CHILD SUPPORT AND THE WORK BONUS

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. 1842, S. 2081

AND OTHER MATTERS RELATING TO CHILD SUPPORT AND THE WORK BONUS

SEPTEMBER 25, 1973

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CHILD SUPPORT AND THE WORK BONUS

TUESDAY, SEPTEMBER 25, 1973

U. S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 2221, Dirksen Senate Office Building, Senator Russell B. Long (chairman), presiding.

Present: Senators Long, Bennett, Curtis, Fannin, Dole, and Roth, Jr.

Senator BENNETT (presiding). Ladies and gentlemen, I am not the chairman of the committee, but Senator Long has sent word he will be 15 or 20 minutes late and, in order to get things moving, and because we have a very long witness list, he has asked me to start things. I will open the hearing by reading the statement he would make if he was here. This is his statement and not mine.

STATEMENT OF CHAIRMAN RUSSELL B. LONG

"In the 92d Congress, the Committee on Finance spent more time studying welfare reform proposals than any other single matter. Few issues handled by the committee have proven as controversial as welfare reform, and the reason for this is simple; everyone has his own idea of what welfare reform means, and these ideas are very different from each other.

"But not all reform measures are controversial. The Senate last year did pass two important measures which, if enacted, would represent a significant step toward welfare reform. The first of these measures is designed to strengthen the Federal role in obtaining child support from fathers who have abandoned their children to the welfare program. The second measure would provide payments to low-income heads of families equal to 10 percent of their wages covered under Social Security. These two measures which passed the Senate last year did not become law because the House conferees felt that they did not have time to adequately consider them in conference. It is my hope that the Senate will give the House conferees another chance to consider these proposals this time on their merits."

That concludes the chairman's opening statement.

[The committee's press release announcing this hearing and the bills, S. 1842 and S. 2081, follow. Oral testimony commences on p. 56.]

PRESS RELEASE

FOR IMMEDIATE RELEASE
September 14, 1973

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

FINANCE COMMITTEE SETS HEARINGS ON CHILD SUPPORT AND WORK BONUS

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, announced today that the Committee would hold hearings beginning Tuesday, September 25 on legislative proposals relating to child support, and on the proposed work bonus program under which payments would be made to low-income working persons heading families.

The Honorable Caspar Weinberger, Secretary of Health, Education and Welfare, will be the lead-off witness and will present the Administration's views on these legislative proposals. Secretary Weinberger will testify at 10:00 A.M. on Tuesday, September 25, 1973, in Room 2221 Dirksen Senate Office Building.

Senator Long stated, "Last year the Senate approved major legislation to strengthen the Federal role in obtaining child support from fathers who have abandoned their children to the welfare program, and to provide payments to low-income heads of families equal to ten percent of their wages covered under Social Security. Unfortunately, the House Conferees felt that they did not have sufficient time to consider these two proposals and so they did not become law last year. The enactment of child support legislation and the work bonus represents a significant step toward welfare reform."

Child Support. -- Two bills have been introduced in the Senate this year relating to child support: S. 2081, introduced by Senators Nunn, Talmadge and Bennett; and S. 1842 introduced by Senator Bellmon. The hearings will relate to these two bills, as well as any other matters in connection with child support.

Work Bonus. -- Last year's Senate-passed Social Security Amendments contained a provision to establish a new work bonus program. Under this program, low-income workers heading families would be eligible to receive a bonus equal to ten percent of their wages taxed under the social security program, if the total income of the husband and wife is $4,000 or less. If family income exceeds $4,000, the bonus would equal $400 minus $1 for each $4 that family income exceeds $4,000. Thus the bonus would phase out completely when family income reached $5,600.

Requests to Testify. -- Senator Long advised that witnesses desiring to testify during this hearing must make their request to testify to Tom Vail, Chief Counsel, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D. C., not later than Thursday, September 20, 1973. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. Once the witness has been advised of the date of his appearance, it will not be possible for this date to be changed. If for some reason the witness is unable to appear on the date scheduled, he may file a written statement for the record of the hearing in lieu of a personal appearance.

Consolidated Testimony. --The Chairman also stated that the Committee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Committee. This procedure will enable the Committee to receive a wider expression of views on the total bill than it might otherwise obtain. The Chairman praised witnesses who in the past have combined their statements in order to conserve the time of the Committee. And he urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act. -- In this respect, the Chairman observed that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress --

> "...to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

The statute also directs the staff of each Committee to prepare digests of all testimony for the use of the Committee Members.

Senator Long stated that in light of this statute and in view of the large number of witnesses who desire to appear before the Committee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

> (1) All statements must be filed with the Committee at least one day in advance of the day on which the witness is to appear. If a witness is scheduled to testify on a Monday or Tuesday, he must file his written statement with the Committee by the Friday preceding his appearance.
>
> (2) All witnesses must include with their written statement a summary of the principal points included in the statement.
>
> (3) The written statements must be typed on letter-size paper (not legal size) and at least 50 copies must be submitted to the Committee.
>
> (4) Witnesses are not to read their written statements to the Committee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for the oral summary.

Witnesses who fail to comply with these rules will forfeit their privilege to testify. Those who have already requested to testify need not submit a second request.

Written Statements. --Witnesses who are not scheduled for oral presentation, and others who desire to present a statement to the Committee, are urged to prepare a written position of their views for submission and inclusion in the printed record of the hearings. These written statements should be submitted to Tom Vail, Chief Counsel, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than Thursday, September 27, 1973.

PR #35

93D CONGRESS
1ST SESSION

S. 2081

IN THE SENATE OF THE UNITED STATES

JUNE 27 (legislative day, JUNE 25), 1973

Mr. NUNN (for himself and Mr. TALMADGE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents of children who are receiving assistance under such title, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Social Security Act is amended by adding after part C of title IV thereof the following new part:

"PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

"APPROPRIATION

"SEC. 451. For the purpose of enforcing the support obligations owed by absent parents to children receiving assistance under part A of this title and the criminal penalties

for nonsupport against absent parents, there is hereby authorized to be appropriated to the Attorney General for each fiscal year a sum sufficient to carry out the purposes of this part.

"DUTIES OF THE ATTORNEY GENERAL

"SEC. 452. (a) The Attorney General shall enforce the support rights assigned to him under section 402 (a) (26) by applicants for and recipients of assistance under part A of this title, utilizing all funds and authority which are available to him for this purpose. To the extent required he shall locate absent parents, determine paternity in order to establish duty to support, obtain support orders, collect support payments by use of voluntary or administrative arrangements or other means, and enforce the criminal provisions for nonsupport by such parents.

"(b) (1) The Attorney General shall, in accordance with procedures applicable to the recovery of obligations due the United States, including, where appropriate, the use of voluntary or administrative arrangements, and in accordance with the priorities for distribution specified in section 455, collect and distribute amounts from enforcement of obligations under paragraph (2). Whenever any individual is determined to be liable to the United States for any amount under this section, the Attorney General may make certification of such amount to the Secretary of the Treasury for

collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. The Attorney General shall reimburse the Secretary of the Treasury for any costs involved.

"(2) The Attorney General is authorized to bring civil action in any court of competent jurisdiction (including the courts in any State or political subdivision thereof) against an absent parent to secure support obligations as defined in section 457, except that all or part of such obligation may be suspended or forgiven by the Attorney General upon a finding of good cause.

"(3) The Attorney General may make voluntary or administrative arrangements to recover support obligations assigned under section 402 (a) (26), if there is no court order in effect directing payment of such obligation or if there is such an order in effect but there is no reasonable expectation that it can be enforced or that the obligation can be collected. Any voluntary or administrative arrangement so made shall provide that support payments will not cease if the family ceases to receive assistance under part A of this title, and the amounts payable under such arrangement, if there is no court order in effect, may be collected as authorized under the provisions of this part.

"(c) The Attorney General and the Director of the Office of Economic Opportunity are directed to enter into an

appropriate arrangement under which the services of attorneys participating in legal services programs established pursuant to section 222 (a) (3) of the Economic Opportunity Act of 1964 will be made available to the Attorney General to assist him in carrying out his functions under this part. The Attorney General shall, to the maximum extent feasible, utilize the services of such attorneys in the performance of such functions and may make the services of such attorneys available to States or political subdivisions to assist them in carrying out the purposes of this part. The Office of Economic Opportunity shall be reimbursed by the Attorney General for the costs incurred in providing such services.

