the correct department which can take action and make action happen instead of having that case sit idle for months or (no exaggeration) years. Because the location of a parent is unknown, there is no justification for letting a

case sit idle. Departments within the government are not working together. I know an agent at the federal level, locally, that has five cases, which sat dormant for over a year before being given to him. On subject was paying, two were dead, and one is incarcerated. Staff people are pulled from other departments and put into CSE who do not have a clue as to what to do and where to turn. FD provides no assistance to them, or no assistance to the public. Our organizations are able to help and to educate those trying to work their way through the maze of the court system.

These same courts should make use of legitimate 501 c (3) non-profit organizations who actually help to improve child support collection and child access by advocating and working to improve the community. The 1996 Welfare Reform Law (P.L. 104–193) is only as good as the enforcement that the courts are willing to provide. Compare the numbers of cases of child support collected and uncollected with the number of licenses suspended. PA has the power to revoke licenses but chooses not to actually enforce this existing law. In the statistics there is no reflection of an actual increase due to the suspension of professional licenses. The courts have to use and enforce all the options they have under the law, do an automatic increase for non-payment, and attach assets, fines, liens, and jail. There are no penalties now, and they are too lenient with habitual repeat offenders. The court allows too many individuals to be in contempt of court and perjure themselves out. How many times can one person be in contempt before the court acts? When it does act, it lets them perjure themselves repeatedly. Why would any parent worry about the consequences of not supporting their child when the courts themselves don't take this matter seriously? Some of these people can have four contempts and show up at court as they choose. Most appear due to a warrant, then they are released without paying, and they go until the next warrant is issued. There are no penalties for willfully refusing to pay your child support, or denying the other parent access to the child.

Non-custodial parents have learned that they can perjure themselves out of contempt by paying a little money—just enough to satisfy the court at that time. The non-custodial parent should not be given such long times to report to enforcement officers when found in violation of compliance. They should go before a judge for strict penalties. No child support, judge, jail! Fines and less support should be imposed upon custodial parents who with hold visitation from the other parent. When filing for child support if the 40/60 formula is enforced for support, then the parent in violation of providing visitation should be penalized for interfering with parenting time.

Most non-custodial parents that can pay do pay. Those who cannot should be made to enter programs for job training, education and parenting classes. It is up to the court to tell the difference between those who try to pay and the ones who just do not want to pay. The ones who simply cannot pay still try to spend time with their kids and to make an effort to pay something. They do not go months and years without paying or seeing their child—this is a parent trying. With some help they might try to meet their legal obligations.

A $50 pass through is not much of an incentive for a family to move from welfare to work. There is no benefit to losing food stamps, childcare, and medical help if they go to work. Non-custodial parents do not like paying child support when welfare is getting the bigger chunk of money while their child receives only $50. Welfare should get $50 and the custodial parents the rest without penalties such as a cut in food stamps. Even when the order is written by the judge and it says that the family gets $200/mo. And welfare $50, anything over the $200 goes to welfare and not the family even when the family is owed arrears. Harrisburg says PACES can only release the checks after a certain day and that any money that comes in before or after the release date goes to welfare. If the order reads child support to be $200 and $50 to welfare, and $300 comes in that month, welfare gets the extra $50 and the family gets nothing of the arrears owed to them when welfare is also due arrears. This is how PACES explained it to me when money comes in and it is not the family's release date for child support. It sits there until that release date and any money that comes in before or after that date is sent to welfare. What ends up happening is that all the money that was sent in that month went to welfare and not the family because of some unknown release date. By the time it's due for the family to receive its support, there is no more money because it all went to welfare.

They do not hold up money due to welfare just to the needy families. Families leaving welfare should be entitled to all the money they are owed.

Personally our organizations have found non-custodial parents faster than our court system has found them. There are some in hiding for years who have changed their social security numbers and have crossed state lines, including custodial parents that are collecting child support and are hiding the child from the non-custodial parent. Sometimes the money is going to welfare being paid through PACES and

the court cannot tell the non-custodial parent seeking parenting time that they know where the child is. We have so many members with horror stories that have been victimized by the court system. Anything that you can do to improve this failing system, that is failing our children, would be greatly appreciated by our entire state!

I have enclosed information on our organization. Please feel free to contact me for any additional explanation of information/assistance. I would like to be of further service to you. And, thank you for providing this opportunity to us, and for your interest in what the grassroots organizations have to say.

DENISE SIMPSON
President of CPDF
Director/Group Coordinator of CPGI

DDS/dds
CC to all staff

[Attachments are being retained in the Committee files.]

Statement of John Haeger, Treasurer, Fathers are Parents, Too, Lilburn, GA

H.R. 1488, THE "HYDE-WOOLSEY" CHILD SUPPORT BILL

I thank the Honorable Henry Hyde and the Honorable Lynn Woolsey for this opportunity to contribute written testimony to this Committee. I am a non-custodial parent of two daughters, 17 and 18 years old. My child support obligation will end in less than two months, so this Committee, in modifying Federal child support policy, can offer no help for me or for my children. I am writing for the benefit of parents and children still affected by this Federally-encouraged system of child support awards and enforcement.

Summary:

I urge this Committee to demand compliance with Congressional intent by HHS' grantees of federal financial participation in programs of state child support enforcement administration. When this Subcommittee recommends legislation to the full Committee, and to the House, and when citizens see those bills enacted into law, they, and especially those affected by the legislation, have a reasonable expectation that Federal funds ostensibly disbursed for a Congressionally-established purpose will be spent in a manner that reflects Congressional intent. This is not the case in Georgia since 1989. And, based on HHS claims of lax enforcement standards, it is likely not to be the case with far too many grantee-states.

This is a **request for** Congressional **inquiry into** the effects of excessive child support guidelines decoupled from family economic statistics which, in conjunction with lack of payer self-support reserves can result in *awards of support in excess of* certain parents **ability to pay** and distortion of collection statistics. This is the case in Georgia. At the individual level, this combination can have the effect of increasing reported collection shortfalls. At the national level, it can contribute to bad national policy. This blood-from-turnip approach serves only to harass and impoverish low-income payers while contributing nothing to child support; it may have the effect of denying child support to recipients from some marginal payers who could pay an economically-justified amount. And, more importantly, **it may have the effect of inflating reports of uncollected child support.**

This is a **request to refrain from changes to Federal child-support policy** based on what is very likely flawed data resulting from HHS' grantee non-compliance with Congressional intent as permitted by HHS' exceptionally accommodative 25% non-compliance standard (and apparent HHS' acceptance of violations of even that lax standard). If Federal policy is to be changed, the affected citizens deserve that this Subcommittee demand accurate data on which to base its decisions. Georgia's systematic non-compliance, specifically in the areas of excessive awards and lack of self-support reserve contribute to inflated Georgia reports of uncollected child support.

This is a **request for** Congressional **inquiry into selective use** by Federal grantee-states **of interstate collection facilities** to emphasize recoupment of state welfare outlays as compared with collections which flow solely to recipients.

This is a **request for inquiry into the "basis and purpose" for HHS' 25% grantee non-compliance standard** (in the Administrative Procedure Act sense)

and comparison with comparable standards of compliance required by other Federal social-service grantors.

This is a **request for Congressional inquiry into the veracity of claims of compliance** with child-support-relevant Federal Statutes and Regulations by individual grantee States in their quarterly applications for awards of grants of federal financial participation in state child support enforcement administration.

This is a **request** that this Subcommittee urge the Secretary of HHS in the strongest possible terms **to take qui tam action to recoup federal funds** disbursed to states pursuant to false claims of compliance with relevant Federal statutes and regulations in their quarterly grant applications or elsewhere. Such action would, at the same time, give both grantee-states and affected citizens an indication that Congress means for grantees to comply with Congressional intent in expenditure of Federal funds. It would impress upon grantees the importance of compliance with the plain text of Congressional and HHS intent even in the face of excessively accommodative oversight by HHS program officers.

