

Child Support and Establishment of Paternity

COMMITTEE ON FINANCE
UNITED STATES SENATE

Russell B. Long, Chairman



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CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Present Law

The Congress has attempted to deal with desertion and illegitimacy in the past. Present law requires that the State welfare agency establish a single, identified unit whose purpose is to undertake to establish the paternity of each child receiving welfare who was born out of wedlock, and to secure support for him; if the child has been deserted or abandoned by his parent, the welfare agency is required to secure support for the child from the deserting parent, utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support. The State welfare agency is further required to enter into cooperative arrangements with the courts and with law enforcement officials to carry out this program. Access is authorized to both Social Security and (if there is a court order) to Internal Revenue Service records in locating deserting parents. The effectiveness of the provisions of present law have varied widely among the States, due in part to lack of interest in enforcement by the Department of Health, Education, and Welfare.

Legislative Action by the Congress in 1967, 1970, and 1972

Action in 1967.—Growing concern over the impact of desertion and illegitimacy on the AFDC rolls led the Congress in 1967 to impose new requirements on the State welfare agencies mandating the establishment of programs to combat illegitimacy, to establish the paternity of children born out of wedlock, to seek child support from the fathers of such children and from fathers who have deserted their families, to enter into cooperative arrangements with appropriate courts and enforcement officials in order to accomplish these tasks, and to enter into cooperative agreements with other States in locating deserting parents and securing child support payments from them. The Internal Revenue Service was directed to make information available to aid in locating deserting parents. Under the Senate version of the 1967 Social Security Amendments, the tax collector would have had an active role in collecting support payments; but this Senate provision was not accepted by the House conferees.

1970 Finance Committee Action.—In its version of the 1970 Social Security Amendments, the Committee on Finance included several provisions relating to deserting parents. First, the Committee bill would have made it a Federal misdemeanor for a father to cross State lines in order to avoid his family responsibilities; second, the Committee bill would have provided that an individual who had deserted or abandoned his spouse, child, or children would owe a monetary obligation to the United States equal to the Federal share of any welfare payments made to the spouse or child during the period of desertion or

abandonment. In those cases where a court had issued an order for the support and maintenance of the deserted spouse or children, the obligation of the deserting parent would have been limited to the amount specified by the court order.

1972 Finance Committee Action.—In 1972, the Committee on Finance approved a number of provisions relating to child support and the establishment of paternity. The Committee bill would have made the Attorney General responsible for the overall administration of the child support program. The bill further would have provided an incentive to mothers for helping in obtaining support payments by allowing the welfare family to keep \$20 a month of the amounts collected and would have required the mother's cooperation in establishing paternity, locating the absent parent, and obtaining support payments as a condition of eligibility. Under the bill, the mother would have been required to assign her support rights to the government. The bill provided for both voluntary and civil action to obtain support payments and included incentives for the localities to collect support payments. The Committee bill authorized the Attorney General to delegate the support payment procedure to any State that had an effective program. It required the Attorney General to set up a parent locator office within the Department of Justice and provided access to all governmental records for obtaining information as to the whereabouts of an absent parent.

The Committee bill would have established blood typing laboratories to aid in paternity determinations. It created a residual monetary obligation of the absent parent to the United States for all past and continuing AFDC payments. The bill also provided in support cases for the garnishment and attachment of the wages of Federal employees, including military personnel. It also provided for Federal criminal penalties for an absent parent who has not fulfilled his support obligations to a family which receives federally matched welfare payments.

The Committee bill, with conforming modifications, was incorporated in the Social Security Amendments of 1972 as it was passed by the Senate. An amendment by Senator Bellmon making child support collection services available to all families was also passed by the Senate. The child support provisions were deleted (along with the other provisions relating to welfare programs for families) at the House-Senate conference.

S. 1842

On May 17, 1973, Senator Bellmon with Senator Domenici as a cosponsor introduced a child support bill, S. 1842. The bill would require the Secretary of HEW to obtain and make available to appropriate persons any information as to the whereabouts of absent parents known to Federal and State agencies when such information is needed in connection with enforcement of support obligations.