"(d) The Attorney General shall require that each United States attorney designate an assistant United States attorney to be responsible for enforcement of the provisions of this part in his judicial district and maintain liaison with and assist the States and political subdivisions thereof in their child support efforts. Each assistant United States attorney so designated shall prepare and submit to the Attorney General for submission to the Congress quarterly reports on all activities undertaken pursuant to this section.

"(e) (1) There is hereby established in the Treasury a revolving fund to be known as the Federal Child Support Fund (hereinafter referred to as the 'fund') which shall be available to the Attorney General without fiscal year limita-

tion, to enable him to carry out his responsibilities under this part.

"(2) Except as provided in sections 454(d) and 458, all moneys appropriated pursuant to section 451 for the purpose of funding Federal activities under this part and all moneys collected by the Federal Government pursuant to this part (including support payments and payments by way of reimbursement received from Federal agencies, States and political subdivisions thereof, and individuals) shall be paid into the fund and shall be disbursed by the Attorney General from time to time in accordance with the provisions of this part.

"(3) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(f) The Attorney General shall notify the Secretary of

the failure of the State agency administering the plan approved under part A of this title to comply with the requirements of section 402 (a) (25).

"(g) The Attorney General shall maintain complete records of all amounts collected under this part and of the costs incurred in collecting such amounts and shall, not later than June 30 of each year (commencing with June 30, 1974), submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

"PARENT LOCATOR SERVICE

"SEC. 453. (a) The Attorney General shall establish and conduct, within the Department of Justice, a Parent Locator Service which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

"(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any individual, the Attorney General shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

"(1) is contained in any files or records maintained

by the Attorney General or by the Department of Justice; or

"(2) is not contained in such files or records, but can be obtained by the Attorney General, under the authority conferred by subsection (c), from any other department, agency, or instrumentality, of the United States or of any State.

The Attorney General shall give priority to requests made by any authorized person described in subsection (c) (1).

"(c) As used in subsection (a), the term 'authorized person' means—

"(1) any agent or attorney of the United States or of any State or any political subdivision to which support collection functions have been delegated under section 454, who has the duty or authority to seek to recover any amounts under section 452;

"(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

"(3) the parent, guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

"(d) A request for information under this section shall be filed in such manner and form as the Attorney General shall by regulation prescribe and shall be accompanied or supported by such documents as the Attorney General may determine to be necessary.

"(e) (1) Whenever the Attorney General receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

"(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Attorney General for information authorized to be provided by the Attorney General under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Attorney General; and, if such search fails to disclose the information requested, such individual shall immediately

so notify the Attorney General. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Attorney General shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c) (3), a fee shall be charged such individual. The fee so charged shall be deposited in the fund and shall be used to reimburse the Attorney General or his delegate for the expense of providing such services.

"(f) The Attorney General, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering or supervising the administration of State plans approved under part A of this title, under which the offices operated under such plans will accept from parents, guardians, or agents of a child described in subsection (c) (3) and transmit to the Attorney General requests for information with regard to the whereabouts of absent parents and will otherwise cooperate with the Attorney General in carrying out the purposes of this section.

"DELEGATION OF SUPPORT COLLECTION FUNCTIONS TO STATES OR POLITICAL SUBDIVISIONS

"SEC. 454. (a) (1) The Attorney General shall delegate to any State having a plan approved under part A of this title the authority to enforce the child support rights assigned to the United States under section 402 (a) (26) if he deter-

mines that such State has an effective program (in accordance with the standards established in subsection (b)) for locating absent parents, determining paternity, obtaining support orders, and collecting amounts of money owed by parents for the support and maintenance of their child or children. Such a delegation may be made to a political subdivision of any such State upon a finding that the State as a whole does not have an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting child support but that such political subdivision does have an effective program which meets the standards established in subsection (b).

"(2) The Attorney General may determine that a State which delegates to its political subdivisions all or a substantial portion of the administration of the program for locating absent parents, determining paternity, obtaining support orders, and collecting child support, has an effective program although such program is found not to be effective with respect to one or more of such political subdivisions. In any such case, a delegation of authority to the State under the first paragraph of this subsection shall be effective only with respect to those political subdivisions determined to have effective programs (in accordance with the standards established in subsection (b)).

"(b) The Attorney General shall not approve any pro-

gram pursuant to subsection (a) unless such program provides—

"(1) that such State or political subdivision will undertake—

"(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402 (a) (26) of this title is effective, to establish the paternity of such child, and

"(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

"(2) for the establishment of an organizational unit in the State or political subdivision administering the program under this section;

"(3) for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State or political subdivision administering the program under this section, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and

the State or political subdivision administering the program under this section;

"(4) that the State or political subdivision will establish a service to locate absent parents utilizing—

"(A) all sources of information and available records; and

"(B) the Parent Locator Service in the Department of Justice;

"(5) that the State or political subdivision will, in accordance with standards prescribed by the Attorney General, cooperate with the State or political subdivision of another State or with the Attorney General in administering a program under this part—

"(A) in establishing paternity, if necessary,

"(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under this part in another State,

"(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

"(D) in carrying out other functions required by this part;

"(6) that the State or political subdivision may make voluntary or administrative arrangements to recover child support obligations delegated under subsection (a), if there is no court order in effect directing payment of such obligation or if there is no reasonable expectation that such court order can be enforced or that the obligation can be collected. Any voluntary or administrative arrangement so made shall provide that support payments will not cease if the family ceases to receive assistance under part A of this title, and the amounts payable under such arrangement, if there is no court order in effect, may be collected as authorized under the provisions of this part;

"(7) that the State or political subdivision require, as a condition of the absent parent being permitted to make support payments under a voluntary or administrative arrangement, consent by such parent to the entry of a judgment by an appropriate court in which judgment such parent shall be found to be the parent of such child or children;

"(8) that, if the State uses voluntary or administrative arrangements under paragraph (6), such State will

establish by law a mechanism for enforcing such arrangements;

"(9) that such State or political subdivision will comply with such other requirements as the Attorney General determines to be necessary to the establishment of an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting support payments including, but not limited to, requiring a full record of collections and disbursements; and

"(10) that the State or political subdivision shall reimburse the Attorney General for the costs incurred by the Federal Government in enforcing and collecting support obligations assigned under this section.

"(c) The Attorney General shall, upon the request of any State or political subdivision to which he has delegated the authority to enforce the support rights assigned to the United States under section 402(a)(26), make available to such State or political subdivision (1) the services of attorneys participating in legal services programs who are, by reason of the agreement required by section 452(c), assisting the Attorney General in carrying out his functions under this part, and (2) upon a showing by the State or political subdivision that such State or political subdivision made diligent and reasonable efforts in utilizing its own collection mechanisms,

the collection facilities of the Department of the Treasury (subject to the same requirements of certification by the Attorney General imposed by section 452(b) and subject to such limitations on the frequency of making such certification as may be imposed by the Attorney General).

"(d) From the sums appropriated therefor, the Attorney General shall pay to each State or political subdivision which has a program approved under this section, for each quarter, beginning with the quarter commencing January 1, 1974, an amount equal to 75 percent of the total amounts expended by such State or political subdivision during such quarter for the operation of the program approved under this section except as provided in sections 456 and 459.

"DISTRIBUTION OF PROCEEDS FROM SUPPORT COLLECTION

"SEC. 455. (a) Amounts collected as support obligations as defined in section 457 shall be distributed in the following order of priority—

"(1) If a State or its agents makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the as-

sistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties under a voluntary or administrative arrangement; and

"(B) such amounts as may be necessary to reimburse the State for assistance payments (with appropriate reimbursement of the Federal Government for deposit into the fund and of any political subdivision to the extent of their participation in the financing) made to the family prior to the date on which the support obligation was collected shall be paid to such State.

"(2) If a political subdivision or its agent makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is

equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties under voluntary or administrative arrangement; and

"(B) such amounts as may be necessary to reimburse the political subdivision for assistance payments (with payment to the Federal Government for deposit into the fund of the total amount by which such reimbursement exceeds the share of such reimbursed assistance payments the cost of which were borne by the political subdivision) made to the family prior to the date on which the support obligation was collected shall be paid to such political subdivision.

"(3) If the Attorney General makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows:

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required

by a court order to be paid for child support or (II) the amount agreed upon by the parties under a voluntary or administrative arrangement; and

"(B) such amounts as may be necessary to repay past assistance payments shall be paid to the Federal Government and deposited in the fund.

