

105TH CONGRESS
2D SESSION

S. 1791

To provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 1998

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Support Per-
5 formance Act of 1998”.

1 **SEC. 2. ALTERNATIVE PENALTY PROCEDURE APPLICABLE**
2 **TO FEDERAL CHILD SUPPORT DATA PROC-**
3 **ESSING REQUIREMENTS.**

4 (a) IN GENERAL.—Section 455(a) of the Social Secu-
5 rity Act (42 U.S.C. 655(a)) is amended by adding at the
6 end the following:

7 “(4)(A) If—

8 “(i) the Secretary determines that a State
9 plan under section 454 would (in the absence of
10 this paragraph) be disapproved for the failure
11 of the State to comply with section 454(24)(A),
12 and that the State has made and is continuing
13 to make a good faith effort to so comply; and

14 “(ii) the State has submitted to the Sec-
15 retary a corrective compliance plan that de-
16 scribes how the State will achieve such compli-
17 ance, which has been approved by the Sec-
18 retary,

19 then the Secretary shall not disapprove the State
20 plan under section 454, and the Secretary shall re-
21 duce the amount otherwise payable to the State
22 under paragraph (1)(A) of this subsection for the
23 fiscal year by the penalty amount.

24 “(B) In this paragraph:

1 “(i) The term ‘penalty amount’ means,
2 with respect to a failure of a State to comply
3 with section 454(24)—

4 “(I) 4 percent of the penalty base, in
5 the case of the 1st fiscal year in which
6 such a failure by the State occurs;

7 “(II) 8 percent of the penalty base, in
8 the case of the 2nd such fiscal year;

9 “(III) 12 percent of the penalty base,
10 in the case of the 3rd such fiscal year;

11 “(IV) 16 percent of the penalty base,
12 in the case of the 4th such fiscal year; or

13 “(V) 20 percent of the penalty base,
14 in the case of the 5th or any subsequent
15 such fiscal year.

16 “(ii) The term ‘penalty base’ means, with
17 respect to a failure of a State to comply with
18 section 454(24) during a fiscal year, the
19 amount otherwise payable to the State under
20 paragraph (1)(A) of this subsection for the pre-
21 ceding fiscal year, minus the applicable share of
22 such amount which would otherwise be payable
23 to any county to which the Secretary granted a
24 waiver under the Family Support Act of 1988
25 (Public Law 100-485; 102 Stat. 2343) for 90

1 percent enhanced Federal funding to develop an
2 automated data processing and information re-
3 trieval system provided that such system was
4 implemented prior to October 1, 1997.

5 “(C)(i) The Secretary shall waive a penalty
6 under this paragraph for any failure of a State to
7 comply with section 454(24)(A) during fiscal year
8 1998 if, by December 31, 1997, the State has sub-
9 mitted to the Secretary a request that the Secretary
10 certify the State as having met the requirements of
11 such section and, by June 1, 1998, the Secretary
12 has provided the certification as a result of a review
13 conducted pursuant to the request.

14 “(ii) If a State with respect to which a reduc-
15 tion is made under this paragraph for a fiscal year
16 achieves compliance with the milestones in the cor-
17 rective compliance plan for that year by the begin-
18 ning of the succeeding fiscal year, the Secretary
19 shall increase the amount otherwise payable to the
20 State under paragraph (1)(A) of this subsection for
21 the succeeding fiscal year by an amount equal to 75
22 percent of the reduction for the fiscal year.

23 “(iii) The Secretary shall reduce the amount of
24 any reduction that, in the absence of this clause,
25 would be required to be made under this paragraph

1 by reason of the failure of a State to achieve compli-
2 ance with section 454(24)(B) during the fiscal year,
3 by an amount equal to 20 percent of the amount
4 of the otherwise required reduction, for each State
5 performance measure described in section
6 458A(b)(4) with respect to which the applicable per-
7 centage under section 458A(b)(6) for the fiscal year
8 is 100 percent, if the Secretary has made the deter-
9 mination described in section 458A(b)(5)(B) with re-
10 spect to the State for the fiscal year.