The bill would establish a Federal child support security fund from which payments would be made to any child for whom there exists a court support order against a parent who has been absent from the child's State for at least six months and who is not making the required payments. The support fund would pay an amount equal to the pay-

ments specified in the court order, up to \$170 a month. Any payments from the fund would become a liability owed by the absent parent to the United States, with interest at 8 percent. (The bill also makes absent parents of children receiving AFDC liable for the Federal share of AFDC payments). The liability would be enforced by the Attorney General who could bring suit against the absent parent. In addition, the amount of the liability could be deducted from any payment due the absent parent from the United States and/or could be used to reduce any credit to which the absent parent might be entitled with respect to his income tax liability.

The bill would provide criminal penalties for parents who engage in interstate travel to avoid their support obligations and for adult members of AFDC families who willfully fail to provide information which would help identify or locate an absent parent.

The bill would require welfare agencies to refer families applying for AFDC to legal services projects for help in enforcing the support obligations of absent parents and provides that legal services projects must give first priority to handling support cases or face a cut-off of their Federal funding.

S. 2081

On June 27, 1973, Senator Nunn (with Senators Talmadge, Bennett, and others as cosponsors) introduced a bill, S. 2081, which would add to Title IV of the Social Security Act a new part D dealing with Child Support and the Establishment of Paternity. This bill incorporates most of the provisions of the child support legislation reported by the Committee and passed by the Senate last year. It does, however, have a few provisions which differ in some respects from last year's bill. This print briefly describes the provisions of S. 2081 noting those areas in which it differs from the Senate passed version of H.R. 1 and also noting some additional alternatives which might be considered in certain areas.

MAJOR LEGISLATIVE PROVISIONS

Coverage

The child support and establishment of paternity services under S. 2081 would be available to any family needing such services. In the case of families receiving assistance under the AFDC program, these services would be provided in every case and without charge to the family for as long as they are receiving welfare and for an additional three months. For the families not on welfare, an application fee would be charged and any costs incurred by the government in collecting child support payments, over and above the application fee, would be deducted from any collections made. No charges would be made, however, for the special blood-typing services provided for under the bill.

Under H.R. 1 as reported to the Senate by the Committee last year, the child support provisions would have been available only to welfare families and participants in the guaranteed employment program, except that blood-typing and parent locator services would have been available to all families.

A floor amendment offered by Senator Bellmon extended to all families the full range of child support and paternity determination services under the Senate-passed bill, with a requirement that the costs of such services (for non-welfare families) be paid by a deduction from amounts collected. S. 2081 differs from the Senate-passed bill only in the imposition of an initial application fee on non-welfare families. The application fee would serve to deter frivolous requests for the use of child support and establishment of paternity services in cases where there was no reasonable hope of ever obtaining any collections.

The Committee might wish to consider providing for a variable application fee related to the income of the applicant for these services so as to assure the availability of the services where they are truly needed while discouraging the use of these services by persons who could well afford to hire their own attorneys and utilize existing legal processes. The parent locator services would, however, remain available to all families at a modest fee.

Administration of Child Support Program

Under S. 2081, the Attorney General would have primary responsibility for the over-all direction of the collection of support and determination of paternity programs, as well as responsibility for the enforcement of the criminal and civil sanctions applicable to runaway parents. The bill contemplates that in most cases the actual operation of the program will be carried out by the States acting as delegates of the Attorney General. However, the Attorney General will be required to assess the effectiveness of State (and local) programs and when he finds that a State does not have an effective system for determining paternity, collecting support, and locating absent parents, he would be required to take over the direct operations of such systems or to delegate it to political subdivisions of the States which do have effective programs. The Attorney General (or his State or local delegate) would be required by the bill to locate absent parents, determine paternity, obtain support orders, collect support payments under such orders, or by use of voluntary or other arrangements, distribute support payments collected, and enforce the criminal provisions for non-support, if necessary.