HHS must be able to rely on the veracity of grant applications and other submissions by state officers. Absent greatly increased funding, HHS cannot afford to devote resources to monitoring state program compliance at the detail level in every state. Like the IRS, HHS must be able to rely (in general) on a system of honest self-assessment by state-grantees. And when that level of honesty (or even mere reporting accuracy) is lacking, grants can be awarded to non-compliant grantees, undermining Congressional intent.

Discussion:

HHS' 75% Compliance Standard: In 1998, a letter request was made to the Secretary of HHS to investigate Georgia's apparent deviations from Congressional intent. No action was taken. In response to a Congressional follow-up, a belated HHS response reported that HHS applies a standard of compliance that permits grantees a 25% error rate and that Georgia is in compliance under that standard. Apparently, a violation of Federal standards in the Federally-mandated quadrennial child support guideline review that could affect 100% of all Georgia child support awards only counts as one violation in HHS' compliance-review methodology. Unless HHS has a special lower compliance standard for Georgia, Georgia may not be alone in its systematic failure to comply with Congressional intent.

HHS Compliance Standard May Be Too Permissive: Earlier this year when a Federally-chartered corporation which grants Federal funds to a different set of social-service grantees reviewed grantee compliance, their grantee-compliance standard was 5%, not 25%.

Request for Basis and Purpose-Compliance Policies and Procedures: This is a request that this Committee request that the Secretary of HHS provide the Committee with an existing statement of basis and purpose for her child-support-administration-grantee compliance evaluation policies, procedures, and methodology. Special scrutiny is requested for the question of how the impact of systematic violations of Congressional intent within a state program (or, as in Georgia, without it, since Georgia has never imposed its State Plan for Child Support Enforcement state-wide) shall be evaluated.

Child-Support Data Not Reflective of Compliance with Federal Policy: Statutory changes to Federal policy concerning child support guidelines are being proposed to this Subcommittee. And HHS' has admitted to an exceptionally accommodative 25% non-compliance standard in its program of awards of grants of federal financial participation. As a result of that lax standard, and Georgia's zeal to take advantage of HHS' lax oversight, data collected by Georgia (and quite possibly many other states) may not be not representative of the results of past (or current) compliance with Federal child-support policy as enunciated in Federal statutes (recommended by this Committee) and Federal regulations promulgated by HHS in implementation of those statutes.

Request to Refrain from Changes Based on Questionable Data: This is a request to this Committee to refrain from making Federal policy decisions pending a review of HHS grantee compliance and an evaluation of the distortions embedded in HHS data which result from lax HHS compliance standards. Investigation of compliance by Federal grantees with existing Federal statutes and regulations and the effects of non-compliance on data reported by Federal grantees may lead to the conclusion that non-compliance by participating states has so distorted child support enforcement reports submitted to HHS as to make them useless for Federal policy-making purposes.

Closed Avenues-Plea for Enforcement of Congressional Intent: HHS apparently assumes it is not subject to any form of oversight in light of the "absolute discretion" granted it in a Supreme Court ruling, *Freestone v. Blessing*, 117 S.Ct. 1353

(1997), which establishes the principle that child-support recipients (and, most likely payors, too) are granted no rights under Federal statutes (recommended by this Committee) to force the states to comply with Congressional intent as expressed by those same Federal statutes and as implemented by Federal regulations implementing those statutes. Recently, the U. S. Supreme Court closed yet another door to citizen enforcement of Congressional intent expressed in these Federal statutes in a *qui tam case, Vermont Agency of Natural Resources v. United States ex rel. Stevens* which bars citizen *qui tam* suits against states which fail to comply with the terms of their federal grants. In 1998, a D.C. District Court suit seeking to enjoin the Secretary of HHS from awarding or disbursing grant funds to Georgia while she fails to comply with Federal statutes and regulations was dismissed without consideration of the merits. Congressional oversight seems to be the last remaining avenue open to victims of HHS' lax oversight and systematic overreaching by HHS grantee-states.

Request for Oversight of HHS and Grantee Compliance with Congressional Intent: This is a request for investigation of and, in light of HHS's admission of lax oversight practices, continuing oversight of, HHS' management of its State Child Support Enforcement Administration grant program. This Committee would be well within its rights to request of the HHS Secretary an existing a written statement of basis and purpose for HHS' lax grantee compliance standards as required by the Administrative Procedures Act.

Georgia's Failure to Comply with Federal Statutes and Regulations: Based on the 1993 and 1998 reports of the Georgia Child Support Commission to the Governor, it appears that Georgia has intentionally (and both times under the leadership of a Georgia Supreme Court Justice) failed to comply with minimal requirements of the Federal statutes and regulations in its Federally-mandated quadrennial review Georgia's child support guidelines. In both instances, the Supreme Court Justice/Chairwoman failed to report that non-compliance to the Governor within the published report. One would think that a member of the Georgia Bar who sits on Georgia's Supreme Court would have an ethical duty to report such a lapse in her Committee's report to the Governor.

Bloated Georgia Guidelines and Distorted Reports: As discussed in Mark Rogers' article in the Spring 1999 issue of the ABA Family Law Journal, Georgia guidelines lead to bloated awards; in part by both Commissions' failure to "consider the cost of raising children;" in part by Georgia's refusal to incorporate a self-support reserve (both Federal requirements), by Georgia's refusal to apply commonly-accepted principles of family economics to its guidelines, and in other ways.

Grantee Non-Compliance and Distorted Reports: In so doing, Georgia has so distorted any results of award amounts or compliance rates that may emanate from this state as to make Georgia data useless (or worse, misleading) in Federal policy decisions. As a result of lax HHS oversight policies and methodologies, this effect may not be limited to Georgia. Reported child support award and enforcement results may not reflect the results of grantee compliance with existing Federal policy in any state.

Importance of Accurate Data to Federal Policy-making: Federal decisions to modify policy should be based on accurate data reflective of the results of compliance with existing Federal policy. Excessive awards (as in Georgia, see *Rogers* above) which exceed the ability of low-income (and sometimes middle-income) payers to pay can distort state reports of compliance and of the distribution of award amounts. Until this Committee can be assured of compliance with Congressional intent by HHS and by HHS grantees, changes to Federal policy based on flawed data is premature. It would be far better to investigate grantee compliance and to assure that reported results are reflective of compliance with Congressional intent and with Federal policies established in Federal statute and regulations.

Request for Investigation of Georgia's Grant Award Application Claims: Georgia has obtained grants since the inception of this program in 1989 based on claims of compliance with the Federal statutes and regulations which establish grant qualifications. HHS has awarded grants to the State of Georgia obtained based on what appear to be false claims (explicit or implied) by the State of Georgia in its quarterly applications for award of grants of Federal financial participation. Many, if not all, of these quarterly claims of compliance may be untrue, in some cases on a state-wide basis, in some cases on a local basis, with most violations extending for periods of years. I request that this Committee exercise its privilege to investigate HHS' quarterly awards of Federal financial participation in Georgia child support enforcement administration.

Request for Investigation of Other States' Grant Award Application Claims: HHS grants of federal financial participation in state child support administration are ostensibly awarded to states which comply with Federal statutes (writ-

ten by this Subcommittee) and Federal regulations promulgated by HHS pursuant to those statutes. I further request investigation into the basis and purpose for HHS' pre-award inquiry procedures upon which basis quarterly awards of grants of federal financial participation in state child support enforcement administration are made. In light of HHS' lax grantee compliance requirements, this is a request that this Committee inquire into compliance by all states which have been awarded grants by HHS under this program. An independent government audit may be in order.

Deprivation of Due Process of Law: Federal Regulations call for child-support-administration grantees to accord due process of law in implementing these federally-assisted programs. Details of systematic deprivations of due process in Georgia child support enforcement are legion. Only a few salient violations of Federal statutes and regulations have been recited here. Georgia's methods arguably include systematic deprivation of Constitutional rights to equal protection of the laws as well. These forms of overreaching can be described in detail to Committee investigators or during this Committee's inquiry into grantee compliance.