Whenever payments are made pursuant to paragraph (2) (A) or (3) (A) to a family residing in a State which does not have an approved support program under this part (or to a family residing in a political subdivision which is found under section 454(a)(2) not to have an effective program), the Attorney General shall so certify to the Secretary, who shall reduce the amount of any grant made to such State under part A of this title by an amount equal to the amount so certified and deposit such amount into the fund, except that such reduction shall not be greater than the non-Federal share of the amount of the assistance payment such family would have received from such State had the payment under paragraph (2) (A) or (3) (A) not been made reduced by that portion of such non-Federal share which was paid by a political subdivision making the collection under paragraph (2) (A).

"(b) Whenever a family for whom support payments have been collected and distributed under this part ceases to

receive assistance under part A of this title, the Attorney General, or the State or political subdivision to which the Attorney General has delegated the authority to collect support obligations pursuant to this part, shall—

"(1) continue to collect such support payments from the absent parent for a period of three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected to the family; and

"(2) at the end of such three-month period, if the Attorney General is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

"INCENTIVE PAYMENT TO STATES AND LOCALITIES

"SEC. 456. When a political subdivision of a State or one State acting as the agent of the Attorney General or another State makes the enforcement and collection of the support rights assigned under section 402(a)(26) (either within or outside of such State, and whether as the agent of such State or as the agent of the Attorney General), an amount equal to 25 percent of any amount collected and

required to be distributed as provided in sections 455 (a) (1) (A) and (B), or in sections 455 (a) (2) (A) and (B), as appropriate, to reduce, eliminate, or repay assistance payments, shall be paid to such State or political subdivision from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent, except that where more than one jurisdiction is involved in such enforcement or collection, such 25 percent shall be allocated among the jurisdictions in a manner to be prescribed by the Attorney General.

"SUPPORT OBLIGATION

"SEC. 457. (a) The support rights assigned to the United States under section 402 (a) (26) shall constitute an obligation owed to the United States by the individual responsible for providing such support. Such obligation may be collected directly by the United States or may be delegated for collection to States and political subdivisions as provided in this part and amounts collected by the United States, States, or political subdivisions shall be distributed pursuant to section 455.

"(b) Whenever the support rights assigned to the United States are delegated to a State or political subdivision, the obligation to the United States based upon such support rights shall be deemed for collection purposes to be a debt owed to

such State or political subdivision which shall be collectible under all applicable State and local processes.

"(c) The amount of such obligation shall be (1) the amount specified in a court order for support as being the individual's obligation for support of the members of the family, or (2) if there is no court support order, an amount equal to the total amounts of payments which have been or would, in the absence of any support payments collected from such individual under this part, be made on behalf of the children of an absent parent and their caretaker each month under the State plan approved under part A of this title, or, if less, 50 percent of the monthly income of the absent parent for each such month (but not less than $50 per month).

"(d) Any amounts collected from an absent parent under this part shall—

"(1) reduce, dollar for dollar, the amount of his obligation under subsections (a) and (c); and

"(2) to the extent that such amounts exceed the amount necessary to fulfill the distribution requirements of section 455, be paid to his family.

"(e) Interest on any such obligation shall, to the extent it remains unsatisfied, accrue at the rate of 6 percent per annum.

"REGIONAL LABORATORIES TO ESTABLISH PATERNITY THROUGH ANALYSIS AND CLASSIFICATION OF BLOOD

"SEC. 458. (a) The Secretary shall, after appropriate consultation and study of the use of blood typing as evidence in judicial proceedings to determine paternity, establish, or arrange for the establishment or designation of, in each region of the United States, a laboratory which he determines to be qualified to provide services in analyzing and classifying blood for the purpose of determining paternity, and which is prepared to provide such services to courts and public agencies in the region to be served by it.

"(b) Whenever a laboratory is established or designated for any region by the Secretary under this section, he shall take such measures as may be appropriate to notify appropriate courts and public agencies (including agencies administering any public welfare program within such region) that such laboratory has been so established or designated to provide services, in analyzing and classifying blood for the purpose of determining paternity, for courts and public agencies in such region.

"(c) The facilities of any such laboratory shall be made available without cost to courts and public agencies in the region to be served by it.

"(d) There is hereby authorized to be appropriated for

each fiscal year such sums as may be necessary to carry out the provisions of this section.

"SUPPORT COLLECTION SERVICES FOR OTHER INDIVIDUALS

"SEC. 459. The child support collection or paternity determination services established under this part shall be made available to any individual not otherwise eligible for such services under the preceding sections of this part upon application filed by such individual with the Attorney General or, if a State or political subdivision has a program approved under section 454, with such State or political subdivision as may be appropriate. The Attorney General (or a State or political subdivision) shall impose an application fee for furnishing such services. Any costs in excess of the fee so imposed shall be paid by such individual by deducting such costs from the amount of any recovery made.

"CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

"SEC. 460. Notwithstanding any other provision of law, moneys (the entitlement to which is based upon renumeration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, in-

cluding members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual, of his legal obligations to provide child support or make alimony payments.

"PENALTY FOR NONSUPPORT

"SEC. 461. (a) Any individual who is the parent of any child or children and who is under a legal duty to provide for the support and maintenance of such child or children (as required under the law of the State where such chil dor children reside) but fails to perform such duty and has left, deserted, or abandoned such child or children and such child or children receive assistance payments to provide for their support and maintenance which are funded in whole or in part from funds appropriated therefor by the Federal Government shall, upon conviction, be penalized in an amount equal to 50 percent of the support obligation owed to the United States, or fined not more than $1,000, or imprisoned for not more than one year, or any combination of these three penalties.

"(b) This section does not preempt any State law imposing a civil or criminal penalty on an absent parent for failing to provide support and maintenance to his child or children to whom such parent owes a duty to support.".

COLLECTION OF CHILD SUPPORT OBLIGATIONS

SEC. 2. (a) Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating to collection of taxes) is amended by adding at the end thereof the following new section:

"SEC. 6305. COLLECTION OF CERTAIN LIABILITY TO THE UNITED STATES.

"Upon receiving a certification from the Attorney General under section 452(b)(1) of the Social Security Act with respect to any individual, the Secretary or his delegate shall assess and collect the amount certified by the Attorney General in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

"(1) no interest or penalties shall be assessed or collected, and

"(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply.".

(b) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6305. Collection of certain liability to the United States."

CONFORMING AMENDMENTS TO TITLE XI

SEC. 3. Section 1106 of such Act is amended—

(1) by striking out the period at the end of the first sentence of subsection (a) and inserting in lieu thereof the following: "and except as provided in part D of title IV of this Act.";

(2) by adding at the end of subsection (b) the following new sentence: "Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of title IV of this Act for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of title IV."; and

(3) by striking out subsection (c).

CONFORMING AMENDMENTS TO PART A OF TITLE IV

SEC. 4. (a) Section 402(a)(8)(A) of such Act is amended—

(1) by striking out "and" at the end of clause (I);

(2) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma; and

(3) by adding at the end of clause (ii) the following new clause:

"(iii) 40 percent of the first $50 per month,

with respect to the dependent child (or children), relative with whom the child (or children) is living, and other individual (living in the same home as such child (or children)) whose needs are taken into account in making such determination, of all income derived from support payments collected pursuant to part D; and".

(b) Section 402(a)(9) is amended to read as follows:

"(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only 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 aid to families with dependent children;".

(c) Section 402(a)(10) is amended by inserting immediately before "be furnished" the following: ", subject to paragraphs (24) and (26),".

(d) Section 402(a)(11) is amended to read as follows:

"(11) provide for prompt notice (including the transmittal of all relevant information) to the Attorney General of the United States (or the appropriate State official or agency (if any) designated by him pursuant to part D) of the furnishing of aid to families with de-

pendent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);".

(c) Section 402 (a) is further amended—

(1) by striking out "and" at the end of paragraph (22); and

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and the following:

"(24) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ, in the administration of such plan;

"(25) contain such provisions pertaining to determining paternity and securing support and locating absent parents as are prescribed by the Attorney General of the United States in order to enable him to comply with the requirements of part D; and

"(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

"(A) to assign the United States any rights to support from any other person he may have (i) in his own behalf or in behalf of any other family member for whom he is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed, and which will accrue during the period ending with the third month following the month in which he (or such other family members) last received aid under the plan, and

"(B) to cooperate with the Attorney General or the State or local agency he has delegated under section 454, (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for herself and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due herself or such child.".

(f) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean payments with respect to a dependent child, a relative with whom any dependent child is living, or any other individual (living in the same home as such a child and relative) whose needs such State determines should be con-

sidered in determining the need of the child or relative claiming aid under the plan of such State approved under this part, who for any month is the parent of a child with respect to whom such aid is claimed who fails to cooperate with any agency or official of the State or of the United States in obtaining support payments for herself or such child.".