Where the support program is operated by State or local governments, they would be required to vest responsibility for the program in a separate administrative unit which would not necessarily be a part of the welfare agency. Each United States Attorney would be required to designate an assistant to be responsible for child support, to assist and maintain a liaison with the States in their support collection efforts, and to undertake Federal action as necessary. These Assistant U.S. Attorneys would submit quarterly reports on their activities to the Attorney General for submission to the Congress. States and political subdivisions would be required to keep full records of collections and disbursements and to provide this and other relevant information to the Attorney General (with a copy to the Assistant U.S. Attorney) who, in turn, would submit an annual report to Congress on his activities.

In his testimony at the Committee's hearing on child support, the Secretary of Health, Education, and Welfare suggested that responsibility for child support remain a State responsibility.

Federal Child Support Fund

S. 2081 would establish a Federal Child Support Fund into which all amounts collected by the Federal government would be deposited along with any fees collected for use of Federal services and from which would be made any payments of support (from Federal collections) to the families involved, and any payments required to meet the Federal expenses of location and support collection efforts.

Appropriations to the fund would be authorized to the extent that expenses exceeded receipts. The fund would not be used for the Federal matching of State costs or for the expenses of establishing and operating blood-typing laboratories (which would come from appropriations for that purpose).

Delegation of Support Rights

With respect to the administration of the child support program, S. 2081 follows the provisions of last year's Senate-passed bill except that the Attorney General would be authorized to find that a State had an effective program (in the case of States where the support programs are locally administered) even if one or more localities within the State do not have effective programs. In such a case, the Attorney General would directly administer the program in those areas which do not have effective programs.

To avoid having the Federal government become involved unnecessarily in the direct operation of such child support programs, the Committee may wish to consider giving the Attorney General the option in those cases where the locally administered programs are ineffective of delegating the authority for operation of the program to the State which as a whole has an effective program. Alternatively, the committee could eliminate the provision requiring the Federal government to take over the program in such localities and require instead that he delegate it to the State.

Assignment of Support Rights

The bill requires a mother, as a condition of eligibility for welfare, to assign her right to support payments to the Federal Government and requires her cooperation in identifying and locating the absent father and in obtaining any money or property due the family or government.

The assignment of support rights will continue as long as the family continues to receive AFDC. When the family goes off the welfare rolls, the deserting parent will continue for a three-month period to make payments to the government collection agency (which will pay the money over to the family at no cost to them). At the end of the three-month period, the family may, at its option, continue to utilize the government support collection services without payment of an ap-

plication fee, in which case the costs of collection would be deducted from the amounts collected.

The Senate-passed bill last year authorized families coming off welfare to elect to continue utilizing the governmental mechanism for collecting support for an additional period until the father had met his support obligations for 24 consecutive months. If the family so elected, the cost of collection would have been deducted from the amount collected and the net balance paid to the family. This provision is not included in S. 2081, since the bill would make governmental support collection services available to non-welfare as well as welfare families on a cost basis.

Several witnesses at the hearing suggested that the statute make clearer what "cooperation" by the mother entails. It was also suggested that in cases where the mother has a good reason for not wishing to identify the father, a court should judge whether the reason is valid or not. It was also recommended that the statute make clear that a mother's refusal to cooperate does not affect the children's eligibility for public assistance.

These recommendations could be combined in the following way. First, "cooperation" would be specified as meaning either (1) providing the name of the father (and other information if known) and assisting in paternity and child support proceedings; or (2) presenting information acceptable to a prosecuting attorney (or, if he disagrees, to a judge) either on why the mother is unable to identify the father or on why it would not be in the best interests of the child to have a determination of paternity made. In the latter case, support payments could still be sought even though no formal paternity proceedings would be undertaken. Finally, the statute could specify that if the mother does not meet this definition of "cooperation," she would be ineligible for public assistance but the children would remain eligible to receive protective payments.