11 “(D)(i) Subject to clause (ii), the preceding pro-
12 visions of this paragraph (except for subparagraph
13 (C)(i)) shall apply, separately and independently, to
14 a failure to comply with section 454(24)(B) in the
15 same manner in which the preceding provisions
16 apply to a failure to comply with section 454(24)(A).

17 “(ii) The requirement under clause (i) to im-
18 pose a separate and independent penalty amount for
19 a fiscal year for a failure to comply with section
20 454(24)(B) shall not apply in the case of any State
21 that the Secretary determines has achieved, by such
22 date as the Secretary may specify, compliance with
23 the milestones of the corrective compliance plan sub-
24 mitted by the State that the Secretary determines

1 are necessary for the State to progress toward cer-
 2 tification under section 454(24)(B).”.

3 (b) INAPPLICABILITY OF PENALTY UNDER TANF
 4 PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42
 5 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting
 6 “(other than section 454(24))” before the semicolon.

7 **SEC. 3. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTO-**
 8 **MATED DATA PROCESSING AND INFORMA-**
 9 **TION RETRIEVAL SYSTEM REQUIREMENT.**

10 (a) IN GENERAL.—Section 452(d)(3) of the Social
 11 Security Act (42 U.S.C. 652(d)(3)) is amended to read
 12 as follows:

13 “(3) The Secretary may waive any requirement
 14 of paragraph (1) or any condition specified under
 15 section 454(16), and shall waive the single statewide
 16 system requirement under sections 454(16) and
 17 454A, with respect to a State if—

18 “(A) the State demonstrates to the satis-
 19 faction of the Secretary that the State has or
 20 can develop an alternative system or systems
 21 that enable the State—

22 “(i) for purposes of section 409(a)(8),
 23 to achieve the paternity establishment per-
 24 centages (as defined in section 452(g)(2))

1 and other performance measures that may
2 be established by the Secretary;

3 “(ii) to submit data under section
4 454(15)(B) that is complete and reliable;

5 “(iii) to substantially comply with the
6 requirements of this part; and

7 “(iv) in the case of a request to waive
8 the single statewide system requirement,
9 to—

10 “(I) meet all functional require-
11 ments of sections 454(16) and 454A;

12 “(II) ensure that the calculation
13 of distribution of collected support is
14 according to the requirements of sec-
15 tion 457;

16 “(III) ensure that there is only 1
17 point of contact in the State for all
18 interstate case processing and coordi-
19 nated intrastate case management;

20 “(IV) ensure that standardized
21 data elements, forms, and definitions
22 are used throughout the State; and

23 “(V) complete the alternative sys-
24 tem in no more time than it would

1 take to complete a single statewide
 2 system that meets such requirement;

3 “(B)(i) the waiver meets the criteria of
 4 paragraphs (1), (2), and (3) of section 1115(c);
 5 or

6 “(ii) the State provides assurances to the
 7 Secretary that steps will be taken to otherwise
 8 improve the State’s child support enforcement
 9 program; and

10 “(C) in the case of a request to waive the
 11 single statewide system requirement, the State
 12 has submitted to the Secretary separate esti-
 13 mates of the total cost of a single statewide sys-
 14 tem that meets such requirement, and of any
 15 such alternative system or systems, which shall
 16 include estimates of the cost of developing and
 17 completing the system and of operating the sys-
 18 tem for 5 years, and the Secretary has agreed
 19 with the estimates.”.

20 (b) PAYMENTS TO STATES.—Section 455(a)(1) of
 21 such Act (42 U.S.C. 655(a)(1)) is amended—

22 (1) by striking “and” at the end of subpara-
 23 graph (B);

24 (2) by striking the semicolon at the end of sub-
 25 paragraph (C) and inserting “, and”; and

1 (3) by inserting after subparagraph (C) the fol-
2 lowing:

3 “(D) equal to 66 percent of the sums ex-
4 pended by the State during the quarter for an
5 alternative statewide system for which a waiver
6 has been granted under section 452(d)(3), but
7 only to the extent that the total of the sums so
8 expended by the State on or after the date of
9 the enactment of this subparagraph does not
10 exceed the least total cost estimate submitted
11 by the State pursuant to section 452(d)(3)(C)
12 in the request for the waiver.”.

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