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SOCIAL SERVICES AND CHILD SUPPORT

SUMMARY OF THE PROVISIONS OF H.R. 17045

PREPARED BY THE STAFFS OF

COMMITTEE ON FINANCE

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U.S. SENATE

AND

COMMITTEE ON WAYS AND MEANS

OF THE

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[1] Resigned December 16, 1974.
[2] Resigned December 17, 1974.
[3] Elected December 18, 1974.

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Summary of the Provisions of H.R. 17045

I. SOCIAL SERVICES PROVISIONS

Authorizing legislation.—H.R. 17045, as passed by the Congress, removes the general social services provisions from titles IVA and VI of the Social Security Act and reestablishes the social services program under a new title XX.

Allotment to States.—The bill retains the present law limitation of $2.5 billion on annual Federal funding of the program with each State having a limit within that overall national ceiling which is based on the size of its population in relation to the population of other States. Funds not used by a State within its share of the $2.5 billion national ceiling are not realloted. The bill adds a provision, however, allowing a portion of any such unused funding to be made available for matching social services expenditures in Puerto Rico, Guam, and the Virgin Islands. The maximum amounts which could be made available under this provision are $15 million in the case of Puerto Rico and $500,000 each in Guam and the Virgin Islands.

Matching formula.—The bill retains the matching provisions of existing law under which, subject to the $2.5 billion limitation, States are entitled to Federal matching of social services expenditures under a formula which provides 75 percent Federal matching for most services and 90 percent matching for family planning services.

Use of funds for welfare recipients.—The bill repeals a requirement in existing law under which 90 percent of Federal funding for social services (except for certain specified types of services) must be used for services to actual welfare recipients. The bill provides instead that State expenditures for services to persons who are recipients of (or eligible for) Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Medicaid must be equal to at least 50 percent of the Federal matching funds the State receives for all services. This, at a 75 percent matching rate, would mean that at least 37.5 percent of total funds would have to be used for AFDC, SSI, and Medicaid recipients or eligibles.

Eligibility for services.—As under existing law, States may provide social services to AFDC recipients and to persons getting Supplemental Security Income (SSI) payments (including State supplementary payments). The bill also permits as does existing law services to persons who are not assistance recipients. Under existing law, however, the eligibility of nonrecipients is based on their status as former or potential recipients. H.R. 17045 allows States to determine the eligibility requirements for services to nonrecipients except that no Federally matched social services would be available to individuals or families with incomes in excess of 115 percent of State median income (adjusted for family size).

Fees for services.—The bill adds to the law a provision requiring that States in providing services to nonrecipients of assistance impose fees related to income when those services are provided to individuals or families with incomes in excess of 80 percent of the State median income (or, if lower, 100 percent of national median income) and up to the maximum eligibility limit of 115 percent of State median income. The bill also requires the Department of Health, Education, and Welfare to issue regulations governing the imposition of fees for services to welfare recipients at all income levels and to nonrecipients with income below the 80 percent of State median income (or 100 percent of national median income) level.

Mandatory services.—Present-law requirements with respect to mandatory supportive services for work incentive (WIN) program recipients are not affected by the new legislation. The bill also retains the requirement of existing law that States make family planning services available to recipients of AFDC who voluntarily request such services. Penalty provisions for States failing to meet this requirement are retained. In addition H.R. 17045 requires States to provide at least 3 types of services (to be specified by each State) for recipients of Supplemental Security Income. The bill also requires States to provide at least one service which is directed at each of the five following goals: (1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency, (2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency, (3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families, (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or (5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

Optional services.—H.R. 17045 permits States to provide any services which are directed at any of the five goals listed in the preceding section provided that they do not fall under one of the specific prohibitions described in the next section. Services may include but are not limited to child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral and counseling services, the preparation and delivery of meals, health support services, appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts.

The bill restricts the Secretary from denying payment with respect to any expenditure on the ground that it is not an expenditure for the provision of a social service or is not an expenditure for the provision of a service directed at one of the specified goals.

Prohibited expenditures.—H.R. 17045 lists a number of specific types of expenditures for which matching will not be available. Apart from these prohibited items, States would be free to determine that any expenditure constitutes a service eligible for matching.

Medical care other than family planning, room and board costs, educational costs, and costs of services to persons in institutions and foster homes are generally not eligible for Federal matching, although they can be matched under certain specified circumstances.