Support Obligation of Absent Parent

Maximum Amount of Obligation.—S. 2081 provides that the support rights which the mother assigns to the government will constitute an obligation owed to the United States by the absent parent. The amount of this obligation will be equal to the amount specified in a court order or, in the absence of such an order, will be equal to the total assistance payments made to the family (with respect to the absent parent's children and their caretaker). However, when there is no support order, the amount of the obligation would never exceed the greater of 50 percent of the absent parent's income or \$50 per month. Any support payments collected from the absent parent would reduce the amount of his obligation to the United States. The unpaid part of the obligation would accrue interest at the rate of 6 percent annually.

Suggestions Related to the Amount of the Obligation.—The bill sets a minimum obligation in cases where there is no court order. The Committee may wish to consider adopting a provision which will assure that the obligation to the United States is not limited by the existence of a court order which is unreasonably low (for example,

\$1.00 a month) in relation to the income of the absent parent. The Committee could, for example, require a minimum obligation which would be imposed irrespective of a court order under a formula taking into account the father's income and the number of children, and giving the allowance to an absent parent who has another family to support or who has large medical or dental expenses. While such a formula would deal with the problem of frivolous court orders, the precise nature of this formula might be difficult to construct and some might view this Federal standard of support as an intrusion into State family law responsibilities. There is also a possibility to be considered that a Federally-set minimum might be viewed by State courts as a standard and thus become, in effect, a maximum.

On the other hand, it has been suggested that no statutory minimum be set, but that a father's ability to pay be the controlling factor (based on his income, any other support commitments he has undertaken, and other special circumstances). The Child Welfare League suggested that the provision for 6% interest be deleted, and that the bill be modified to provide that "no liability under this section shall exceed an amount the debtor is genuinely able to repay, taking into account current and foreseeable needs."

Support Obligation is a Debt.—When the Attorney General delegates to States or political subdivisions the operation of the child support program, the obligation to the United States based on the assigned support rights would be deemed, for collection purposes, to be a debt owed to the State or to the political subdivision and collectable under all applicable State and local processes. All or part of the obligation to the Federal government might be suspended or forgiven by the Attorney General upon a finding of good cause. This feature is not delegated to the States.

The provisions of S. 2081 with respect to the obligation of the United States differ somewhat from those in the Senate-passed bill last year. Under the Senate-passed bill, there was established a residual monetary obligation to the United States which was conceptually separate from the assigned support obligation and which accrued in addition to such support obligation under specified circumstances. There was no provision for delegating this obligation to the States.

The change in S. 2081 simplifies the mechanism for determining the obligation which the Attorney General or the States would enforce and assures that the Federal law would not override (and thereby make unworkable) certain existing State support collecting systems (some of which are very effective) which are based on State laws under which welfare payments to the family constitute a debt to the State.

The welfare director of the State of Michigan has pointed out that a provision of the Federal Bankruptcy Act may have the effect of discharging alimony and support payments owed to a wife and children in the situation where such debts are assigned to the Federal or State governments. Inasmuch as S. 2081 makes such assignment to the government a condition of AFDC eligibility, the Committee may wish to make clear in the bill that the rights of the wife and children are not dischargeable by such an arrangement.

Enforcement and Collection of Support Obligations

Under S. 2081, the Attorney General would be authorized to enforce and collect support payments from absent parents using all procedures applicable to the recovery of obligations due the United States, including, where appropriate, the use of voluntary or administrative arrangements. He would be authorized to bring civil action in any court of competent jurisdiction (including State courts) against an absent parent to secure the support obligations assigned to him. The bill authorizes the Attorney General to obtain court support orders and to return to court to seek revision as necessary.

Federal Process Aiding Local Action in Enforcing Support

Under S. 2081 States are required to cooperate in efforts on the part of the Attorney General or on the part of other States establishing the paternity of absent parents living within their boundaries and to enforce the collection of support from him on behalf of his family living in another State.

As a practical matter, however, some local prosecuting attorneys tend to be less than enthusiastic about enforcing support action on behalf of families living in other jurisdictions.