(g) Section 402(a) (17), (18), (21), and (22), and section 410 of such Act are repealed.

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall become effective on January 1, 1974.

93D CONGRESS
1ST SESSION

S. 1842

IN THE SENATE OF THE UNITED STATES

MAY 17, 1973

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

A BILL

To amend the Social Security Act so as more effectively to assure that certain children, who have been abandoned by a parent, will receive the support and maintenance which such parent is legally required to provide, and otherwise to enforce the duty of parents to provide for the support and maintenance of their children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Child Support Security Act of 1971".

SEC. 2. The Social Security Act is amended by adding after title XIX thereof the following new title:

"TITLE XX—ENFORCEMENT OF PARENT DUTY TO PROVIDE CHILD SUPPORT

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 2001. (a) The Congress finds and declares that—

"(1) in numerous cases children, who have been abandoned by a parent, are not receiving from such parent the support and maintenance to which they are legally entitled; and

"(2) the failure of parents of such children to carry out their duty of child support and maintenance frequently results either (A) in a lack of proper care of such children, or (B) the imposition of an unfair and unnecessary burden on the taxpayers who, because of such failure, are obliged through welfare programs to provide for the support and maintenance of such children.

"(b) It is, therefore, the purpose of this title further to assure that parents who have abandoned their children will be required to carry out their obligations for child support and maintenance, and that such children will receive the parental support and maintenance to which they are entitled.

"PART A—COLLECTION AND DISSEMINATION OF INFORMATION TO ASSIST IN LOCATING CERTAIN PARENTS

"PROVISION OF INFORMATION BY SECRETARY

"SEC. 2010. (a) Upon request (filed in accordance with subsection (c)) of any authorized person (as defined in subsection (b)) for the most recent address and place of em-

ployment of any individual, the Secretary shall, notwithstanding any other provision of law, provide such information to such person, if—

"(1) the Secretary (on the basis of the information supplied in, or in connection with, such request and any other information which is brought to his attention) is reasonably satisfied that such information is sought in connection with the enforcement against such individual of the legal duty of such individual to provide for the support and maintenance of a child or children of such individual; and

"(2) such information—

"(A) is contained in any files or records maintained by the Department of Health, Education, and Welfare; or

"(B) is not contained in any such files or records, but can be obtained by the Secretary, under the authority conferred by section 2011, from any other department, agency, or instrumentality of the United States or of any State.

"(b) As used in subsection (a), the term 'authorized person' means—

"(1) the child of the individual with respect to whom the information referred to in subsection (a) is requested, if—

"(A) there has been issued, by a court of competent jurisdiction, a court order against such individual for the support and maintenance of such child; or

"(B) such child is a qualified, approved applicant for, or recipient of, financial assistance under any welfare program which (i) is administered by any State (or political subdivision thereof) and (ii) is designed to provide for or assist in the provision of support and maintenance of children in destitute or necessitous circumstances; and

"(2) the parent, guardian, attorney, or agent of a child described in clause (1), or a public welfare agency providing financial or other assistance to such child because of such child's destitute or necessitous circumstances; or

"(3) the court which issued, with respect to such child, a court order described in clause (1) (A), or any agent of such court.

"(c) A request under this section shall be filed in such manner and form as the Secretary shall by regulations prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary to enable him to make the findings prescribed in subsection (a) (1).

"SECURING OF INFORMATION FROM OTHER DEPARTMENTS AND AGENCIES

"SEC. 2011. (a) Whenever the Secretary receives a request submitted under section 2010 which he is reasonably satisfied meets the criteria established by section 2010 (a) (1), he shall promptly cause a search to be made of the files and records maintained by the Department of Health, Education, and Welfare with a view to determining whether the information sought in such request is contained in any such files or records.

"(b) If the search referred to in subsection (a) does not produce the information sought, the Secretary shall forthwith request such information of the head of any other department, agency, or instrumentality of the United States or of any State, if he determines that there is a reasonable probability that such information is contained in the files and records maintained by such department, agency, or instrumentality.

"(c) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality of the United States receives a request for information from the Secretary pursuant to subsection (b), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to

determining whether the information sought is contained in any such files or records. The head of such department, agency, or instrumentality shall, if such search discloses the information sought, immediately transmit such information to the Secretary, and, if such search fails to disclose the information sought, immediately notify the Secretary of that fact.

"PART B—PAYMENTS BY SECRETARY FOR SUPPORT AND MAINTENANCE OF CERTAIN CHILDREN

"ESTABLISHMENT OF REVOLVING FUND

"SEC. 2020. (a) There is hereby established in the Treasury a revolving fund to be known as the Federal Child Support Security Fund (hereinafter in this part referred to as the 'security fund'), which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make the child support payments authorized by this part.

"(b) To the extent authorized from time to time in appropriation Acts, there shall be deposited in the security fund amounts recovered, under section 2025, from parents of the children who receive child support payments under this part.

"(c) There is authorized to be appropriated to the security fund an initial sum of $75,000,000, and there-

after such sums as may be necessary to enable the Secretary to make therefrom the child support payments authorized by this part.

"CHILD SUPPORT PAYMENTS

"SEC. 2021. (a) From the moneys available in the security fund, the Secretary shall, in accordance with this part, make child support payments to any child who is entitled to such payments under this section.

"(b) A child shall be entitled to child support payments under this part, if—

"(1) application for such payments has been filed (in such form, manner, and containing such information as the Secretary may require); and

"(2) the Secretary is reasonably satisfied (from the information contained in or supplied in support of such application and any other information that is brought to his attention) that—

"(A) a parent of such child is, and has been for a period of not less than six months immediately preceding the date the application is filed, absent from the State in which such child resides;

"(B) not later than four months prior to the date the application is filed there has been issued, by a court of competent jurisdiction in the State in which such child resides, against such parent a court order

under which such parent is ordered to make periodic financial contributions for the support and maintenance of such child; and

"(C) such child has not, for a period of not less than three months immediately prior to the date the application is filed, received any periodic financial contribution from such parent as required under such court order.

"(c) Any child who is entitled to child support payments under this part shall be paid such payments on a monthly basis, beginning with the month in which application for such payments is filed, or, if later, the month in which the Secretary determines that such child is entitled to such payments.

"(d) (1) The amount of the child support payments payable under this part to any child entitled thereto shall, subject to paragraph (2), be equal to the amount of the monthly periodic financial contributions that the parent of such child has been ordered to make, under the court order referred to in subsection (b) (2), for the support and maintenance of such child, or, if less, $150. If the periodic financial contributions that such a parent has been so ordered to make are payable on other than a monthly basis, the provisions of the preceding sentence shall be applied so as to reflect, as nearly as possible, an amount which is equivalent

to that which would be produced if such periodic financial contributions were payable on a monthly basis.

"(2) If for any month for which a child is entitled to child support payments under this part, the parent of such child, against whom the court order (referred to in subsection (b) (2)) for support and maintenance of such child is issued, makes any financial contribution toward the support and maintenance of such child (whether or not such contribution is made in compliance or partial compliance with such order), the amount of the child support payments payable to such child for such month shall be reduced (but not below zero) by the amount of such financial contribution.

"(e) No child shall be entitled, on the basis of any application for child support payments under this part, to be paid such payments for any month after the third consecutive month with respect to which the amount of the child support payments payable to such child has been reduced, pursuant to subsection (d) (2) to zero. Nothing in the preceding sentence shall be construed to preclude any child whose entitlement to child suport payments on the basis of any application has been terminated pursuant to such sentence from thereafter applying for and again becoming entitled to such payments on the basis of a new application therefor.

"(f) Any application for child support payments under this part for any child may be filed by such child, by the parent, guardian, attorney, or agent of such child, or by any public welfare agency which is providing financial or other assistance to such child because of such child's destitute or necessitous circumstances.

"(g) Whenever the Secretary finds that more or less than the correct amount of child support payments has been paid with respect to any child, proper adjustment shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such child. The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of child support payments with respect to any child with a view to avoiding penalizing such child who was without fault, and whose parent, attorney, or agent was without fault, in connection with the overpayment, if adjustment on account of such overpayment in such case would defeat the purposes of this part, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this part.

"HEARINGS AND REVIEW, AND PROCEDURES

"SEC. 2022. (a) (1) The Secretary shall provide reasonable notice and opportunity for a hearing to any child who is or claims to be eligible for child support payments

under this part and is in disagreement with any determination under this part with respect to his eligibility for payments, or the amount of such payments, if such child requests a hearing on the matter in disagreement within thirty days after notice of such determination is received.