Request for Qui Tam Recoupment of Funds Disbursed to Non-compliant Grantees: This is a request that this Committee urge the Secretary of HHS in the strongest possible terms to take *qui tam* action to recoup federal funds disbursed to states pursuant to false claims of compliance with relevant Federal statutes and regulations in their quarterly grant applications or elsewhere. Such action would, at the same time, give both grantee-states and affected citizens an indication that Congress seriously intends that Federal funds be awarded and disbursed ONLY to grantees whose state programs comply with Congressional intent. It would impress upon grantees the importance of compliance with the plain text of Congressional and HHS intent even in the face of excessively accommodative oversight by HHS program officers.

RACINE, WI 53402
May 1, 2000

Dear Legislator:

For those legislators who have asked themselves, "How does a deadbeat parent accumulate more than $100,000.00 of child support arrears and what does Wisconsin do about it?" I can give you an answer. Child support awards on average far exceed the actual cost of raising a child. Senate Bill 520 addresses this issue. The current child support standards in Wisconsin were written in the mid 80's by a group of women who worked for the Dept of Health and Human Services. Not one father was involved even though fathers are more than 10 times likely to pay child support than mothers. The standards were written with an obvious bias against the non-custodial parent, again, more than 90% of the time, dad. Wis Statute 767.25(1c) states that the child of divorce has the right to the same standard of living as if the marriage had remained intact. This is impossible because lifestyles can not be duplicated on the same income. For this reason, instead of merely paying for his half of the incremental cost of raising a child, dads are frequently expected to pay for entire houses, cars, vacations, etc. This means mommy's lifestyle is subsidized by dad. She is also able to avoid her financial obligation to the children entirely. Child support is not based on actual earned income. Wis Statute 767.25(1hs) also states that support is based on "earning capacity." Judges are allowed to "assign" an income to a father based on evidence produced to him by mommy for dad's level of training and experience. In addition, judges can and do "impute" income from assets dads own including but not limited to his home, auto, pension, business, IRA, etc. There is no cap on child support awards in Wisconsin.

Meantime, mom is under no obligation to allow dad or the child's paternal relatives to use the items he has provided for. In addition, she can and does move the children away. Judges typically allow her to move if dad objects. If dad chooses to move to be with his children, his "earning capacity" and therefore child support is unchanged even if by necessity he must take a lower paying job. If dad's income drops for any reason whatsoever, disability, layoffs, injury, etc, child support arrears accrue at 11% interest (lowered just this year from 18%). Only when dad hires a lawyer and asks for forgiveness can he hope a judge sides with him. If not, he cannot appeal as child support awards are at the discretion of the judge. This process takes at least 6 months.

Mom is also free to use the money in whatever fashion she wants including but not limited to paying experts and attorneys for the purpose of removing dad from

the kids lives entirely. Dads must then pay an attorney and expert or risk not seeing his kids. There are no laws whatsoever that require mom to spend the money on the kids. When dad is allowed to see his kids, all of his expenses and incremental costs are above and beyond his child support obligation. When the child says, "mom buys me anything I want, why don't you buy me anything?" You quickly learn that to answer honestly will cost you time with your child. When dads do see their kids, his appearance is used as a convenient time to have him served with papers or have him incarcerated in front of the kids so they can see firsthand what a horrible person he is. This is frequently done by bitter, vengeful moms, and is totally legal.

Why would Family Court allow this to happen? Three reasons, first because mommy wants it and asks for it through her attorney. Second because the county receives one dollar of federal matching funds for every dollar assessed. This money can be used to pay for police, firefighters, snow plows, etc. In other words, this money allows politicians to decrease property taxes. (One segment of society is victimized for the good of all). Third because there is no such thing as a domestic abuse shelter where dads are given free counselors, attorneys, and most importantly, lobbyists. All of this is done, "in the best interest of the children".

I believe that both parents are responsible for both the emotional and financial needs of a child. I am proud to support my child. I thank God for giving me not only a child, but also an income to support that child. The question is how much is enough? According to recently released data from the Dept of Agriculture, (http://www.newsday.com/ap/washington/ap919.htm) the average cost of raising one child is $160,140. If you do the math, (160,140 divided by 18 years and 12 month per year divided by 2) dad's half share comes to $370 per month ($270 and $540 for low and high income parents respectively). Why am I paying $5123.00 per month for one child? This would assume a father with no role in the child's life. Obviously, as dad spends more time with the child, this amount should decrease since dad is assuming these incremental costs as well. Current support standards force dads to pay 3, 4, 5, even up to 10 times this amount depending on the judge. Remember, child support is tax free to mom. Dad pays the tax. The discrepancy increases as income increases.

Irresponsible people are going to be irresponsible no matter how many laws you pass. As you pass more strict support guidelines, the more you victimize responsible dads. The solution is to pass equal and fair laws and then enforce them. I would love to enjoy the privileges, responsibilities, and joys of raising my own daughter 50% of the time. The current child support guidelines reward moms for removing dads from their children's lives. They punish those of us responsible dads who are ready, willing, and able to be involved in the lives of our children, yet are forced out, "in the best interest of the child," without due process, representation, or equal protection. The current child support guidelines should be rewritten with input from responsible dads. Senate Bill 520 attempts to do this.

Sincerely,

MALCOLM HATFIELD, MD

Wisconsin Cares about Kids

WI SUPPORT COLLECTIONS TRUST FUND

Wisconsin cares for kids by removing them from the only father they will ever have. Wisconsin law gives moms and counties tremendous financial incentive for removing children from their father's lives. To date, my daughter Mary's mother, Elizabeth Hatfield, MD, has received over $400,000.00 in child support. This is not spousal or family support. This is child support for one child. Racine County has received over $400,000.00 in federal matching funds. This is how politicians keep property taxes low. Victimizing one segment of society for the good of all.

I saw my daughter Mary (now 11 years old) a total of 6 hours in the month of March, 2000. How many hours did you spend with your child? To date, Mary has gone 25 months with no contact not only from her father, but also from her father's extended family (cousins, aunts, uncles, grandma, stepmother, stepsister, etc.) Since 1993, when she was 4 years old, she has averaged 9 hours of contact per month with not only dad, but his extended family. This is child abuse at its worst. Perpetrated by child advocates who act, "in the best interest of the child."

Wisconsin and Judge Richard Kreul have single-handedly removed Mary from her father. She now lives in Hinsdale, Illinois. Please stop this child abuse. Please give

kids the father they deserve. Mary's court appointed attorney(GAL), Michael Phegley, has pocketed over $55,000 to date solely by keeping Mary from her father and his extended family.

All children deserve a father. Stop removing dads from their children's lives. Stop giving moms and counties strong financial incentives to remove a child from her daddy's life. Please stop all forms of child abuse.

For more information visit my website at http://www.mydoctor.com/hatfield

MALCOLM HATFIELD, MD

RACINE JOURNAL TIMES
MONDAY, MAY 15, 2000

Letters to the Editor

Horrors of child support

For those readers of The Journal Times who have asked themselves, "How does a deadbeat parent accumulate more than $100,000 of child support arrears and what does Wisconsin do about it?" I can give you an answer. Child support awards on average far exceed the actual cost of raising a child. Senate Bill 520 addresses this issue. The current child support standards were written in the mid-1980s by a group of women who worked for the DHHS. Not one father was involved even though fathers are more than 10 times more likely to pay child support than mothers. The standards were written with an obvious bias against the non-custodial parent, usually dad. Wis. Stat. 767.25(1c) states that the child of divorce has the right to the same standard of living as if the marriage had remained intact. This is impossible because lifestyles cannot be duplicated on the same income. Instead of merely paying for his half of the incremental cost of raising a child, dads can be expected to pay for entire houses, cars, vacations, etc. This means mom's lifestyle is subsidized by dad. She is also able to avoid her financial obligation to the children entirely. Child support is not based on actual earned income. Wis. Stat. 767.25(1hs) also states that support is based on "earning capacity." Judges are allowed to "assign" an income to a father based on evidence produced to him by mom for dad's level of training and experience. In addition, judges can "impute" income from assets dads own including but not limited to his home, auto, pension, business, IRA, etc. There is no cap on child support awards in Wisconsin. The county receives one dollar of federal matching funds for every dollar assessed. This money can be used to pay for police, firefighters, snow plows, etc. In other words, this money allows politicians to decrease property taxes. (One segment of society is victimized for the good of all.) Current child support guidelines reward moms and counties for removing dads from their children's lives.