Michael Barber, a witness at the hearing (representing the Uniform Reciprocal Enforcement of Support Conference and the California Department of Social Welfare), testified to this spotty enforcement. He proposed that in some situations access to the Federal court may be the only way to resolve this problem. He stated that this should be limited to cases where there is clear evidence and where the State has attempted to use the Uniform Reciprocal Support Act (URRESA) without success and where there is no other remedy.

The Committee may be interested in providing for access to Federal courts for State A in the situation where a prosecuting attorney or court in State B does not undertake to enforce a court order against a deserting father within a reasonable time. State A under these circumstances would be authorized to enforce the order against the deserting father in the Federal courts.

Administrative Features

Reporting Requirements.—Last year's bill authorizes the Attorney General to prescribe the requirements which a State must meet in order to be found to have an effective support collection program "including, but not limited to requiring a full record of collections and disbursements." In their testimony, the National Organization for Women particularly stressed the need for more data related to child support. It might be useful to strengthen this provision by specifically authorizing the Attorney General to require States to establish an adequate reporting system. The bill authorizes the Attorney General to assist States and political subdivisions in their child support efforts; the Committee report could make it clear that this includes helping them to establish effective information systems.

Use of Internal Revenue Service.—The Attorney General would also be able to use the I.R.S. collection procedures by certifying the amount to be collected to that agency. States would also be able to

use the I.R.S. procedures through the Attorney General, but only if they had made reasonable efforts in utilizing their own collection mechanisms and only if they agreed to reimburse the Federal Government for the cost of using the I.R.S. procedures.

Use of OEO Attorneys.—S. 2081 would also require the Attorney General and the Director of the Office of Economic Opportunity to enter into an arrangement under which legal services lawyers would be available to the Attorney General to assist in the operation of the child support program. The Attorney General, in turn, could assign these lawyers to assist States or political subdivisions to whom he had delegated his child support functions. The costs of furnishing such lawyers services would be reimbursed to OEO.

The Secretary of Health, Education and Welfare and several other witnesses at the Committee hearing suggested that the provision requiring the use of OEO lawyers be deleted. The Committee may wish to consider deleting this provision and might possibly wish to consider another provision of the Senate-passed bill last year. Under this provision, Federal funds could not be used to pay the compensation or expenses of any individual who in any way participates in action relating to litigation which is designed to nullify Congressional statutes or policy under the Social Security Act. The prohibition could be waived by the Attorney General 60 days after he provides the Committee on Finance and Means with notice of his intent to waive the prohibition.

Voluntary or Other Administrative Arrangements.—The use of voluntary or other administrative arrangements (in place of court orders) in the collection process would be limited to instances in which there is no court order in effect, or in which there is no reasonable expectation that a court order in effect can be enforced, and in situations where the court order has been made payable to the parent instead of to the court. States can enforce the assigned support rights through applicable administrative or judicial procedures.

S. 2081 differs from the Senate-passed bill of last year in providing for enforcement of support through "voluntary or other arrangements" rather than through "voluntary agreements." This change makes clear that the method of collection contemplated by the bill is different from the voluntary agreements method in use in a number of States in welfare collections. S. 2081 would authorize certain existing systems which have been proven effective but which operate through administrative procedures which are not necessarily on a "voluntary" basis.

Emphasis on Court Order.—It should be pointed out that there is considerable opinion that any mechanism which does not involve any court support judgment is weaker than a system which does rely on court orders. The Committee may wish to consider indicating in the Committee report that where it is practical to do so, administrative arrangements should be reduced to court orders. In many instances, it should be possible to get a court order through a consent judgment procedure which would not involve undue delay or administrative expense.

Collection by Tax Authorities or Other Effective Collection Mechanisms.—Where the Attorney General has delegated the operation of the child support programs to States or political subdivisions, this delegation could continue only so long as the States or political sub-

divisions demonstrate that they have an effective program. As discussed previously, the bill deems the support obligations to the United States to be a debt to the State or political subdivision which would be subject to collection under all available State and local processes. States, accordingly, would be expected to make use of whatever mechanisms for collecting support might prove to be most effective, for example, States with income tax laws might use the tax collector as their enforcement mechanism, or they might grant to the agency they authorize to do their welfare collections authority to do collections similar to that authorized for the tax collecting agency of the State or locality.