"(2) Determination on the basis of such hearing shall be made within thirty days after the individual requests the hearing as provided in paragraph (1).

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

"(b) (1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

"(2) To the extent the Secretary finds it will promote the achievement of the objectives of this part, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (a) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code,

"(3) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this part, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, territory, district, or insular possession of his residence, or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this part, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to

defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this part by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

"(c) The Secretary shall prescribe such requirements with respect to the furnishing of relevant data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this part. The payment of child support payments to which a child is otherwise entitled shall be conditioned upon compliance with such requirements.

"PENALTIES FOR FRAUD

"SEC. 2023. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any child support payment under this part,

"(2) at any time knowingly and willfully makes

or causes to be made any false statement or representation of a material fact for use in determining rights to any such payments,

"(3) being the parent, guardian, attorney, or agent of any child and having knowledge of the occurrence of any event affecting such child's initial or continued right to any such payments, conceals or fails to disclose such event with an intent infraudulently to secure such payments either in a greater amount than is due or when no such payments are authorized, or

"(4) having made application to receive any such payment for the use and benefit of another and having received it, knowingly and willfully converts such payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"USE OF STATE WELFARE AGENCIES FOR ADMINISTRATION

"SEC. 2024. (a) The Secretary shall enter into an agreement with any State which is able and willing to enter into such an agreement under which the State agency administering or supervising the administration of the State plan of such State approved under part A of title IV will, on behalf of the Secretary, make in such State child support

payments to the children residing in such State who are entitled to such payments, and make such determinations with respect to eligibility for and the amount of such payments as may be specified in the agreement.

"(b) The cost of carrying out any such agreement shall be paid to the State by the Secretary, from moneys in the security fund, in advance or by way of reimbursement and in such installments as may be agreed upon between such State and the Secretary.

"RECOVERY FROM PARENTS OF AMOUNTS PAID AS CHILD SUPPORT PAYMENTS

"SEC. 2025. (a) Any child support payments made under this part to any child shall be considered to have been made for the benefit of the parent of such child whose failure to make court ordered payments for the support and maintenance of such child gave rise to such child's entitlement to child support payments under this part, and such parent shall be liable to the United States for the amount of any such payments plus interest on such amount computed at the rate of 8 per centum per annum.

"(b) At the earliest practicable date after any child has first been paid child support payments under this part, the Secretary shall notify the Attorney General of that fact and shall advise the Attorney General of the name and address of such child and the name of the parent

of such child whose failure to make court ordered payments for the support and maintenance of such child gave rise to such child's entitlement to child support payments under this part. Such notification shall, if the Secretary (utilizing the authority conferred upon him under part A) is able to provide the same, contain the most recent address and place of employment of such parent.

"(c) (1) At the earliest practicable date after having received any notification from the Secretary under subsection (b) with respect to any parent, the Attorney General shall initiate appropriate proceedings, including the filing of suit in the appropriate United States district court, for the recovery of the amounts due the United States from such parent by reason of the provisions of this section. Any amount for which any parent is liable to the United States under this section shall be treated as a debt due and owing to the United States, and may be deducted from any amount otherwise due such parent or becoming due to such parent at any time from any officer or agency of the United States,

"(2) If at the end of any taxable year of any parent having a liability to the United States under this section, there remains unpaid any amount of such liability, any credit to which such parent is otherwise entitled under section 31 (a) of the Internal Revenue Code of 1954 shall be reduced by the amount of such unpaid liability.

"(d) Amounts recovered from any parent under this section (whether by any deduction or reduction authorized under subsection (c) or otherwise) shall be transmitted to the Secretary of the Treasury for deposit by him in the security fund.

"DEFINITIONS

"SEC. 2026. For purposes of this part—

"(1) the term 'child' means an individual under 18 years of age, or an individual over 18 years of age if such individual is under a disability (as defined in section 223 (d) (1) (A)) which began before he attained such age; and

"(2) an individual shall be considered to be the parent of any child if such individual has been determined, by a court of competent jurisdiction, to have a parental duty to provide for the support and maintenance of such child and has been ordered by such court to provide for such support and maintenance.

"PART C—OBLIGATIONS OF PARENTS OF CHILDREN RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

"FINANCIAL OBLIGATION OF DESERTING PARENT

"SEC. 2030. (a) If aid under a State plan approved under part A of title IV is provided to the spouse, child, or children of an individual during any period for which such individual has deserted such spouse, child, or children, such

individual shall be liable to the United States in an amount equal to the Federal share (as computed by the Secretary in accordance with standards prescribed by him) of such aid furnished during such period.

"(b) The Secretary shall issue such regulations and make such arrangement with State agencies administering or supervising the administration of State plans approved under part A of title IV as may be necessary to assure the provision to him by such agencies of any information which such agencies have or can obtain and which will be helpful in identifying and locating any individual who has a liability to the United States under subsection (a).

"(c) The Secretary shall promptly provide to the Attorney General any information which will be helpful to him in instituting appropriate proceedings for the recovery of amounts for which individuals are liable to the United States (including information obtained by the Secretary under authority of section 2011).

"(d) Any amount owing to the United States by reason of the provisions of subsection (a) may be recovered in the manner authorized by section 2025 for the recovery of liabilities owed to the United States by reason of the provisions of such section.

"(e) Any amounts recovered under this section (whether by any deduction or reduction authorized under

section 2025(c) or otherwise) shall be deposited in the Treasury as miscellaneous receipts.

"DUTY OF ADULT RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN TO PROVIDE INFORMATION CONCERNING DESERTING PARENTS

"SEC. 2031. (a) If any child has been deprived of parental support or care by reason of the continued absence from the home of a parent and is a recipient of aid to families with dependent children under a State plan approved under part A of title IV, it shall be the duty of any individual, who is the relative with whom such child is living (within the meaning of the 'relative with whom any dependent child is living', as defined in section 406(c)) promptly to disclose, to the local welfare office administering such plan for the area in which such individual resides, any information which such individual has regarding the identity, address, or place of employment of the parent of such child who, by reason of his continued absence from the home, has deprived such child of parental support or care.

"(b) Any individual, having a duty under subsection (a) to disclose information which he possesses and who willfully fails to disclose such information as provided in subsection (a), shall be fined not more than $1,000 and imprisoned for not more than one year.

"PART D—MISCELLANEOUS PROVISIONS

"PENALTY FOR TRAVEL IN INTERSTATE OR FOREIGN COMMERCE TO AVOID PARENTAL RESPONSIBILITIES

"SEC. 2040. Whoever travels from one place to another in interstate or foreign commerce, for the purpose of avoiding any responsibility imposed upon him under the law of any State for the support and maintenance of his child or children, shall be fined not more than $1,000 and imprisoned for not more than one year.

"DUTY OF POVERTY LAWYERS TO ASSIST IN SECURING CHILD SUPPORT

"SEC. 2041. (a) Notwithstanding any other provision of law, legal services programs established pursuant to section 222 (a) (3) of the Economic Opportunity Act of 1964 shall be operated in such manner as to give first priority to cases involving the securing of parental support for children who have been abandoned by a parent.

"(b) (1) Whenever any State agency administering or supervising the administration of any State plan approved under part A of title IV determines that any child applying for or receiving aid under such plan has been abandoned by a parent, it shall be the duty of such agency to refer such child (or the adult relative with whom such child is living) to any legal services program (as referred to in subsection (a)) located in the area in which such child resides, for

the purpose of obtaining legal assistance under such program in securing from such parent support for such child.

"(2) The Secretary is authorized to issue such regulations and to take such actions as may be necessary or appropriate to assure that State agencies having the duty described in paragraph (1) will carry out such duty.

"(c) Notwithstanding any other provision of law, on and after the period beginning one month after the date of enactment of this title, no Federal funds shall be available for the operation of any legal service program (referred to in subsection (a)) unless the Director of the Office of Economic Opportunity is satisfied that such program will be operated in a manner consistent with the provisions of subsection (a)."

Senator BENNETT. Our first witness this morning will be Senator Sam Nunn, who has introduced a child support bill along the lines of the measure passed by the Senate last year. Senator Nunn's bill is cosponsored by Senators Herman Talmadge and myself, who serve on this committee.

Senator Nunn, we are very happy to have you before the committee today, and you may proceed in your own fashion.

STATEMENT OF HON. SAM NUNN, A U.S. SENATOR FROM THE STATE OF GEORGIA

Senator NUNN. Thank you very much, Senator Bennett, Mr. Acting Chairman.