Malcolm Hatfield, M.D.
6 Raven Turn

Statement of Hon. Michael K. Jeanes, Clerk of the Superior Court, Maricopa County, AZ

I am an elected official in Arizona, Clerk of the Superior Court, serving a constituency of 2.9 million in Maricopa County, which is the 5th largest county, and the 8th largest court system in the nation. On behalf of those families not served by the Title IV–D program, I urge your support of legislative bill, H.R. 4469.

In addition to my responsibilities as official record keeper and financial officer for Superior Court, I have oversight of the Family Support Center, which devotes 100% of its time and budget to child support related issues, such as the establishment, modification and enforcement of child support orders, and enforcement of court-ordered parent-child access (visitation).

Up to half of the Arizona child support cases have private or (non Title IV–D) status, with circumstances that merit gaining access to information and enforcement tools currently available only to the State IV–D agencies. It is crucial to those families that these enforcement tools be made available to public government agencies such as offices of the Clerks of Superior Court, whose objective is to serve the Non-IV–D child support population.

In 1994, the Arizona legislature authorized the establishment of the Child Support Coordinating Council Subcommittee, co-chaired by members of the State Senate

and House. Council membership includes child support-related entities such as Family Court judicial officers, representatives from the Attorney General's office, the Clerks of the Superior Court, custodial and non-custodial parents, the employer community, and the State IV–D agency, (Division of Child Support Enforcement). The Clerks have worked diligently to support the objectives of the Council and its members, specifically the State IV–D agency, through collaborative endeavors, and have addressed any child support issues requiring legislation or compliance with mandates.

Prior to the recent Federal legislation, PRWORA, which mandated a statewide centralized child support payment processing clearinghouse, my office performed child support payment processing functions for 60% of the state of Arizona cases, both IV–D and Non-IV–D. Yet, this office was fully cooperative in assisting the State IV–D agency with its conversion agenda, and will continue to work in a collaborative spirit. It is now time to address the crucial needs of the Non-IV–D population.

The Clerks of Superior Court in Arizona's fifteen counties recommended to the Child Support Coordinating Council Subcommittee that ALL cases, both IV–D and Non-IV–D, be placed on the IV–D agency's Arizona Tracking and Locate Automated System including those cases prior to January 1994. This recommendation eliminated the need to create 15 separate and costly automated systems for receipting and disbursement of child support payments, in addition to the state-wide system. It eliminated the need for Arizona employers to continue to send payments to different locations, depending on the date of the court order, as well.

Unequivocally, our membership has contributed notable time and energies to the needs of the IV–D agency in Arizona and we now ask for its support in obtaining the tools that will help us serve the Non-IV–D families in Arizona.

In 1988, this office established the Family Support Center, which includes Expedited Services for the enforcement of court-ordered child support, spousal maintenance, and parent-child access, (visitation). Providing a non-adversarial forum for parties who petition the Court for enforcement of child support, a mediation-trained para-judicial conference officer, works with the parties to reach resolution. The process allows for a 25-day objection period in the event that a party wishes to request a formal hearing with a judicial officer, (objections and requests for hearings result in less than 10% of the cases.) Removing parents from the adversarial nature of the court room can lead to greater cooperation between the parents, and ultimately minimize harmful effects that parental conflict has on the children.

Due to this service, at least 90% of these cases are resolved, without requiring a substantially encumbered Family Court to address these matters. However, expanded access to enforcement tools as outlined in H. R. 4669, would add immeasurably to our ability to help other families. Enforcement services are partially supported via a portion of the $61 post-decree filing fee, and through the County General Fund.

The critical issue of privacy is an ongoing concern addressed by this office on a daily basis, since the Clerk of the Superior Court works closely with the Court, holding an inherent obligation to protect the confidentiality of information. Additionally, for many years, my office has had contractual accountability to the State IV–D agency for provision of a variety of services, requiring strict compliance with both State and Federal regulations, including confidentiality.

Legislation should require that Non-IV–D or private agencies register with the Secretary of Health and Human Services to ensure that information and enforcement tools are used within the parameters of legal intent.

Although the State IV–D agencies may struggle admirably to meet the overwhelming demands of their customers, a significant number of families remains under-served. As a proponent of partnership and collaboration, it is my conviction that a public Non-IV–D agency, such as my office, can bolster the state agency's ability to serve families.

I have met with John Clayton, Director of the Arizona Department of Economic Security and his Deputy, Nancy Mendoza, who heads the IV–D agency, and have attached a letter stating the provisions of their support for expanding access to public Non-IV–D entities.

I urge that Federal legislation support the efforts of responsible public and private agencies to enforce child support, and that ALL families be given the same opportunities to benefit from information and tools needed by the vehicle of enforcement of their choice.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
PHOENIX, AZ 85005
May 16, 2000

The Honorable Michael K. Jeanes, Clerk
Superior Court of Arizona
Maricopa County
201 West Jefferson
Phoenix, AZ 85003

Dear Michael:

I want to thank you and Kat Cooper for coming to meet with me last month to discuss your interest in federal legislation which would enable public non-IV–D agencies access to IV–D information and enforcement remedies. It was clear to me that we share a common goal of ensuring that families receive the financial support they need and to which they are entitled. It was also apparent from our discussion that you in no way want to jeopardize the State's IV–D program.

We have several concerns with the proposal for allowing public non-IV–D entities to participate in IV–D remedies. It is possible that many, if not all, of our concerns could be addressed through amendments to the proposed legislation. I understand that Nancy Mendoza, my Deputy, has spoken with you briefly about our concerns and the need for amendments. The following is a more detailed discussion of those items.

Loss of Incentive and Exposure to Penalties

First, as you know, States compete for federal incentive funding which constitutes a significant funding stream for the program as it can be used to match federal dollars at 66% per cent. Arizona is already at a competitive disadvantage for receiving these funds due to demographic factors in our state. In fact, Congressman Hayworth was successful in obtaining an amendment to the federal legislation governing incentives to ensure that Arizona's lower than average per capita income, higher than average mobility patterns and higher than average out-of-wedlock birth rate could be considered as unique demographic variables in calculating incentives. In accordance with Congressman Hayworth's amendment, the federal Office of Child Support Enforcement must issue a study of these factors later this year and will hopefully make adjustments accordingly. If the Maricopa and other Clerks of the Superior Court were to begin offering IV–D type services in Arizona, the State program could see a further reduction in its incentives as the cases likely to remain in the State's caseload would be primarily the harder-to-work public assistance cases. Furthermore, in addition to a loss of incentives, the State could lose from 1–5% of its Temporary Assistance to Needy Families (TANF) funding should our performance on incentives fall below certain thresholds prescribed by the Department of Health and Human Services.

In order to remedy this shortcoming of the bill, we would suggest that if the State enters into an agreement with the Clerks of Court to provide access to IV–D information and remedies, **the Clerk of Court cases should be counted as part of the IV–D caseload for purposes of incentives.**

Impact on Automated Systems and Interface Compatibility

We have come a long way in working together on automation issues. In fact, because of our joint efforts, DES and the Clerks of the Superior Court received the Governor's Spirit of Excellence Award last fall. I am aware that we continue to work on improvements to Central Payment Processing and the State Case Registry.

