

WELFARE REFORM

CHILD SUPPORT AND PATERNITY DETERMINATION

Explanation of Committee Decisions

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*



MAY 19, 1972

Prepared by the staff and printed for the use of the
Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1972

COMMITTEE ON FINANCE

RUSSELL B. LONG, Louisiana, *Chairman*

CLINTON P. ANDERSON, New Mexico

HERMAN E. TALMADGE, Georgia

VANCE HARTKE, Indiana

J. W. FULBRIGHT, Arkansas

ABRAHAM RIBICOFF, Connecticut

FRED R. HARRIS, Oklahoma

HARRY F. BYRD, Jr., Virginia

GAYLORD NELSON, Wisconsin

WALLACE F. BENNETT, Utah

CARL T. CURTIS, Nebraska

JACK MILLER, Iowa

LEN B. JORDAN, Idaho

PAUL J. FANNIN, Arizona

CLIFFORD P. HANSEN, Wyoming

ROBERT P. GRIFFIN, Michigan

TOM VAIL, *Chief Counsel*

(II)

(5,000)

C O N T E N T S

	Page
Assignment of Right to Collection of Support Payments.....	1
Locating a Deserting Parent; Access to Information.....	3
Incentives for States and Localities to Collect Support Payments.....	4
Voluntary Approach Stressed.....	4
Civil Action to Obtain Support Payments.....	4
Criminal Action.....	5
Determining Paternity.....	5
Leadership Role of Justice Department.....	7
Attachment of Federal Wages.....	8
Child Support Under Workfare.....	8

Statistical Appendix

Number of Children Receiving AFDC Payments by Status of Father.....	11
AFDC Families by Parentage of Children, 1969.....	12
AFDC Families by Status of Father, 1961, 1967, and 1969..	13
AFDC Families by Whereabouts of Father, 1969.....	14

PRESS RELEASE

FOR IMMEDIATE RELEASE
May 19, 1972

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 New Senate Office Bldg.

FINANCE COMMITTEE MAKES ADDITIONAL
DECISIONS ON CHILD SUPPORT AND RELATED SUBJECTS

Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, announced today that the Committee had concluded its markup with respect to child support in connection with its work on the welfare provisions of H. R. 1, the social security-welfare bill currently pending in Committee. These supplement and, in some instances, make additions and modifications to the Committee decisions announced on April 21, 1972. The new decisions relate primarily to determination of paternity, location of deserting parents, and the garnishment of the wages of Federal employees for support obligations.

The Chairman indicated that these decisions, properly implemented, could do more than any other action to ease the welfare mess by discouraging child abandonment. He said that, in far too many instances, fathers today simply ignore their responsibilities to their own children, leaving the burden of caring for them to the taxpayers through the welfare system.

He said that the combined effect of encouraging greater State activity in obtaining child support payments, and the use of the Internal Revenue Service tax collection mechanism to collect from absconding fathers amounts paid through the welfare system to their abandoned children would have a salutary effect on both State and Federal budgets, and on the size of the welfare caseload, and provide an additional source of support for needy children.

The importance of these Committee decisions is highlighted by the fact that approximately three-fourths of the 1,630,000 families on welfare involve families where the father is absent from the home, and that in 44 percent of these situations the father has deserted the family or never married the mother in the first place.

It is this high incidence of families from broken homes on the welfare rolls which prompts the Committee to make three of its amendments applicable with respect to all families, not just welfare families. The first of these would make a Federal locator service available to help any abandoned family finding a deserting father for the purpose of bringing child support actions against him. The second amendment would provide that garnishment proceedings for child support could be brought by any family, not just a welfare family, against a deserting or divorced father who is employed by the Federal Government. The third would provide that blood grouping services authorized by the Committee for use in paternity determinations would be available to the courts (and State agencies) with respect to both welfare and non-welfare cases.

The Chairman said that one of the serious deficiencies in the House version of H. R. 1 was that it did little to get at the heart of these welfare problems -- family desertion and illegitimacy. The amendments agreed to by the Committee, he said, would make it more difficult and uncomfortable for a father to avoid his responsibility to his own children.