I am delighted to have a chance to appear before you and the distinguished members of this committee relative to S. 2081.

I think the unique thing about this is that the committee here and the staff are due a tremendous amount of credit for this legislation. I talked about it considerably in my campaign last year. I followed the committee's proceedings during the campaign and knew what was being talked about here. And since I have been here, the staff of the committee and the committee chairman and you, as the ranking minority members, and all of the other members have been most cooperative in assisting me in getting this legislation ready.

So, I am delighted to have a chance to be here and I am deeply indebted to Senators McClellan, Bible, Cannon, Helms, yourself, Domenici, and Senator Bellmon, who have joined in as cosponsors of this legislation.

My remarks are going to be brief this morning. I have attached to my statement a section-by-section analysis, and I would hope the committee could include it as a part of the record, but I know your time is limited.

Senator BENNETT. It will be printed in the record following your oral testimony.

Senator NUNN. I will just try to summarize the bill.

Many of the provisions of this bill were included in the child support section of H.R. 1, which passed the Senate last year, but which was unfortunately deleted in conference.

Before discussing the principal provisions of this bill, I want to briefly point out something of the existing AFDC situation.

The problem: Aid to Families with Dependent Children—AFDC—offers welfare payments to families in which the father is dead, absent, disabled, or, at the State's option, unemployed.

The caseload size has risen from just under 450,000 families in 1948 to more than 3 million families today, representing a cost increase of over $6 million.

It is in those families in which the father is "absent from the home" that the most substantial growth has occurred.

In 1967, 3.5 million persons were receiving AFDC, because the father was absent from home; by the end of 1971, just 4 years later, that figure had grown to 8.1 million. Thus, in just those 4 years, families with absent fathers contributed more than 4.5 million additional recipients to the AFDC rolls.

A 1971 AFDC study by HEW showed that 86.6 percent of the absent fathers of AFDC recipients contributed no support whatever to their families; and in nearly 25 percent of the cases, the father was not married to the mother.

The study also showed that in more than 44 percent of the absent father cases, the father's whereabouts were known; in fact, in 24 percent of these cases, the deserting person was found to be residing in the same county as his dependents.

In its March 13, 1972, study of current child support programs in four States, the GAO noted that HEW has not monitored the States' child support enforcement activities and had not required the States to report on the status or progress of the activities.

The basic thrust of S. 2081 is to insure that whenever possible parental support—not Government welfare payments—will be provided to AFDC children. Before discussing the bill's main provisions, I should point out that this legislation would require, as one of its key requirements, that the mother and other AFDC recipients assign their support rights to the U.S. Government as a condition for continued AFDC eligibility. Thus, the burden of collection is shifted to the Government with its far superior resources.

The bill contains a three-pronged approach. First of all, the location of the absent parent; second, the establishment of paternity; and, third, the enforcement of the support obligation.

Under "Location," I will briefly outline what I consider to be the major provisions, although this is a complex piece of legislation, and it has many other provisions.

I. LOCATION

1. First of all, the Attorney General has overall responsibility for establishing effective programs of location and collection.

2. He may delegate his authority to States and political subdivisions in which he finds effective support collection programs exist. And I might add, Mr. Chairman, that the thrust of this legislation is to give every incentive to the States and political subdivisions to take on this responsibility.

3. A parent locator service would be established within the Department of Justice to gather information as to the location of absent parents.

4. Access to all Federal and participating State records would assist in location.

5. The mother would be required to cooperate in locating the absent father as a condition for continued AFDC eligibility. And, further, Mr. Chairman, as an incentive for the mother to cooperate, 40 percent of the first $50 of support collected per month would go to the family without causing a reduction in the AFDC payment.

And I think this is important because in no case, under this legislation, would the family receive less than the AFDC payment. They could only be enhanced in their payments by this legislation.

6. Participating States would be required to cooperate in location efforts.

Now on the question of paternity, that enters into many of these cases and there is no easy way to address this problem and, certainly,

I do not, as the prime author of this bill, say that this is going to take care of all of the problems in establishing paternity. I am not sure we will ever pass legislation which will be able to do that, but this does make an effort toward that end.

II. PATERNITY

1. The mother recipient would be required to cooperate in establishing paternity.

2. Regional blood grouping laboratories would be established to provide assistance to public authorities without cost in developing evidence to establish paternity.

And it also should be made clear that there are divergent rules of evidence in many States. This legislation does not in any way change the rules of evidence but simply aids those States that allow this kind of evidence to be admitted.

Finally, under the paternity part of this legislation:

3. A deserting father who enters into a voluntary or administrative arrangement to provide support must consent to entry of a judgment finding him to be the parent. He must do that.

Under the "Enforcement" part of the bill, first:

Under the "enforcement" part of the bill, first:

1. The assigned support right constitutes a debt owed to the U.S. Government, as I previously alluded to.

2. All enforcement mechanisms available to the Federal Government and participating States, including the Internal Revenue Service, would be available for collection.

3. Cooperative and reciprocal agreements between participating States would be required to help insure enforcement.

4. As an incentive for effective enforcement programs, States having such programs would be reimbursed by the Federal Government for 75 percent of their operation costs, depending on who effected the collection. In addition, participating States or political subdivisions, would receive an amount equal to 25 percent of the support collected.

5. Wages and other payments based on employment of Federal employees, including military personnel, would be subject to garnishment and other legal process in all support and alimony cases.

6. Criminal sanctions for failure to support would include a penalty of up to 50 percent of the amount owed; or a fine of up to $1,000; or imprisonment for up to 1 year; or a combination of these three.

Another important provision that we could go into considerable detail because I think it provides a deterrent to welfare cases, non-AFDC recipients could use the support-collection mechanism provided by the bill for a small fee and, hopefully, this would deter and prevent them becoming AFDC recipients.

Mr. Chairman, I am convinced that if this bill is enacted the additional costs of obtaining child support will be more than offset by welfare savings. Some of these savings will be measurable as a result of the increased support payments offsetting AFDC grants. But more important will be the invisible but very real savings which will result if fewer families going on welfare in the first place. And this bill can make that happen by making it clear that the day has passed in this nation when men or women can abandon their families to welfare

without facing any substantial fear of being held responsible for the support of their children.

This, then, can represent a big step on the road to what I call true welfare reform. But I want to emphasize very strongly that the biggest beneficiaries of this bill are some of the country's most neglected children who have been wantonly deprived of their rightful support by their deserting fathers—aided and abetted by the existing welfare system.

Mr. Chairman, this concludes my summary. I will be happy to attempt to answer any questions the committee might have.

I know you have many other witnesses.

Senator BENNETT. Thank you very much, Senator.

Since we worked on this rather diligently, I think I have no questions.

Senator Roth, do you have any questions?

Senator ROTH. I have no questions, except to congratulate the Senator for the leadership that he has taken in this area. I am very sympathetic to your legislation.

Senator NUNN. Thank you, Senator Roth. I think the committee deserves credit in this case—the committee and the staff, who worked so hard on this and who have assisted us. I am interested in this legislation and I think it is a key to trying to do something about the existing welfare rolls and, also, about the breakdown of families in this Nation. I feel that it is just as important as saving money to try to do something about the breakup of families that is causing not only welfare problems, but problems throughout our entire social and criminal law stratum.

Senator BENNETT. Well, thank you very much, Senator Nunn.

Senator NUNN. Thank you.

[Senator Nunn's prepared statement and section-by-section analysis follows:]

STATEMENT OF SENATOR SAM NUNN, A U.S. SENATOR FROM THE STATE OF GEORGIA

Mr. Chairman: I am pleased to appear before this distinguished Committee to speak in favor of S. 2081 which I introduced along with Senator Talmadge, and which is cosponsored by Senators McClellan, Bible, Cannon, Helms, Bennett, Domenici, and Bellmon. The provisions of S. 2081 outline three major avenues to be pursued in establishing an effective system for securing child support contributions from deserting parents: (1) the location of the absent father; (2) the establishment of paternity of deserted and abandoned children; and (3) the enforcement and collection of support obligations.

Many of the provisions of this bill were included in the Child Support section of H.R. 1 which passed the Senate last year, but which was unfortunately deleted in Conference. I wish to acknowledge the substantial contributions of Senator Long, Senator Bennett, and the other Finance Committee members and staff in developing this legislation.

Before discussing the principal provisions of this bill, I want to point out something of the existing AFDC situation.