The bill also prohibits, under all circumstances, matching for costs of purchasing, constructing, or making major modifications in land, buildings, or equipment, and for the cost of providing cash payments.

Use of donated funds for matching purposes.—The new legislation provides that donated private funds may be used to meet Federal matching requirements if they are transferred to the State and under its control without restrictions as to use, other than restrictions as to the type of services to be provided (imposed by a donor who is not a sponsor or operator of a program providing such services) or as to the geographic area in which the services are to be provided. Funds may revert to the donor's facility only if the donor is a non-profit organization. In-kind contributions of non-public entities are not eligible for matching if they are in the form of goods and services.

Child care standards.—Under current law child care funded under the Social Security Act is required to meet the standards set by the Federal Interagency Day Care Requirements of 1968. (However, it is generally recognized that compliance with these standards is not monitored.) These Federal Interagency Requirements set limitations on the numbers and ages of children who may be cared for in different types of facilities and establish staffing ratios. The Requirements also specify standards as to location and type of facilities and require educational, social, health, and nutritional services of various types.

The new legislation makes the 1968 Federal Interagency Day Care Requirements mandatory except that the educational component of day care as specified in those requirements would be recommended rather than compulsory and the staffing ratios for children in day care centers would be modified as shown below:

1968 Interagency Requirements	H.R. 17045
Children age 3 to 4: 1 adult to 5 children.	Same as 1968 Interagency Requirements.
Children age 4 to 6: 1 adult to 7 children.	Same as 1968 Interagency Requirements.
Children age 6 to 9: 1 adult to 10 children.	1 adult to 15 children.
Children age 10 to 14: 1 adult to 10 children.	1 adult to 20 children.

The bill provides that staffing ratios for child care provided to children under age 3 shall be determined under regulations to be issued by the Department of Health, Education, and Welfare.

The Secretary is required to submit to the Senate and the House, during the 1st 6 months of 1977, an evaluation of the appropriateness of the above requirements with recommendations for modification. After 90 days from the date he submits those recommendations, he may make such modifications as he determines appropriate.

If a State program for services includes child day care services H.R. 17045 requires that the State plan must provide for the establishment or designation of a State authority which shall be responsible for establishing and maintaining standards for such services which are reasonably in accord with recommended standards of national organizations concerned with standards for such services, including standards related to admission policies, safety, sanitation, and protection of civil rights.

Annual social services plans.—Under existing law, State social services plans must be submitted to the Department of Health, Education, and Welfare for approval and, once approved, remain in force permanently until modified with the approval of the Department.

H.R. 17045 requires the Governor of each State (or other official if provided by State law) to publish and make generally available a proposed comprehensive annual services program plan at least 90 days before the beginning of the State's "services program year" (i.e. either the State or Federal fiscal year). Public comment must be accepted for 45 days. Thereafter and before the start of the services year, the Governor must publish a final annual services plan with an explanation of how and why it differs from the proposed plan.

The annual plan must state objectives; services to be provided; a description of planning, evaluating, and reporting activities; source of funding; administrative structure; estimated expenditures by type of service, category of recipient, and geographic area.

Any amendment to a final comprehensive services program plan must be published with at least 30 days allowed for public comment.

Proposed and final plans and amendments must be approved by the Governor or other official specified in State law. Federal matching is to be denied for services not provided in accordance with approved plans.

Other requirements relating to State administration.—The new legislation specifically provides that the State plan must make available an opportunity for a fair hearing to any individual whose claim for a service is denied or not acted on with reasonable promptness. It also retains existing law requirements for the designation of an appropriate agency to administer or supervise the administration of the State's program; for the establishment and maintenance of personnel standards on a merit basis; and for the State's program to be in effect in all political subdivisions of the State.

If in the administration of the plan there is substantial failure to comply the Secretary may, as under existing law, withhold payments until he is satisfied that there will no longer be such failure to comply. In addition the new legislation provides an alternative remedy under which the Secretary may reduce the amount otherwise payable to a State by 3 percent for parts of the plan with respect to which there is a finding of noncompliance.

Although the bill requires States to designate an agency to administer the services program generally, those States which now have a separate agency to administer their services programs for the blind or their child welfare services programs would be permitted to continue using separate agencies for those purposes.

Maintenance of effort.—The bill requires that a State may not spend less in appropriated State and local funds for social services than it

spent from such funds for services in fiscal year 1973 or fiscal year 1974 whichever is less. No State, however, would be required to spend more than is needed to entitle it to its full allotment of Federal social services funds under the $2,500,000,000 annual national limit.