The Committee's most recent actions relating to child support and related subjects, together with the decisions previously announced, are described in the following paragraphs.

Assignment of Right to Collection of Support Payments. -- In some instances, mothers may have personal reasons for fearing to cooperate in identifying and securing support payments from the father of the child. To protect the mother, and also to allow for a more systematic approach for the collection of support payments, the Committee approved an amendment requiring a mother, as a condition of eligibility for welfare, to assign her right to support payments to the Government and to require her cooperation in indentifying and locating the father and in obtaining any money or property due the family or Government. The assignment of family support rights would be to the Federal Government, and the Department of Justice would be authorized to delegate these rights to those States which have effective programs of determining paternity and obtaining child support. The Attorney General would also be authorized to delegate such collection rights to counties that have effective programs, even though the State as a whole did not.

If the Attorney General found that a State did not have an effective program, the collection rights would remain with the Federal Government and would be enforced by Federal attorneys in either State or Federal Courts. OEO lawyers would be made available to assist Justice Department attorneys in carrying out their responsibility. In this situation both the Federal and State share of assistance payments would be retained by the Federal Government.

H. R. 1 provided that the Federal share for State expenses for establishing paternity and securing support should be increased from 50 to 75 percent. The Committee adopted this provision, but with a proviso that there be no Federal participation in such State programs which do not meet the Attorney General's standards of effectiveness.

Locating a Deserting Parent; Access to Information. -- The State or local Government would proceed to locate the absent parent, using any information available to it, such as the records of the Internal Revenue Service and the Social Security Administration. The latest Committee action extended access to those Federal records to any parent seeking support from a deserting spouse regardless of whether the family was on welfare. Non-welfare families desiring to use this means of finding the absent parent would make the necessary application at local welfare offices.

As a further aid in location efforts, welfare information now withheld from public officials, under regulations concerning confidentiality, would be made available; this information would also be available for other official purposes. The regulations are based on a provision in the Social Security Act, which since 1939 has required that State programs of Aid to Families with Dependent Children "provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of Aid to Families with Dependent Children." This provision was designed to prevent harassment of welfare recipients. The Committee approved an amendment making it clear that this requirement may not be used to prevent a court, prosecuting attorney, tax authority, law enforcement officer, legislative body or other public official from obtaining information in connection with his official duties such as obtaining support payments or prosecuting fraud or other criminal or civil violations.

Incentives for States and Localities to Collect Support Payments . -- Under present law, when a State or locality collects support payments owed by a father, the Federal Government is reimbursed for its share of the cost of welfare payments to the family of the father; the Federal share currently ranges between 50 percent and 83 percent, depending on State per capita income. In a State with 50 percent Federal matching, for example, the Federal Government is reimbursed \$50 for each \$100 collected, while in a State with 75 percent Federal matching the Federal Government is reimbursed \$75 for each \$100 collected. Under the Committee amendment, a financial incentive would be provided for that unit of Government succeeding in collecting support payments by giving them an additional 25 percent of the payments collected during the first 12 months. This additional amount would be subtracted from the Federal share.

Voluntary Approach Stressed . -- Once located, the parent would be requested to enter voluntarily into an arrangement for making regular support payments. Primary reliance would be placed on such voluntary agreements as the most effective and efficient means of collecting support, avoiding the need for court action and formal collection procedures. The record of the State of Washington in collecting support payments voluntarily was highlighted in a recent study by the General Accounting Office as a key element in their highly successful support collection program; the Committee hopes that the experience of Washington State can serve as a model for all States.

Civil Action to Obtain Support Payments . -- In the event that the voluntary approach is not successful, the Committee's action provides for strong legal remedies. The States, as agents of the Federal Government, would have available to them all the enforcement and collection mechanisms

available to the Federal Government, including the use of the Internal Revenue Service to garnish the wages of the absent parent. If these mechanisms are utilized, however, the Federal Government would have to be reimbursed on a cost basis (for example, out of amounts collected). Support monies received would be distributed to the Federal, State, and local governments according to the formula described under "Incentives for States." Any monies recovered in excess of the current and prior welfare payments would be paid to the families.