The Congress has in the past recognized the importance of the issue of desertion and nonsupport. In the 1940's it considered legislative proposals which sought to enforce family support responsibilities by making abandonment of dependents a Federal crime. In 1950, the NOLEO Amendment was enacted, requiring States to notify appropriate law enforcement officials of all cases of children receiving AFDC because of parental desertion or abandonment. During this period there were differences of opinion as to whether federal or state officials should enforce the support laws. Advocates of legislative proposals seeking to make abandonment of dependents a Federal crime argued that Federal enforcement

and Federal courts could more effectively enforce support laws than could State courts and officials. They stated that since securing extradition could often be difficult, Federal officers could more easily locate deserting parents, and the threat of Federal prosecution would perhaps act as a deterrent to abandonment. But others felt strongly that the enforcement of support orders was within the domain of domestic relations and as such, should be a State responsibility.

Thus the provisions contained in the NOLEO requirement as enacted in 1950 represented a compromise of these differences, by essentially assigning enforcement responsibilities to the States, while requiring them to notify law enforcement officials in all cases of desertion or abandonment in which Federal public assistance funds were being provided. Also in 1950, after earlier versions had been adopted in a number of States, the Uniform Reciprocal Enforcement of Support Act was proposed and subsequently adopted throughout the United States. The intent of this Act—which was subsequently amended in 1952, 1958, and 1968—was to ensure reciprocity in the enforcement of family support obligations, authorizing law enforcement cooperation on an interstate basis. In 1967, amendments to the Social Security Act stipulated that States must establish a single identifiable unit in the State and local welfare agencies for the administration of child support collection efforts. These amendments also required efforts to establish paternity of all AFDC children born out of wedlock, and to secure support from deserting parents by utilizing tax and social security records and any reciprocal arrangements with other States to obtain or enforce court support orders. Unfortunately, there is ample evidence indicating that our current mechanisms for establishing paternity and securing support are neither properly administered nor adequately enforced. Even a cursory glance at the development of the AFDC program over the years will point to the need for new and stronger measures for obtaining financial support for deserted families.

Authorized under Title IV-A of the Social Security Act, the program of Aid to Families with Dependent Children (AFDC) has provided financial assistance to families of needy children deprived of parental support due to the death, incapacity, or continued absence of a parent (and in some States, the unemployment of the father). We are all painfully aware of the tremendous growth that has occurred in this program over the years. The overall increase in caseload size and cost has seen the total benefit population grow from just under 450,000 families in 1948 to more than 3 million families today, representing a cost increase of over $6 billion. Even more disturbing, however, has been the shift in the composition of the population receiving AFDC payments. In the early years of the program, most of the families receiving AFDC payments were composed of needy children whose fathers were either dead or incapacitated. Families receiving assistance because of the absence of the father from the home comprised a minor percentage of the caseload—approximately 30% in 1940. But as the program grew, so did the number and proportion of AFDC families where the father was absent from home. By 1960, absence of the father accounted for 64% of the caseload nationwide, and by 1971, eleven years later, more than 1.9 million of the 2.7 million families receiving AFDC—over three-fourths of the entire caseload—were comprised of children whose fathers had left them. The cost of payments to these families was over $4 billion per year. I believe the gravity of this situation necessitates the adoption of stronger and more effective measures in order to reverse the unfortunate trend of past years

A 1971 HEW study of the more than 1.9 million AFDC families with absent fathers revealed that the fathers of nearly 25% of these families were not married to the mother and in more than 17% of the instances of absence, the fathers had deserted their families. The nationwide average AFDC payment issued in 1971 was about $179 per month (for an average number of 2.6 children per family): yet among deserted families, the average payment was about $201 per month, for an average of 3 children per family. This was the highest average payment and greatest average family size among all reasons accounting for the absence of the father from the home. The next highest average payment (and equivalent average number of children) occurred among families of parents who had been separated without a court decree. If the absent fathers in these cases had been making significant support contributions to their needy dependents, the average payments, and thus overall program costs to the taxpayers, could have been that much lower.

Furthermore, in 50% of the AFDC cases in which the father was absent from the home for reasons other than death, the father's whereabouts were

unknown. In such cases, there can be no hope of obtaining child support until the deserting parent is located. To assist in this regard, S. 2081 would require the Attorney General to establish a parent locator service within the Department of Justice, for obtaining the most recent address and place of employment of absent fathers from the files of any Federal or State agency.

In more than 24% of the absent father cases discovered in this same 1971 study, the absent father was found to be residing in the same county as his dependents, and in another 20% of the absent father cases, the father's residence was found to be in the same or another State. Thus, in a total of more than 44% of all absent father cases, the father's whereabouts were known, and since this figure excludes absent fathers known to be in institutions or outside the country, there exists among this large segment of the AFDC population a clear possibility for obtaining support. This same AFDC study indicates that our current enforcement and collection mechanisms have failed here too, however, since only about 13.4% of AFDC families overall received any support payments from the absent father. Again we can look to the provisions of S. 2081 for new measures designed to better our previous record in this regard. The bill would revamp the existing support collection system giving the Attorney General overall responsibility for its effectiveness while allowing him to delegate the actual operations of the program to those States which are willing to conduct an effective program. To give the Attorney General and the States the tools necessary to make the new support program work, S. 2081 would require applicants for welfare to assign their support rights to the government. This assignment would constitute a debt owed to the United States. Further, deserting parents failing to meet their support obligations would be subject to Federal criminal penalties. The bill also would, for support and alimony cases, eliminate the existing exemption of the wages of Federal employees, including military personnel, from garnishment proceedings. These provisions should go far towards returning the responsibility for family support to deserting parents, where it rightfully belongs, and to ease the unjust burden presently borne by the taxpayers.

In any consideration of the problems of obtaining child support, one cannot overlook the importance of ascertaining paternity of deserted and abandoned children as an integral part of any successful child support collection programs. Establishment of paternity is especially important because it reaffirms a basic right which all children should have, the knowledge of their parentage. As early as 1955, in the first nationwide study ever conducted on the subject of support from absent fathers, it was found that in nearly three-fifths of the sample cases involving unmarried parents, efforts to secure support had been thwarted by the fact that paternity had not been established. The data compiled further indicated that the greater the formality with which paternity is established, the greater the likelihood that the father would contribute. In cases in which the father's paternity was only informally acknowledged, only 16.6% contributed whereas in cases of paternity ascertained by judicial determination or formal acknowledgement a total of 66% contributed. To assist in determining paternity, S. 2081 would authorize HEW to establish or arrange for regional laboratories with expert blood typing facilities to develop evidence for use in support cases. Courts and governmental collection agencies would be able to use these blood grouping services without charge.

Some of the other findings of this 1955 Federal study are especially interesting in light of our consideration today of the reform measures contained in S. 2081. The findings of this study established a positive correlation between the likelihood of obtaining support from an absent father and the existence of a support order or agreement. This corroborated a similar finding resulting from a pilot study on the support of AFDC children by absent fathers that had been conducted by the State of California in 1954. In the Federal study, it was found that nearly 42% of the families in which the estranged parents were still married, or had been previously married, received contributions where the absent father was subject to a court order or agreement. In contrasts, a 1% rate of contribution was found where there was no support order or agreement in effect. As noted above, obtaining support in cases in which the parents had never been married was found to be complicated by the establishment of paternity, and there was no support order or agreement of any kind in nearly five-sixths of these cases. But of those cases in which an order or agreement was in effect, 55% of the families received contributions.

S. 2081 provides financial incentives for States to develop sound programs for establishing paternity and enforcing support obligations by increasing the Federal matching available to those States (or localities) found by the Attorney General to have effective child support systems. As stipulated in the bill, effective systems would be required to provide for the issuance of court orders for support or entering administrative arrangements to recover support obligations.

In March of 1971 the General Accounting Office studied the problem of absent parents who do not contribute to the support of their dependent children receiving public assistance under the AFDC program. In general, the GAO concluded that the States included in the study had received only limited guidance and assistance from HEW in developing effective child support collection systems, with insufficient emphasis having been placed on the importance of enforcement efforts. Of the four states whose child support collection systems weret studied in this review—Washington, Arkansas, Iowa, and Pennsylvania—Washington was found to have the most effective and well-developed program. The data compiled from the child support system in that State revealed significantly higher rates of success in locating the absent father, establishing paternity, and securing support payments than were found in any of the other three States included in the study. In Washington, of the 81% of the absent parents who were located, 43% were making support contributions, as compared with the 66% located and 19% contributing in Iowa; and 64% located and 13% contributing in Pennsylvania; and 39% located and 18% contributing in Arkansas. Collections from absent parents in the State of Washington totalled $5.7 million during fiscal 1971, on behalf of both active and former AFDC cases; operating expenses of collection efforts during that same period totalled about $904,000.