Establishing Paternity

As part of their programs for collecting support, States are required under the bill to have effective mechanisms for determining paternity. In 1967, Congress enacted legislation requiring States to establish programs for determining 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 by court interpretations of Federal law which prevented State welfare agencies from requiring that a mother cooperate in identifying the father of a child born out of wedlock. S. 2081 would attempt to remedy this situation.

Incentives for Mother to Cooperate.—The bill requires that the mother cooperate in identifying the absent parent as a condition of her eligibility for AFDC. (It is recommended above that a mother's failure to cooperate not make her child ineligible for assistance.)

As a positive incentive for the mother to cooperate in identifying and locating the father, the bill provides that 40 percent of the first \$50 per month of any support payments collected from the father will go to the family without causing an offsetting reduction in the assistance payments. Thus, if a mother's cooperation results in getting a support payment of \$50 per month or more, she and her children will have a \$20 increase in their monthly income.

The Secretary of Health, Education and Welfare recommended that the cost of this disregard provision be paid entirely from Federal funds. Michael Barber recommended that the provision be deleted on the grounds that (1) the disregard will not serve as an incentive; (2) it is not reasonably related to the degree of the mother's cooperation; and (3) it gives the mother an incentive to name the man best able to pay rather than the actual father. The New York City administrator of the Human Resources Administration similarly recommended deletion of the disregard.

Procedures for Establishing Paternity

Blood Typing Laboratories.—One of the chief reasons why it is difficult to establish paternity (and consequently why very little support is being collected for the large number of illegitimate children now on the welfare rolls) is that the procedures presently in use under State law with respect to paternity proceedings are highly ineffective.

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 requirements 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.

Under the bill, then, the States would have available this new and apparently effective tool for their paternity proceedings and the Attorney General would be expected to require States to adopt whatever procedures he finds are necessary to make their paternity programs effective. The bill specifically requires that States not collect support payments under voluntary or administrative arrangements unless the absent parent has consented to a court judgment to the effect that he is the father of the child.

Additional Improvements in Paternity Procedures.—One substantial barrier to the development of effective systems for collecting support is the inadequacy of existing State procedures for establishing paternity. While last year's Senate-passed bill would allow the Attorney General to require the States to take whatever steps are necessary to establish an effective program, the Committee might consider authorizing the Attorney General to provide technical assistance to States and localities to help them to establish effective systems for determining paternity.

This assistance could include provisions for training hearing examiners who would conduct pretrial hearings in cases of disputed paternity. Such examiners would have an expertise in evaluating the scientific evidence of paternity (e.g., the blood typing provided for elsewhere under the bill) which would not be true of judges generally. The findings of such examiners would have such weight that most persons found to be the father in a pretrial hearing would not find it profitable to continue to deny paternity, and, thus, a formal trial would usually not be necessary.

An additional advantage of such a system is that it would avoid the present situation in which paternity proceedings are assigned to courts which are already overburdened with other matters and which tend to give low priority to the question of determining paternity.

The National Conference of Commissioners on Uniform State Laws has recently approved a uniform paternity statute. If the Committee adopts this proposal, it might want to provide that the Attorney General should take into account this statute, to the extent he finds feasible and appropriate, in determining whether a State has an effective program and in deciding what types of technical assistance to provide. The Committee might also want to require the Department of Health, Education, and Welfare and the Attorney General to give support to research now being conducted under the auspices of a joint AMA-ABA study group which would develop standards for establishing the probative value of expertly conducted blood tests in the determination of paternity.