The welfare payment would serve as the basis of a continuing monetary obligation of the deserting parent to the United States. The obligation would be the lesser of the welfare assistance paid to the family, or 50 percent of the deserting spouse's income. However, in no case could this amount be less than \$50 a month.

Monies collected pursuant to the assignment mechanism would be credited toward meeting this liability. A waiver of all or part of the Federal obligation might be allowed upon a showing of good cause.

Criminal Action . -- The Committee has provided for Federal criminal penalties for an absent parent who has not fulfilled his obligation to support his family and the family receives Federally matched welfare payments. His obligation to support would be determined by applying State law, except that it would not exceed the amount agreed upon as part of a voluntary settlement. The sanctions for failure to support could include a penalty of 50 percent of the amount owed or a fine of up to \$1,000 or imprisonment for up to one year or a combination of these.

Determining Paternity . -- The Committee believes that an AFDC child has a right to have its paternity ascertained in a fair and efficient manner. Although this may in some cases conflict with the mother's short-term interests, the Committee

feels that the child's right to support, inheritance, and his right to know who his father is deserves the higher social priority. In 1967, Congress enacted legislation requiring the States to establish programs to establish the paternity of AFDC children born out of wedlock so that support could be sought. The effectiveness of this provision was greatly curtailed both by the failure of the Department of Health, Education, and Welfare to exercise any leadership role and also by Court interpretations of Federal law in decisions which prevented State welfare agencies from requiring that a mother cooperate in identifying the father of a child born out of wedlock.

(a) Cooperation of Mother . -- As noted earlier in this announcement, the Committee has made cooperation in identifying the absent parent a condition for AFDC eligibility. As a further incentive for cooperation, the first \$20 a month in support collections would be disregarded for purposes of determining the amount of welfare payments to the family. Thus, the family would always be better off if support payments are made by the absent parent.

(b) Blood Grouping Laboratories . -- The Committee has also taken additional steps to provide for a more effective system of determining paternity.

First, a father not married to the mother of his child would be required to sign an affidavit of paternity if he agreed to make support payments voluntarily in order to avoid court action. Most States do not permit initiation of paternity actions more than two or three years after the child's birth; the affidavit would serve as legal evidence of paternity in the event that court action for support should later become necessary.

Secondly, the Committee is impressed by evidence that blood typing techniques have developed to such an extent that they may be used to establish evidence of paternity at a level of probability acceptable for legal determinations.

Moreover, if blood grouping is conducted expertly, the possibility of error can all but be eliminated. Therefore, the Committee adopted a provision that the Department of Health, Education, and Welfare be authorized and directed to establish or arrange for regional laboratories that can do blood typing for purposes of establishing paternity, so that the State agencies and the courts would have this expert evidence available to them in paternity suits. No requirement would be made in Federal law that blood tests be made mandatory. The services of the laboratories would be available with respect to any paternity proceeding, not just a proceeding brought by, or for, a welfare recipient.

Leadership Role of Justice Department . -- To coordinate and lead efforts to obtain child support payments, the Committee action would require each U. S. Attorney to designate an assistant who would be responsible for child support. This Assistant U. S. Attorney would assist and maintain liaison with the States in their support collection efforts and would undertake Federal action as necessary. The Attorney General would be required to submit a quarterly report to Congress concerning his activities.

The Committee proposal requires that records be maintained of the amounts of support collected and of the administrative expenditures incurred in the collection effort. Amounts collected but not otherwise distributed would be deposited in a separate account which would finance the expenses of the Federal collection efforts. An authorization for an appropriation would be included for the contingency of a deficit in this fund. The Department of Health, Education, and Welfare would be required to reimburse the Departments of Justice and Treasury for their expenses in this area out of this account. Such reimbursement would, however, insofar as feasible, be made out of the amounts recovered by the Federal Government.