It was clear that in order to achieve positive results on these joint automation projects, significant effort and time had to be invested. Even with this level of commitment, I am sure that you will agree that there were "bumps in the road."

The legislation proposes access to data bases and enforcement remedies that are entirely dependent on automated systems. In order to accommodate Clerk of the Court use of those systems, a significant investment of time and resources will be required. DES does not have staff or funding to make an "up front" investment of this nature with the hope of recouping costs through fees as contemplated by the bill. In order for us to be able to design, test, implement and maintain the interfaces required in the legislation, it would be essential that the legislation prescribe that the **initial and on-going automation costs be borne by the public non-IV–D entity and that the interface standards be set by the State.**

Due Process for Obligors and State Liability

Currently, the State IV–D program is required to send notices to obligors of enforcement remedies. Each remedy has specific notice requirements, timelines for the

obligor to respond and a time frame in which the agency must resolve the matter. The proposed legislation must contain a provision to clarify that **the duties of affording notice and processing appeals on public non-IV–D cases are the sole responsibility of the public non-IV–D entity. Further, while errors in enforcement can made by either a IV–D or a non-IV–D entity due to incorrect arrearage balances or other mistakes of fact, the State must be held harmless from errors in enforcement by the non-IV–D entity.**

Oversight of Non-IV–D Public Entities' Adherence to Federal Law

The State IV–D entity is monitored by several agencies to ensure compliance with federal law.

The monitoring entities include the Internal Revenue Service, the Regional Office of the Department of Health and Human Services (DHHS), the Audit Division of the Office of Child Support Enforcement, and the Office of the Inspector General. **The proposed legislation must make it clear that the State IV–D agency has no responsibility for monitoring the compliance of the non-IV–D entity with Federal laws and regulations.**

Duplication of Enforcement and Dually Open Cases

The use of IV–D remedies by the non-IV–D entity has the potential of creating confusion and subjecting obligors to multiple enforcement actions when parties may be participants in both the IV–D and non-IV–D systems. For example, an obligor may owe support to more than one family, with one of the custodial parents using the IV–D system and the other using the non-IV–D system. If both the IV–D and non-IV–D systems are attempting to use the same remedies, such as federal tax offset, a conflict in allocation of collections among the families could result. Additionally, even an obligor with only one family may be subjected to multiple enforcement remedies if both the IV–D and non-IV–D public entity are attempting to enforce at the same time. We have had many documented examples of "doubling up" on an obligor with the private collection agencies.

A similar problem can occur when a family previously received public assistance, has assigned arrears owed to the State, but is now using the non-IV–D system. When a collection is made it will be necessary to sort out the payment hierarchy. **The proposed legislation must include a mechanism for resolving these conflicts in enforcement and distribution of collections.**

I appreciate your giving me an opportunity to consider these issues and provide you with our analysis. I recall that you indicated that Congressman Hayworth's office would be interested in our position in this matter, so I will be forwarding him a copy of this letter. Please feel free to contact Nancy to discuss these thoughts in greater detail.

Sincerely,

JOHN L. CLAYTON

c: Congressman J. D. Hayworth

Statement of Richard F. Doyle, Men's Defense Association, Forest Lake, MN**

ALIMONY/SUPPORT*

Responsibility for alimony/support payments falls almost exclusively on one sex, regardless of fault, of who obtains custody, of ability to pay, or of the other parent's ability to share in lining costs. A Texas Bar Association study found that "child support" is awarded to 97 percent of custodial mothers, but to only 19 percent of custodial fathers. The average monthly award to mothers was $170 per child; to fathers, $11 (This was many years ago, hence the low figures).

In order to justify increased awards, the Agriculture Dept. artificially bumped up the costs of raising children by an accounting trick called proportional accounting. This scheme divides the total cost of a household by the number of individuals therein. This is illogical because the adult(s) therein incur most of these costs with or without the children, who add only marginally to the cost.

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*Given only short notice, the Men's Defense Association has not had time to compile the statistics behind the statements herein, but most are common knowledge.

**A 15,000 member nationwide organization based in Minnesota.

Child support aside, former husbands often have a financial obligation, called alimony, to further subsidize ex-wives, with no reciprocal obligation. If alimony is reasonable, isn't it as reasonable to expect ex-wives to cook, clean, and sew for ex-husbands? Alimony is out now, you say? No, it isn't. It is merely concealed in increased child support or renamed "maintenance." That is why child support awards are much larger than the cost of raising children. Divorce court judges often set support levels 100 to 1,000 percent higher than the actual costs of raising children, according to welfare department cost estimates. Some fathers have been ordered to pay 70 to 110 percent of their net pay in child support. That is also why the Men's Defense Association refers to "child support" as "alimony/support."

The worst part of this is that de facto alimony continues-even after the divorcee remarries-until the children are emancipated. Thus, the divorced husband is often obligated to support his ex-wife and her lovers.

Incredibly enough, husbands are ordered to support all children born to their wives during marriage and separation, even if the husband is demonstrably not the father and the mother admits as much. One hapless fellow in Haupage, New York became a "father" of four children in this way while serving a nine-and-a-half year sentence for robbery.

Child support is regarded as a father's responsibility and a mother's right. Visitation, in contrast, is regarded as a mother's responsibility and a father's right. In actual practice, only women's rights and men's responsibilities are considered. While mothers can thumb their noses at court-ordered visitation, the full resources of government, state and federal, come down on non-supporting fathers, many of whom are using the only means they have left to enforce visitation. Often they are jailed, regardless of their ability to pay. We criticized the Soviet Union for the Gulag Archipelago when we have our own invisible gulag right here.

In effect we have communized the family, and required men to finance their own family's destruction.

Lenore Weitzman's vastly overrated book, *The Divorce Revolution*, alleged that women are much worse off financially than men after divorce. (Weitzman has subsequently recanted much of her position.) These assertions have often been disproved. (See, for instance, Jed H. Abraham, *The Divorce Revolution Revisited: A Counterrevolutionary Critique*, Northern Illinois University Law Review, 9:2(1989), 251–298.) Many other statistics belie the notion that most men make out well from divorce. For example, divorced husbands commit suicide six times more often than their ex-wives. The reality of the situation is that very few people can afford divorce, other than the very rich and the very poor. If one income cannot be stretched to cover two roofs, perhaps there should be no divorce or the children should be placed with the parent most able to support them.

While men are most often cleaned out by divorce, the popular buzzterm "feminization of poverty" elicits considerable sympathy for unemployed divorcees. Even if a divorcee is poor, we find it difficult to sympathize with someone who elected not to pursue a career, threw her husband out, and then pleads poverty. In the modern mentality regarding divorce, the concept of individual responsibility is applied to men only.

Torn loose from any pretense of equity, divorce practice is the single most egregious and overlooked form of government redistribution in America today. And its scope is rapidly increasing. Like mules need hay, fathers must have enough left of their paycheck to eat, pay rent, keep warm, get to work and back, and (Heaven forbid) maybe raise another family. You say he shouldn't enter another marriage? On what grounds can you justify one sex being able to remarry, but not the other?

"Non-support," and "Deadbeat Dad" have become the ubiquitous battle-cry of the sanctimonious. Certainly fathers have a responsibility to support their children; but does this continue to apply when a father's children have been forcibly taken away and, in many cases, effectively brainwashed against him? When Big Brother so completely runs a man's family, shouldn't Big Brother also assume the man's other obligations?

Draconian alimony and child support collection measures are like the Maginot line, a mighty fortress with guns pointed in the wrong direction. The solution is not to persecute men further but to begin treating them fairly. This would have two desirable results. First, around half of fathers would have custody. Second, those who didn't, being treated fairly, would be much more inclined to pay their just obligations.