Funding of social work training.—Existing law provides open ended 75 percent matching (outside the $2.5 billion limit on social services) of State costs of training personnel. This authority has been used by the States to provide assistance to persons in undergraduate and graduate college social work education programs both through grants to individual students and through grants to institutions. The new legislation gives specific statutory authority for the continued use of these funds for that purpose.

Effective Date.—The new program is effective October 1, 1975. (The bill also continues until that date the statutory prohibition against modification by the Department of Health, Education, and Welfare of the regulations governing the existing social services program.)

II. CHILD SUPPORT PROVISIONS

Federal duties and responsibilities.—The bill leaves basic responsibility for child support and establishment of paternity to the States and provides for a far more active role on the part of the Federal government in monitoring and evaluating State child support programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them. To assist and oversee the operations of State child support programs the Department of Health, Education, and Welfare would be required to set up a separate organizational unit under the direct control of a person designated by the Secretary. The head of this unit would report directly to the Secretary. This agency would review and approve State child support plans, evaluate the implementation of the child support program in each State, and provide technical assistance to the States to help them to establish effective systems for determining paternity and collecting support. HEW would be specifically required to prescribe the organizational structures, minimum staffing levels (and types of staffing, e.g., attorneys, collection agents, locator personnel), and other program requirements which States must have in order to be found in conformity with the law. The Department would also be required to maintain adequate records of and publish periodic reports on the operations of the program in the various States and nationally. HEW duties would also include approving applications from a State for permission to sue in Federal court in a situation where a prosecuting attorney or court in another State does not undertake to enforce the court order against a deserting father within a reasonable time. The originating State, under these circumstances, would be authorized to enforce the order against the deserting father in the Federal courts.

Penalty for State non-compliance.—HEW would have the duty of performing an annual audit in each State and of making a specific finding each year as to whether or not the child support program as actually operated in that State conforms to the requirements of law and the minimum standards for an effective support program. These audits are to be conducted by the new child support agency which the

bill creates within the Department. A State will not be found to have an acceptable program unless it adequately cooperates in obtaining child support payments from the absent parents of AFDC children who reside in other States. If the minimum standards are not met, the Department would be required to impose a penalty upon the State. The penalty would equal 5 percent of the Federal funds to which the State was otherwise entitled as matching for AFDC payments made by the State in the year with respect to which the audit was conducted. To give the States reasonable lead time to develop effective programs, no penalties would be imposed with respect to years prior to January 1, 1977.

Locating a deserting parent; access to information.—The legislation establishes a parent locator service within the Department of HEW's separate child support unit. This unit, upon request of (1) a local or State official with support collection responsibility under this program, (2) a court with support order authority, or (3) the agent of a deserted child not on welfare, will make available the most recent address and place of employment of a deserting parent which it can obtain from HEW files or the files of any other Federal agency, or of any State. Information of a national security nature or information in highly confidential files such as those of the Bureau of the Census would not be divulged. The bill requires applicants for Aid to Families With Dependent Children as a condition of eligibility for assistance, to furnish their social security numbers to the welfare agency and requires welfare agencies to use social security numbers in addition to other means of identification in administering their welfare plans.

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. This change would permit a court, prosecuting attorney, tax authority, law enforcement officer, legislative body or other public official to obtain welfare information required in connection with official duties, such as obtaining support payments or prosecuting fraud or other criminal or civil violations.

Collection of support payments by State and local agencies.—The bill requires that a mother, as a condition of eligibility for welfare, assign her right to support payments to the State and cooperate in identifying and locating the father, in securing support payments, and in obtaining any money or property due the family. (The ineligibility of a non-cooperating mother would apply only to her and not to her children. Assistance payments would be made to the children under a protective payment provision which would assure that the children get the benefit of such payments.) The assignment of support rights will continue as long as the family continues to receive assistance. When the family goes off the welfare rolls, the deserting parent may be required, if the State wishes, to continue for a period not to exceed three months to make payments to the government collection agency (which will pay the money over to the family at no cost to them). This period will allow the collection agency time to notify the father that he will be making support payments in the future directly to the family, and to take any other necessary administrative actions. (At the end of the three-month period, the governmental collection agency,

at the request of the individual, can continue to collect the support payments from the absent parent and pay the net amount to the family after reduction for collection costs.)