Attachment of Federal Wages. -- State officials have recommended that legislation be enacted permitting assignment and attachment of Federal wages and other obligations (such as income tax refunds) where a support order or judgment exists. At the present time, the pay of Federal employees, including military personnel, is not subject to attachment for purposes of enforcing court orders, including orders for child support or alimony. The basis for this exemption is apparently a finding by the courts that the attachment procedure involves the immunity of the United States from suits to which it has not consented.

The Committee action would specifically provide that the wages of Federal employees be subject to garnishment in support and alimony cases. This Committee amendment would be applicable whether or not the family bringing the garnishment proceeding is on the welfare rolls.

Child Support under Workfare. -- A deserted parent participating in the workfare program could take advantage of the support collection and, where applicable, the paternity determination mechanism provided in the Committee bill. The cost of collection, however, would be deducted from the amounts recovered and the balance would be turned over to the deserted family.

**Statistical
Appendix**

Chart A

NUMBER OF CHILDREN RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN MONEY PAYMENTS BY STATUS OF FATHER, JUNE OF SELECTED YEARS, 1940 TO DATE

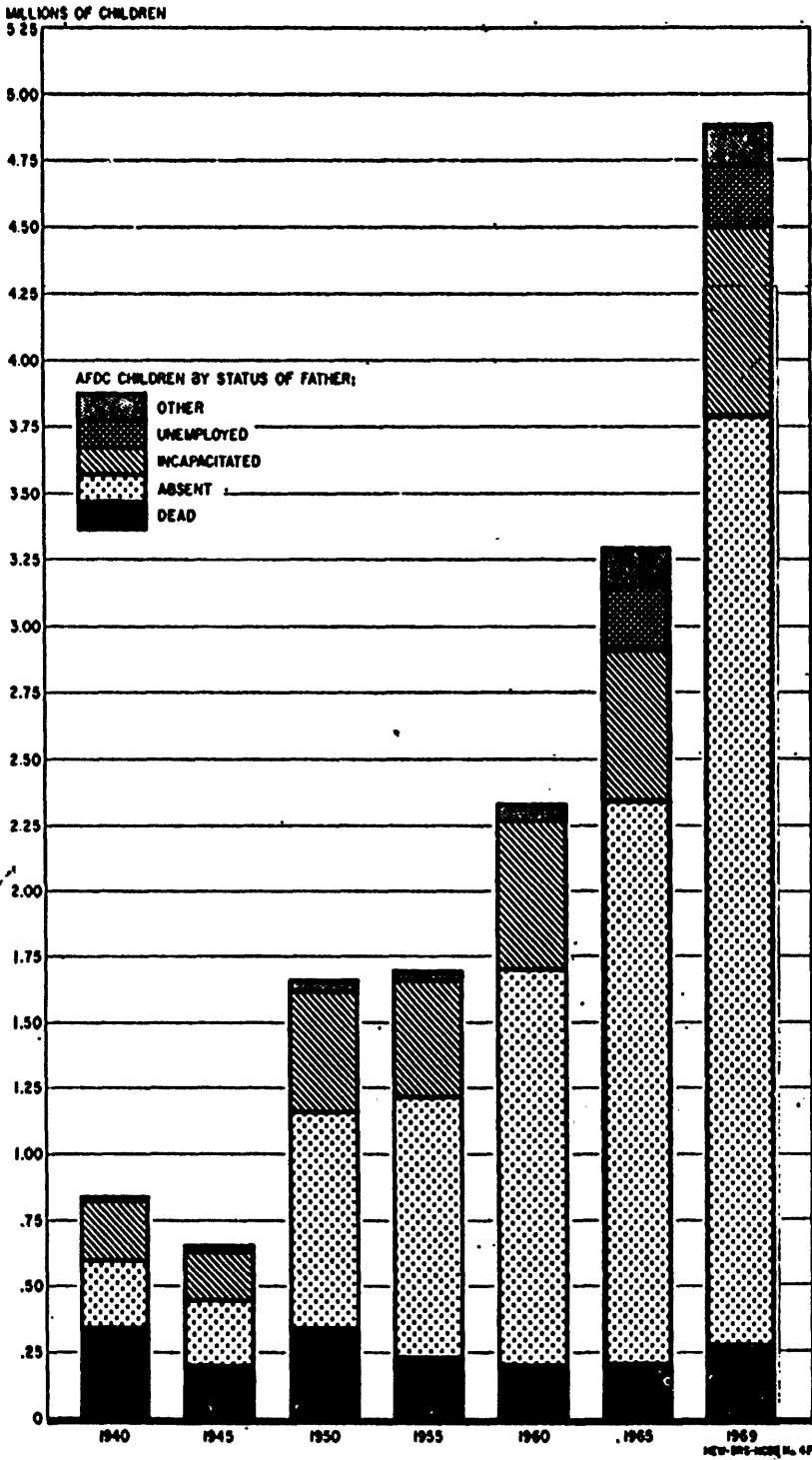


TABLE 1.—AFDC FAMILIES BY PARENTAGE OF CHILDREN, 1969

Parentage	Number	Percent
Total.....	1,630,400	100.0
Same mother and same father.....	1,101,300	67.5
Same mother, but 2 or more different fathers.....	468,300	28.7
Same father, but 2 or more different mothers.....	4,500	.3
2 or more different mothers and 2 or more different fathers.....	39,600	2.4
Unknown.....	16,700	1.0