Fairness to men is the ONLY measure that hasn't been tried extensively. Where it has been tried, even in a limited manner as in shared parenting, support collections have increased dramatically. All other measures have failed—and will continue to fail. Respectfully submitted Richard F. Doyle On behalf of the Men's Defense Assoc.

Statement of Martha Davis, Esq., Vice President and Legal Director, NOW Legal Defense and Education Fund, New York, NY

NOW Legal Defense and Education Fund ("NOW LDEF") is pleased to submit this testimony on the Child Support Distribution Act of 2000. NOW LDEF is a leading national not-for-profit civil rights organization with a 30 year history of advocating for women's rights. Among NOW LDEF's major goals are securing economic justice for all women. Throughout our history, we have advocated for the rights of poor women, focusing on issues of child care, violence, employment and reproductive rights.

Although NOW LDEF believes that child support reform is needed to help move parents and their children out of poverty, there are a number of glaring problems with the proposed bill. If not addressed, these will result in great harm to women and their families throughout the country.

We focus our comments on Title V of the bill, which deals with grants to Fatherhood Programs. We believe that this section of the bill does not deal adequately with the problem of domestic violence. Indeed as currently written it is likely to result in federal money supporting programs that will keep women in dangerous, violent situations and thwart their ability to leave. As discussed more fully below, we are concerned with both the failure of the bill to adequately address domestic violence and the requirement that grantees promote marriage without recognition that marriage is not the best solution for all couples. We have proposed specific language at the end of our testimony to help address these serious concerns.

The need to address domestic violence. Women and their children make up 90% of the people on welfare and approximately 85% of all low income individuals. Violence against women is one of the main causes of women's poverty. Domestic violence makes women poor and keeps them poor. Study after study demonstrates that a large proportion of the welfare caseload (consistently between 15% and 25%) consists of current victims of serious domestic violence. Between half to two thirds of the welfare caseload has suffered violence or abuse at some time in their lives. Many battered women are economically dependent on their abusers. In one study, one third of battered women reported that they were prohibited from working outside the home. Those who are permitted to work fare little better. 96% reported that they had experience problems at work due to domestic violence, with over 70% having been harassed at work, 50% having lost at least three days of work a month as a result of the abuse, and 25% having lost at least one job due to the domestic violence. Thus, battered women are overwhelmingly either totally economically dependent on the abuser or are economically unstable due to the abuse. Between 50–90% of battered women attempt to flee their abusers.

For these women and their children, marriage is not the solution to poverty. Reunification could instead be a death sentence and will almost undoubtedly make them economically dependent on the abuser and unable to escape the abuse. Even interactions between the batterer and his child could be dangerous—both for the child and for the mother if she is forced to have contact with him. Five percent of abusive fathers threaten to kill their children's mother during visitation with their children and 25% of abusive fathers threaten to harm their children during visitation. Moreover, perpetrators of domestic violence are more than two times as likely as other fathers to fight for custody of their children as a means of punishing and maintaining control over the mother. To protect against this possibility, funding under this proposed bill should not be used for custody disputes, litigation, or legislative advocacy.

While we urge you to recognize the danger involved for these women and the need to include safeguards in this bill, we also appreciate that not all men nor all non-custodial fathers are batterers. It is in our collective interest to promote the end to all poverty (including men's) and to promote men's ability and willingness to pay child support for their children, and to have that child support passed through to the children. Furthermore, we embrace the promotion of men's increased responsibility for contraception, child care, and their positive, healthy relationships with their children, as well as cooperative co-parenting between custodial and non-custodial parents.

To accomplish these goals without endangering survivors of domestic violence and their children, we suggest the following:

Strike the promotion of marriage as a goal in and of itself and add domestic violence language where appropriate. As explained above, the blind

promotion of marriage is extremely dangerous for victims of domestic violence.[1] The goal of this bill should not be to force marriage where it is unwise and unsafe nor to assume that a two-parent family is automatically the best thing for children. Rather, the goal should be to promote loving, healthy relationships between parents and their children, to encourage cooperative parenting, and to support couples who want counseling or other services to improve their relationship.

We urge the Committee to strike all language in the bill that mandates promotion of marriage and replacement of it with language with language that reflects support for healthy, cooperative, equal relationships between parents, which may include marriage services to couples who desire them. We also urge you to insert language to ensure that funds are used in a manner that demonstrates an understanding of domestic violence and that promotes a non-violent philosophy. This is especially important given the inclusion of the charitable choice provision, as many religious organizations favor reconciliation even where violence is present.

This Congress has consistently recognized that domestic violence is a serious national problem and has made efforts to minimize the severe risk to women and children from that violence. We urge you not to adopt a bill that ignores those very real risks and devotes precious federal dollars to programs that may in fact contribute to the problem of violence against women that this Congress has valiantly tried to ameliorate.

Specific changes proposed. We suggest the following specific changes in the bill to help insure that domestic violence concerns are addressed and that federal money will not go to promote marriages which will result in harm to women and children:

I. MARRIAGE

Subtitle A—Fatherhood Grant Program

- Eliminate Section 403A(a) (1) (i.e. the promotion of marriage) in its entirety.
- Alternatively, eliminate the requirement in 403A(b)(1)(B) that applications for Fatherhood Grants must demonstrate how all three purposes listed in Section 403A(a)(1) will be addressed; and eliminate the restriction in 403A(b)(2)(A)(iii)(I)(3) that the panel "shall not recommend that a project be awarded such a grant if the application describing the project does not attempt to meet the requirement of paragraph (1)(B)."
- In the alternative, we propose that 403A(a)(1) be modified to state: "encourage healthy cooperative relationships between parents, including marriage where appropriate, through counseling, mentoring, enhancing relationship skills, teaching how to control aggressive behavior, teaching mutual respect and other methods. Marriage will not always be the best way to promote responsible and positive involvement of both parents in the lives of their children and should never be promoted where there is danger of physical or emotional harm."
- If marriage continues to be included as a goal of this legislation and continues to be included as one of the goals addressed by applications for grants, Mrs. Johnson must amend both 403A(a)(1) to include "where appropriate" after "promote marriage," and the penalty provision at Section 403A(b)(4)(E) to provide specifically that penalties will not be applied if a grantee fails to promote marriage in situations where marriage would not be in the best interests of the individuals served. (For example where one or both of the parents has remarried, or where there is a domestic violence problem).
- Amend 403A(b)(6), which governs evaluation, by eliminating "effects of the projects on marriage,."

Subtitle B—Fatherhood Projects of National Significance

- Eliminate all references in (c)(1) to the promotion of marriage and married fatherhood as the ideal. Replace with language regarding the advantages conferred on children by the establishment of healthy, respectful cooperative parenting relationships.
- Eliminate (c)(2)(C)

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[1] It also sends a message of intolerance and disrespect for gay and lesbian partners and families who are not able to marry under our laws. In addition, it sends negative messages to the millions of single, divorced, re-married and widowed parents and their children whose families should be accepted and valued and who should be encouraged to provide loving homes for their children and to cooperate with the co-parent to raise the child in a loving, healthy environment.

II. DOMESTIC VIOLENCE

• Insert after 403A(b)(1)(E): 403A(b)(1)(F) A written commitment by the entity that the entity will have a meaningful collaborative and cooperative relationship with a national or state domestic violence coalition or a local domestic violence shelter or program with recognized expertise in the dynamics of domestic violence and with considerable experience working with domestic abuse survivors; and that the entity will make available to each individual participating in the project education about and referral to services that safely provide domestic violence intervention, victim and child witness counseling, and classes on violence prevention.
• Amend 403A(b)(2)(A)(ii)(II) and 403(A)(b)(2)(B)(ii)(II) by inserting "programs for domestic violence prevention" after "programs for children."
• Insert after 403A(b)(3)(B)(iv): 403A(b)(3)(B)(v) To the extent that the application includes written agreements of cooperation with national or state domestic violence coalitions or a local domestic violence shelters or programs with recognized expertise in the dynamics of domestic violence and with considerable experience working with domestic abuse survivors, which should include a description of the services each such organization will provide to participants in the project, such as education and services for domestic violence intervention, victim and child witness counseling, and classes on violence prevention.
• Insert after 403A(b)(3)(B)(v) (as drafted above): 403A(b)(3)(B)(vi) To the extent that the application describes a project that will enroll both parents to promote a healthy, respectful, cooperative-parenting relationship between the parents.