The support obligation would become a debt owed by the absent father to the State. The amount of this debt would be determined by a court order if one were in existence. In the absence of a court order the amount of the obligation would be an amount determined by the State in accordance with a formula approved by the Secretary of HEW. Also, the rights of the wife and child may not be discharged in bankruptcy merely because the support obligation is a debt to the State. Federal matching of the State administrative costs will be increased from 50 percent to 75 percent; this matching will apply to expenditures under the State or local support programs which will be composed of the following elements of existing law (with certain modifications) plus such other elements as the Secretary of HEW finds necessary for efficient and effective administration: (a) determination of paternity and securing support through a separate organizational unit; (b) cooperative arrangements with appropriate courts and law enforcement officials; (c) location of deserting parents including use of records of Federal agencies; (d) the location and enforcement of support orders from other States against the deserting parent. States will be free to establish such a unit within or outside their welfare agencies. Financial arrangements for costs of law enforcement officials and courts directly related to the child support program will also be subject to 75 percent Federal matching. States will be allowed to use the Federal income tax collection mechanism for collecting support payments. This mechanism will be available only in cases in which the State can establish to the satisfaction of HEW that it has made diligent efforts to collect the payments through other processes but without success and the amount sought is based on non-compliance with a court order for support. The bill provides for a one-time 60 day notice to the defaulting parent of intent to enforce payments under the IRS tax collection mechanism. A preexisting court garnishment order for support of another child against the absent father's wages would take precedence over this procedure.

Incentives for localities to collect support payments.—If the actual collection and determination of paternity is carried out by local authority, the local authority would receive a special bonus based on the amount of any child support payments collected which result in a recapture of amounts paid to the family as AFDC. The bonus based on collections of the parent's support obligation would be 25 percent for the first 12 months of support obligations owed; subsequent collections recovered would result in a bonus of 10 percent. This bonus would come out of the Federal share of the amounts recovered. Similarly, in the situation where the location of runaway parents and the enforcement of support orders is carried out in a State other than that in which the deserted family resides, the State or local authority which actually carries out the location and enforcement functions will be paid the bonus. The Federal Government would have to be reimbursed for any Federal costs incurred to aid the States and localities in their support collection and determination of paternity efforts. These costs for welfare recipients would be subject to 75 percent Federal matching.

Distribution of proceeds.—The amount collected will be retained by the Government to partly offset the current welfare payment (except that for the first 15 months of the program 40 percent of the first $50 a month collected will go to the family). If the collection is more than what is needed to fully offset the current month's AFDC payment, the additional amount up to the family's support rights as specified in a court order goes to the family. If there is still an excess above this, it is retained by the Government to offset past welfare payments. In any case in which a large collection is made which more than repays all past welfare payments, any such excess would go to the family. The amounts retained by the Government are distributed as between Federal and State Governments according to the proportional matching shares which each has under the AFDC formula. States would be required to make the AFDC payment without a reduction for child support collections until the proceeds for a month equal or exceed the assistance payment for that month. (In such a month the family would not be eligible for AFDC.)

All payments of child support would be made to the separate organizational unit and no such payments would be made by the parent directly to the family until such time as the family is no longer eligible for assistance.

Garnishment and attachment of Federal wages.—The wages of Federal employees, including military personnel, will be subject to garnishment in support and alimony cases. In addition, annuities and other payments under Federal programs in which entitlement is based on employment will also be subject to attachment for support and alimony payments. This provision would be applicable whether or not the family upon whose behalf the proceeding is brought is on AFDC. This overrides provisions in various social insurance or retirement statutes which prohibit attachment or garnishment.

Support collection for non-welfare families.—The procedures adopted for locating absent parents, establishing paternity, and collecting child support will be available to families even if they are not on the welfare rolls. In the case of parent location services, a fee will be charged in nonwelfare cases. For other support collection services, States can charge an application fee which would have to be approved as reasonable by the Department of Health, Education, and Welfare, and States can deduct the remaining costs of collection from any amounts actually collected. The 75 percent Federal matching for State costs is provided for this part of the program for the first year of operation.

Effective date.—The garnishment of Federal wages is effective January 1, 1975; the authorization of appropriations for the Department of HEW is effective upon enactment, the penalty provision for ineffective State programs will not be imposed before January 1, 1977; and the other child support provisions of section 101 will be effective July 1, 1975.

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