Location of Absent Parents

Parent Locator Service.—An essential prerequisite to the establishment of paternity and/or the collection of child support is the matter of finding out where the absent parent is. Evidence seems to indicate that most absent parents continue to live in the locality or State in which their deserted families are and the States would, accordingly, be expected to make use of local mechanisms for tracing absent parents. However, the bill would assist the States in these efforts and also make it possible to find parents who have left the State through the establishment of a parent locator service within the Department of Justice which, upon request of (1) a local, State, or Federal official with support collection responsibility under this provision, (2) a court with support order authority, or (3) a deserted spouse not on welfare or her agent, will make available the most recent address and place of employment which can be obtained from Justice Department files or the files of any other Federal agency, or of any State. Priority in requests will be given to locating deserting fathers of families on welfare. The Attorney General will be reimbursed by State and local collection agencies for the cost of his services and non-welfare cases will pay fees for these services.

Last year's Senate bill and S. 2081 both provide that information as to the whereabouts of the absent father may be obtained from any Federal files notwithstanding any other provision of law. The Committee may wish to modify this provision somewhat to make it clear that the Attorney General would have discretion in withholding information where he finds that confidentiality is clearly required by national policy; for example, in the case of census data or information likely to have national security implications.

Confidentiality of Information.—The bill also provides a clarification of existing AFDC law restricting the use and disclosure of information to make it clear that this provision may not prevent disclosure to (a) public officials who require such information in connection with their official duties or (b) other persons for purposes directly connected with the administration of AFDC.

Distribution of Collections

Under the bill, 40 percent of the first \$50 of support collected in any month would go to the family without any reduction in their assistance payment. Any excess would be used to offset the family's assistance payments for the month. If the amount of support collected in a month actually exceeded the assistance which would otherwise be payable, the family would receive the total amount collected up to the amount specified in a court order as the support due for the month (or, if less, the amount agreed upon by the parties under a voluntary or administrative arrangement). Any additional amounts collected would be used to reimburse Federal and State governments for past assistance payments. In any case, where the Attorney General performs the collection (or a political subdivision does so as delegate of the Attorney General) because the State does not have an effective program, the amounts that would otherwise go to the State as its share of the savings from reduced assistance payments (or repayment of past payment) will go to the Federal government rather than to the States. In any case where the total amount col-

lected exceeds the amount necessary to repay all past assistance payments, all of the excess will go to the family.

Incentive for Local Efforts to Enforce Child Support

The rate of Federal matching for State expenses in connection with establishing paternity, locating absent parents, and securing support would be increased from 50 percent under existing law to 75 percent under S. 2018. (There would be no matching, however, for States which do not have effective programs.)

Secretary Weinberger, in his testimony, recommended instead that Federal matching be allowed for 50 percent of all costs "except the judiciary." (Existing law allows 50 percent Federal matching for court costs and the expenses of law enforcement officials.)

In addition, an incentive would be provided by allowing local governments which make the enforcement and collection of support to keep an amount equal to 25 percent of the amount collected as an incentive payment. The same incentive payment would be given to States when they make collections for families living in other States. This 25 percent incentive payment would come out of the amount which would otherwise represent a savings or reduction in the Federal share of assistance costs. Where two or more jurisdictions which might claim the incentive payment are involved in the collection of support, the incentive payment would be allocated among them in a manner determined by the Attorney General.

Preventive Services

It was pointed out during the Committee hearings that problems of desertion and child support may be prevented by services designed to keep a family together or, in the case of births out of wedlock, by adoption services. However, it appears that the provision of these services may be somewhat limited by the proposed new social services regulations of the Department of Health, Education, and Welfare.

The Committee may wish to make clear Congressional intent that these services be provided by modifying the statute along the following lines:

1. The Social Security Act (sec. 401) states that one of the main purposes of the AFDC program is to "strengthen family life". However, services to strengthen family life in the proposed regulations are limited to family planning services and services necessary to prevent child neglect or abuse—but only for families receiving assistance. "Services to strengthen family life" could be defined in the statute to include any services needed to preserve or reunite a family, as well as services necessary to prevent child neglect or abuse. It could also be made explicit in the statute that States could make these services available to families likely to become dependent on welfare as well as those actually receiving public assistance.