III. CHARITABLE CHOICE

• Delete 403A(c) Applicability of Charitable Choice Provisions of Welfare Reform
Thank you for the opportunity to submit testimony on this bill.

Statement of Robert G. Williams, President, Policy Studies Inc., Denver, CO

Chairman Johnson and members of the Human Resources Subcommittee, thank you for the opportunity to provide written testimony concerning child support guidelines, particularly the Income Shares Model, which is now used by 33 States. Under a grant from the Federal Office of Child Support Enforcement (OCSE), I served as staff person to the 1984–86 Advisory Panel on Child Support Guidelines. Charged with making recommendations to Congress and the States concerning child support guidelines, the Advisory Panel was appointed by OCSE at the request of the House Ways and Means Committee in 1984. The Advisory Panel recommended that States use either the Income Shares or Delaware Melson formula as the basis for their child support guidelines.

My testimony explains the Income Shares Model and how its use is an equitable and effective means for determining child support orders.

BACKGROUND INFORMATION

Prior to the Child Support Enforcement Amendments of 1984, which required states to adopt numeric child support guidelines, child support order amounts were predominately determined on a case-by-case basis. This method was widely perceived as being inequitable because order amounts in cases with similar circumstances resulted in different order amounts. An additional concern was that orders were set too low. At this time, child support obligations were estimated to average 80% of poverty level.[1]

The Family Support Act of 1988 (FSA) enacted many of the recommendations of the Advisory Panel including a federal requirement that states adopt rebuttably presumptive guidelines. Deviation criteria are at state discretion but must take into consideration the best interests of the child.[2] The FSA also requires States to review their child support guidelines at least every four years "to ensure that their application results in the determination of appropriate child support amounts." As part of the review, States are required to assess the most recent economic data on child-

[1] Robert G. Williams, *Development of Guidelines for Child Support Orders, Part II, Final Report*. Report to U.S. Office of Child Support Enforcement, Policy Studies Inc. (March 1987) page II-i.
[2] 45 C.F.R. § 302.56 (g)

rearing costs and conduct a case file review to ensure that deviations from guidelines are limited.[3]

Federal regulations do not specify which guidelines model States must use. Thirteen states base their guidelines on a percentage of obligor income; 33 states based their guidelines on the Income Shares model; three states based their guidelines on the Melson formula; and two states used a hybrid of the Income Shares Model.

Principle of the Income Shares Model

The principle underlying the Income Shares Model is that the child is entitled to the same proportion of parental income estimated to have been spent if the parents were living together. For example, if the parents spent an estimated 20% of their net income on the child when the parents lived together, the child is still entitled to 20% of the parents' combined net income when the parents reside in separate households. In turn, each parent's share of the child-rearing expenditures is determined by prorating it based on parental income. To illustrate this, say the noncustodial and custodial parents' incomes are $3,000 and $1,500 per month, respectively. The noncustodial parent would be responsible for two-thirds ($3,000 divided by the sum of $3,000 and $1,500) of the child-rearing expenditures (0.667 X $900 = $600 per month). This is the amount of the child support order under the Income Shares Model. The remainder of the child-rearing expenditures is the responsibility of the custodial parent. It is assumed that the custodial parent makes these expenditures directly on the child.

Economic Data Underlying the Income Shares Model

Income Shares States are more likely to base their Child Support Schedules on economic evidence of child-rearing expenditures than States relying on other child support guidelines models. Specifically, most Income Shares States rely on economic estimates developed by Dr. Thomas Espenshade (1984) or Dr. David Betson (1990).[4] Both economists developed their estimates from national Consumer Expenditure Survey data, but used data from different years. Early Income Shares Schedules are based on Espenshade's estimates, Betson's estimates are generally used in updated Schedules. Betson's study fulfilled a federal requirement mandating that the U.S. Department of Health and Human Services (DHHS) conduct a study of patterns of expenditures on children in 2-parent families and other family structures.[5] Betson estimated child-rearing costs using five different methods. DHHS also funded another study to examine Betson's results and how they related to child support guidelines.[6] Betson is updating his study this summer through a grant from the Institute of Research on Poverty at the University of Wisconsin at Madison. Currently, 17 States use Betson's estimates.

Adjustments for Shared Parenting-Time, Low Income and Other Factors

The Income Shares Model can formulaically adjust for numerous factors that vary significantly between cases (e.g., shared-parenting time, actual work-related child care expenses, out-of-pocket medical expenses for the child, additional dependents, low income and other factors). Most (about 80 percent) of the State Child Support Guidelines that adjust for these factors are based on the Income Shares Model. Similarly, most (83%) of the States that allow low-income parents a self support reserve rely on the Income Shares Model. In these situations, the support order is set such that payment of support does not reduce the noncustodial parent's remaining income below a subsistence standard of living.

Deviations from the Guidelines

A national study reviewing about 4,000 child support orders found that the proportion of cases that deviated from the child support guidelines averaged 17 per-

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[3] 45 C.F.R. § 302.56

[4] Thomas J. Espenshade,T3Investing in Children: New Estimates of Parental Expenditures (Washington, D.C.: Urban Institute Press, 1984. David M. Betson, *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*, Report to U.S. Department of Health and Human Services (Office of the Assistant Secretary for Planning and Evaluation), University of Wisconsin Institute for Research on Poverty (September 1990).

[5] P.L. 100–485, § 128

[6] Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Report to U.S. Department of Health and Human Services (Office of the Assistant Secretary for Planning and Evaluation), Lewin/ICF (October 1990).

cent.[7] The most common reason for deviation was agreement between the parties. Other frequently given reasons included shared-parenting time and additional dependents. Last year, Arizona, an Income Shares State with a shared-parenting time adjustment, conducted a case file review.[8] Arizona found a deviation rate of 16 percent. It also found an interesting relationship between shared-parenting time adjustments and mandatory parenting education. Compliance with the child support order (91% compliance) was the highest in cases where the noncustodial parent attended parenting education class and the order included an adjustment for time sharing. The group with the second highest compliance (69%) comprised noncustodial parents who attended parenting education class but did not receive a time-sharing adjustment. The group with the third highest compliance (57%) comprised noncustodial parents who did not attend parenting education class but received a time-sharing adjustment.

CONCLUSIONS

Most states have completed at least two rounds of quadrennial guidelines reviews since 1988 when it became a federal requirement. State-appointed committees comprising stakeholders (e.g., noncustodial parents, custodial parents, children's advocates, family law attorneys, representatives from the Family Courts and State Public Assistance Program, taxpayers and others) typically conduct the reviews. These review committees have carefully scrutinized child support guidelines. Despite these intensive reviews, only one State changed its guidelines model in the past five years and that was from the Melson Formula to the Income Shares Model. Most of the review committees' recommendations focus on updating the schedule to consider current levels such as changes in price levels and adopting or refining adjustments for special factors. Some states are cautious in adopting shared-parenting time adjustments because they do not want to encourage bargaining time for money. Partly to alleviate this problem, states are adopting mandatory attendance in parenting education classes and/or parenting plans and mediation programs for parents with access and visitation disputes in tandem with guidelines adjustments for shared-parenting time. (Arizona and New Jersey are examples.)

In summary, the fact that most States have used and continue to use the Income Shares Model for over a decade when they have had several opportunities to discuss and adopt other guidelines models suggests that the Income Shares Model yields fair and economically appropriate results. Furthermore, as more States adopt mandatory parenting education, parenting plans and access and visitation programs, parents will better understand child support and its role in providing for the best interests of the child.