Source: Department of Health, Education, and Welfare.

TABLE 2.—AFDC FAMILIES WITH SPECIFIED NUMBER OF ILLEGITIMATE RECIPIENT CHILDREN, 1969

Number of children	Number	Percent
Total.....	1,630,400	100.0
None.....	906,900	55.6
1.....	346,600	21.3
2.....	174,800	10.7
3.....	89,500	5.5
4.....	50,500	3.1
5.....	27,100	1.7
6.....	15,200	.9
7.....	10,200	.6
8.....	4,200	.3
9.....	2,200	.1
10 or more.....	1,300	.1
Not reported.....	1,900	.1

Source: Department of Health, Education, and Welfare.

TABLE 3.—AFDC FAMILIES BY STATUS OF FATHER, 1961, 1967,
AND 1969

Status	Percent of families in—		
	1961	1967	1969
Total.....	100.0	100.0	100.0
Dead.....	7.7	5.5	5.5
Incapacitated.....	18.1	12.0	11.5
Unemployed.....	5.2	5.1	4.8
Absent from the home:			
Divorced.....	13.7	12.6	13.7
Legally separated.....		2.7	2.8
Separated without court decree.....	8.2	9.7	10.9
Deserted.....	18.6	18.1	15.9
Not married to mother.....	21.3	26.8	27.9
In prison.....	4.2	3.0	2.6
Absent for another reason.....	.6	1.4	1.6
Subtotal.....	66.7	74.2	75.4
Other status:			
Stepfather case.....		1.9	1.9
Children not deprived of support or care of father, but of mother.....	2.2	1.3	.9
Not reported.....			(¹)

¹ Less than 0.05.

Source: Department of Health, Education, and Welfare.

TABLE 4.—AFDC FAMILIES BY WHEREABOUTS OF FATHER, 1969

Whereabouts	Number	Percent
Total.....	1,630,400	100.0
In the home.....	297,500	18.2
In an institution:		
Mental institution.....	6,900	.4
Other medical institution.....	6,200	.4
Prison or reformatory.....	53,500	3.3
Other institution.....	1,300	.1
Not in the home or an institution; he is residing in:		
Same county.....	311,300	19.1
Different county; same State.....	86,200	5.3
Different State and in the United States.....	128,100	7.9
A foreign country.....	18,000	1.1
Whereabouts unknown.....	630,600	38.7
Inapplicable (father deceased).....	90,800	5.6

Source: Department of Health, Education, and Welfare.