2. Under the present law, both protective services for children and adoption services are subject to the overall requirement that 90 percent of the social services funds be used for welfare recipients. In both cases, the services can prevent a family from going on welfare in the first place. These two services could be exempted from this 90 percent requirement (as are other high-priority services related to the prevention of delinquency). The HFW promotes regulations limit protective

services for children only to the services defined in the regulations; it is suggested that the statutory definition not contain this restriction, and that protective services not be limited to cases where it is judged that the child would otherwise be receiving assistance within 6 months. Adoption services could be defined as including all services related to finding suitable adoptive homes for children, not merely (as in the regulations) the services of a lawyer in securing the legal adoption of a child.

Criminal Offense

The bill provides that any parent under a legal duty to provide for the support of a child (as required under State law) who fails to perform such duty and has abandoned such child and the child receives AFDC payments shall upon conviction be fined in an amount equal to 50 percent of the support obligation owed the United States or fined no more than \$1,000 or imprisoned for not more than one year, or any combination of these three penalties. This section does not preempt any State law imposing a civil or criminal penalty for failure to provide support for a child.

Garnishment and Attachment of Federal Wages

The bill provides that the wages of Federal employees, including military personnel, would 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 would 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. The bill also overrides provisions in various social insurance or retirement statutes which prohibit attachment or garnishment.

Use of Social Security Numbers

The bill, like last year's Senate bill, requires applicants for AFDC to furnish their social security numbers to State welfare agencies. These agencies, in turn, are required by the bill to use recipients' social security numbers in the administration of the AFDC program. It should be noted in this connection that another provision which became law last year was designed to introduce additional administrative controls over the issuance of social security numbers and to impose additional penalties for fraudulent use of social security numbers. Specifically, the law requires that a social security number be issued "to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds" (sec. 205(c)(2)(B) of the Social Security Act).

Spokesmen for the Department of Health, Education, and Welfare, including Arthur Hess, Acting Commissioner of Social Security, have publicly stated that it is their view that this requirement that social security numbers be issued to all persons getting any Federally funded benefits applies only to benefits under the Social Security Act and not to other programs such as Federal employees compensation, food stamps, etc. This interpretation is contrary to the clear wording of the statute and the intent of Congress as expressed in the report both of

the Senate Finance Committee and of the Conference Committee on the bill.

The Committee might wish to include in the report on H.R. 3153 a statement making clear again the intent of the provision in the law.

TABLE 1.—AFDC FAMILIES: WHEREABOUTS OF FATHER IF ABSENT FROM THE HOME, 1971

	Percent of fathers—			
	In different families county of State	In different county of State	In different State known	Unknown
Father:				
Is divorced.....	358,700	28.9	16.3	19.4
Is legally separated.....	73,800	41.6	15.3	13.3
Is separated without court decree.....				26.7
Has deserted.....	325,000	38.1	9.9	14.1
Is not married to mother.....	382,700	10.7	4.4	10.8
	700,000	22.5	4.7	8.2
Total number of AFDC families, 1971.....	2,523,900			61.4

Source: Department of Health, Education, and Welfare, *Findings of the 1971 AFDC Study*.

TABLE 2.—AFDC FAMILIES: MONTHLY CONTRIBUTIONS OF ABSENT FATHERS, 1971

	Percent of fathers contributing—				
	Number of families	Nothing	\$1 to \$49	\$50 to \$99	\$100 to \$149 and over
Father:					
Is divorced.....	358,000	70.4	5.9	11.2	7.3
Is legally separated.....	73,800	66.0	5.8	9.1	10.2
Is separated without court decree.....					8.9
Has deserted.....	325,000	75.3	5.6	7.9	6.1
Is not married to mother.....	382,700	93.4	3.3	1.8	1.0
	700,000	89.7	5.8	3.0	1.0
Total number of AFDC families, 1971.....	2,523,900				.5

Source: Department of Health, Education, and Welfare, *Findings of the 1971 AFDC Study*.