Statement of Becky Kiely, Executive Director, Women For Fatherhood, Honeoye, NY

REGARDING CHILD SUPPORT ENFORCEMENT:

First of all, please allow me to introduce myself. I am Becky Kiely of Honeoye, NY. I'm the Executive Director of Women For Fatherhood, a group advocating equality for Non-Custodial parents and working to improve the image of fatherhood in general. Further, I am a mother, wife, step mother, tax payer and voter.

I would ask that the current CSE system be looked at long and hard. First of all, it is expensive. The latest figures show that it costs $22 for every dollar of CS collected. Based on 1998's figures of collections, it cost the US 316.8 billion dollars to collect 14.4 billion dollars. Does this make sense? It would be cheaper by over 300 billion dollars for the Government to pay all CS orders. I am not suggesting that the government shift parental responsibility, I am only making a point about how fiscally irresponsible the current system is.

Further, I would ask that you consider the constitutionality of our current CSE system.

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[7] CSR, Incorporated with the American Bar Association, *Evaluation of Child Support Guidelines: Volume 1: Findings and Conclusions*, Report to the Federal Office of Child Support Enforcement, Washington, D.C. (March 1996).

[8] Jane Venohr, *Arizona Child Support Guidelines: Findings from a Case File Review*: Report to the Supreme Court of Arizona, Administrative Office of the Courts, Policy Studies Inc. Denver, Colorado (1999).

It is my opinion that the current Child Support (CS) collection laws are unconstitutional. In this regard, in cases where there is an intact family, with parents married and residing together, there is no statute for how much these parents must spend per month on their children. The only statutes come from Child Abuse laws, in that parents must provide safe haven, shelter, appropriate clothing for the weather conditions and food. A non-custodial parent (NCP) is forced to pay a certain percentage of his or her income to the custodial parent (CP) each month. For example, in NY, the percentage is 17% for one child and increases for each other child. A minimum of $25 must be awarded to the CP, according to state law. This is a case of one class of citizens being burdened with circumstances that are not imposed on another. I am not for a moment saying that there should be no financial obligation to one's children, but there needs to be equality. BOTH parents need to be equally responsible for the well being of their children. Also, CS should not be used to subsidize the CP's standard of living for their own gain. Child Support is just that, support of a child, not a child and his/her parent. And, it must be noted that CS is NOT merely financial support. All too often, the burden of the support obligation prevents the NCP from having contact with their children. The laws do a great injustice to the children by forcing the NCP to be no more than a wallet. Is it really in their best interests to pad the CP's checkbook while denying them the love, support and teaching of the NCP? Is it not in the best interest of the children to define support as "financial, emotional, loving and equally important from both parents"? The current laws also create a privilege for one class of citizen—the children of divorced parents—that is not granted to another—the children of intact families. No child of intact families has the entire government looking out for their financial welfare by stating guidelines of how much money a parent must pay for their support.

Our Constitution presumes all of us innocent until proven guilty, but the CS laws presume NCP's to be guilty with no chance to prove their innocence. Is not this presumption contrary to our Constitution? CS awards are automatically garnisheed, rather than giving the parent the opportunity to fulfill his or her obligation with responsibility and dignity. Instead, their wages are immediately attached and they are threatened with losses of driver's licenses, professional licenses, recreational licenses and tax returns for non-compliance, regardless of the reason for the non-compliance. Involuntary unemployment and disability are NOT valid reasons for an adjustment in CS. If a CP loses their job or is on disability, CS awards can be raised or the CP can apply for public assistance to help with the children's expenses. Why is this same benefit not extended to NCP's? Again, a case of a legal benefit (or burden) that applies to one class of citizen, yet not to another. And, why is the CP's wage not attached and an amount deposited into an account solely for the welfare of the children? Why are they not made to share in the financial burden of their children?

It is in the best interests of the children to protect the Constitutional rights of their parents. BOTH their parents. Equality is in the best interests of the children, not gender bias, not making the NCP a blank check and nothing more.

The current Child Support laws are in direct conflict with our Constitution's equal protection clauses and this MUST be rectified. We cannot go on allowing the Constitutional rights of any citizen, much less millions of them, to be violated by our own government!!!!

How does revoking a drivers or professional license increase child support collections? If a non-custodial parent is behind in their obligation, how does making it impossible for them to work help the situation? How does jailing an obligor pay the debt? Instead of assuming that all non-custodial parents are Dead Beat Dads, I would suggest the following:

- Take gender out of this. CS obligations are assessed on men and women of every race, religion and socio-economic class.
- Spend less money on attacking those owing support, instead spending money on education. Instead of making millions of parents feel like criminals before they even commit a crime, fund grants to help them get a better education, so they can meet their obligation.
- Train the CSEU workers to deal with obligors who contact them. My husband had an error occur in his account and it was a nightmare trying to get it corrected. He was consistently treated as someone who was trying to get out of an obligation, when all he wanted to do was correct an error of their making.
- Actually look at the trend in CS orders. I'm confident that you will find that the majority of deadbeats are NOT trying to avoid their obligation, instead, CAN'T fulfill it. Many awards are based on incorrect paperwork, the possible future earnings of the obligor and/or the custodial parent's income. But, instead of the custodial parent's income being considered so that they would be equally financially responsible, it is considered as a means to increase the CS award with imbedded alimony.

My husband pays $9000/year in CS to a woman who refuses to participate fully in the financial needs of her children, working only when she chooses, to the tune of her only making $8000 last year. This is fair? A man pays more than his ex wife, yet is consistently denied any access to his children. Can you honestly show me that my husband is not paying imbedded alimony?

• Equalize enforcement of Visitation orders. Love is support, too! CS should not be only financial. Currently, CS orders are vigorously enforced, as you are well aware. Enforcing Visitation orders as vigorously will benefit the children, possibly more than the financial enforcement. Studies show that fathers who are actively participating in their children's lives are more willing to comply with CS orders. States with the enforced presumption of Shared Parenting collect more support than states that don't. A loving parent denied access to their children find that supporting them financially becomes a bitter pill to swallow. Children with fathers actively participating in their lives are proven to fare better in adulthood.

• Change the current structure of CS awards. The percentage system is blatantly unconstitutional! I'm sure that the government has done studies on the cost of raising a child. Implementing a figure-based structure, as opposed to a percentage-based stucture, will equalize the playing field, making both parents responsible for the welfare of their child(ren). The cost of raising a child should be divided 50/50, with both parents considered obligors. I assure you, there are plenty of custodial parents that could be termed dead beat as far as the financial support of their children is concerned. The custodial parent's living expenses should NOT be included in a CS award. With or without children, an adult needs a home, groceries, utilities, etc. Why should the non custodial parent be responsible for these expenses?

The combination of restructuring CS awards and of enforcing visitation orders is what is truly in the best interests of the children, a phrase that has been used (and abused) to justify that which is far from being in their best interests. It's time for this country to stop worrying so much about money and more about the total support of a child. Each state is given financial incentives for each dollar of support collected. Does this enhance the "best interests" of the children? No, it enhances the best interests of the state. Does including imbedded alimony enhance the "best interests" of the children? No, it enhances the best interest of the custodial parent.

Regarding states keeping overdue collections finally recovered: I ask this-why are the states more deserving of this money than the children it was intended for? If a parent was collecting welfare in lieu of CS and the support is then collected, I can see the state recovering their "loan" to the parent. Beyond that, any dollar they keep should be considered theft.

Private entities should not be a part of CSE. This is NOT a for-profit endeavor! This is an endeavor for parents to be responsible. No one should profit except the children.

Our Courts, our government and our media need to get off the money bandwagon and get on a wagon that is full of the TRUE best interests of a child, a wagon that includes emotional support with financial support. To those of you with children, I pose this question. What do you think your child wants and needs more-your money or your love and your time?