It is significant that three of the components of the child support program in the State of Washington cited by the GAO as factors contributing to the relative success of the child support enforcement efforts in that State are included among the principles contained in the provisions of S. 2081. These are: (1) As a condition for receiving the full amount of AFDC benefits available, the recipient must assign her right to support payments to the State, with the State then assuming responsibility for collection; (2) the absent parent is by law responsible for the support of his child or children, and if there is no court order for support, the amount of his obligation is the full amount of the public assistance benefits paid on behalf of his children; and (3) a separate collections unit was established on a statewide basis with the specific function of locating absent fathers and collecting child support. Furthermore, the program contained defined procedures for monitoring the payment records of absent parents and following up promptly when payments become delinquent.

The history of frustration and failure in the attempt to enforce parental obligation for the support of children receiving public assistance clearly evidences the need for a new approach, providing stronger measures and increased Federal direction in this regard. I believe that by heeding the results of past studies and employing the successful methods used in recently developed programs we can improve our previous record in obtaining child support for deserted and abandoned children. Reform of our current mechanisms for establishing paternity and securing support is necessary both to affirm the rights of needy children and to enforce the principle that parents, not taxpayers, are responsible for the support of their families.

Mr. Chairman, I feel that this background has shown something of the existing AFDC situation. I would now like to discuss in considerable detail the specific provisions contained in S. 2081.

S. 2081

Section-by-Section Analysis

This bill amends Title IV of the Social Security Act by adding a new part (D) which deals with child support and the establishment of paternity.

SECTION 451—APPROPRIATION

This section authorizes the appropriation to the Attorney General of a sum sufficient to carry out the purposes of the bill.

SECTION 452—DUTIES OF THE ATTORNEY GENERAL

Section 452(a) mandates that the Attorney General shall enforce the support rights assigned to him by the Aid to Families with Dependent Children recipients. He is to use all funds and authority available to him for this purpose.

(Note: The bill amends section 402 of the Act to provide that applicants for and recipients of AFDC funds assign to the federal government their support rights as a condition for AFDC eligibility.)

This section further mandates that the Attorney General "to the extent required" shall locate absent parents, determine paternity in order to establish a duty to support, obtain support orders, collect support payments by the use of voluntary or administrative arrangements, or other means, and enforce the criminal provisions for nonsupport by such parents.

(Note: Voluntary and administrative arrangements are discussed in Section 452(b)(3) and Section 454(b)(4-6).)

Section 452(b)(1) mandates that the Attorney General shall, in accordance with procedures applicable to the recovery of obligations due the U.S., including where appropriate, the use of voluntary or administrative arrangements, and in accordance with the priorities for distribution specified in section 455 collect and distribute amounts collected as support obligations.

The subsection further provides that the Attorney General may certify to the Secretary of Treasury any amount for which an individual has been determined to be liable to the U.S. for collection pursuant to Section 6305 of the Internal Revenue Code of 1954.

(Note: The bill amends the IRS Code by adding a new section 6305 which basically requires the support obligation be collected by the Treasury in the same manner as a tax imposed by Subtitle A of the IRS Code, i.e., like income taxes.)

The Attorney General is required to reimburse the Secretary of Treasury for any collection costs.

Section 452(b)(2) authorizes the Attorney General to bring a civil suit against the absent parent to secure support obligations (as defined in Section 457) in any court of competent jurisdiction, including state courts.

All or part of the support obligation may, however, be suspended, or forgiven by the Attorney General upon a finding of good cause.

Section 452(b)(3) allows the Attorney General to make voluntary or administrative arrangements to recover the assigned support obligations:

(1) if there is no court order in effect requiring payment of such obligation; or

(2) if such a court order is in effect but there is no reasonable expectation that it can be enforced or the obligation collected.

Any voluntary or administrative arrangement must provide that support payments will not cease if the family ceases to receive AFDC assistance.

Furthermore, if there is no court order in effect, the amounts payable under such voluntary or administrative arrangements may be collected as authorized by other provisions of this part. Thus, for example, the funds could be collected by the IRS upon certification by the Attorney General.

Section 452(c) directs the Attorney General and the Director of the Office of Economic Opportunity to enter an arrangement whereby legal services of OEO attorneys will be made available to the Attorney General to assist him in carrying out his functions under this legislation. The Attorney General must reimburse the OEO for any costs incurred.

The section mandates that the Attorney General utilize "to the maximum extent feasible" the services of such attorneys, and furthermore, he may make the services of such attorneys available to states or political subdivisions which have been delegated authority to collect the support obligations.

Section 452(d) requires that the Attorney General have each U.S. Attorney designate an Assistant U.S. Attorney to be responsible in his judicial district for enforcement of this legislation, and to maintain liaison with and to assist states "in their child support efforts."

Each Assistant U.S. Attorney must submit quarterly reports on his activities to the Attorney General for submission to Congress.

Section 452(e)(1) establishes a revolving fund in the Treasury, known as the "Federal Child Support Fund," to enable the Attorney General to carry out his duties under this legislation without fiscal year limitation.

Section 452(e)(2) provides, except as noted below, all moneys appropriated to fund the Federal activities under this legislation including support payments, and reimbursements, shall be paid into the revolving fund for disbursement by the Attorney General.

Section 452(e)(3) appropriates to the revolving fund from moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under Section 6305 of the Internal Revenue Code (i.e. support payments collected by the IRS), reduced by the amounts credited or refunded as overpayments of the amounts so collected. Such appropriation shall be made at least quarterly on the basis of estimates made by the Secretary of Treasury, with subsequent proper adjustments.

Section 452(f) requires the Attorney General to notify the Secretary of HEW of noncompliance with Section 402(a)(25) by a State agency administering the AFDC plan (i.e., not having an effective program—such as failure to determine paternity, locate absent parents, or secure support as prescribed by the Attorney General).

Section 452(g) provides that the Attorney General keep records of amounts collected and costs incurred and to submit by June 30 of each year a report on activities taken hereunder.

SECTION 453—PARENT LOCATOR SERVICE

Section 453(a) requires the Attorney General to establish and maintain within the Justice Department a "Parent Locator Service." This Service shall be used to obtain and provide to authorized persons information as to the location of absent parents for the purpose of enforcing support obligations against such parent.

(Note: Persons authorized to receive such information are discussed below under Section 453(c).)

Section 453(b) requires, notwithstanding any other provision of law, that the Attorney General through the Parent Locator Service upon request (made in the manner prescribed by the Attorney General) provide to authorized persons the most recent address and place of employment of the absent parent if such information is:

(1) contained in files or records of the Attorney General or Justice Department; or

(2) can be obtained by the Attorney General under authority conferred by subsection (e) (see below) from any other department, agency, or instrumentality of the U.S. or of any state.

The Attorney General must give priority to requests made by agents or attorneys of the U.S., or of any State or subdivision with delegated support functions who has the duty or authority to seek to recover the assigned support rights.

Section 453(c) defines the term "authorized person" to mean:

(1) any agent or attorney of the U.S., or of any State or of any political subdivision to which support collection functions have been delegated under section 454, who has the duty or authority to seek to recover any amounts under section 452;

(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

(3) the parent, guardian, attorney, or agent of a child (other than a child receiving AFDC aid) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child. (This allows non-AFDC families to use the parent locator service.)

Section 453(d) gives the Attorney General authority to regulate the manner in which requests for information under Section 453 must be filed.

Section 453(e)(1) requires the Attorney General to promptly undertake to provide information requested under subsection (b) above (i.e., address and place of employment) when he is reasonably satisfied that such request meets the criteria of subsections (a through c) above.

Section 453(e)(2) provides, notwithstanding any other provision of the law, that upon request for information by the Attorney General the head of any department, agency, or instrumentality of the U.S. shall promptly provide such information if it is contained in such department's files and records, or if not to so notify the Attorney General that the department has no such information.

Welfare information now withheld from public officials under regulations concerning confidentiality would be made available by the bill. The current regulations are based on a provision in the Social Security Act which since 1939 has required State programs of AFDC to "provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purpose directly connected with the administration of AFDC." This provision was designed to prevent harassment of welfare recipients. The bill makes it clear that this requirement may not be used to prevent a court, legislative body, or other public official from obtaining information required in connection with his official duties such as collecting support payments or prosecuting fraud or other criminal or civil violations.

The Attorney General must reimburse such agency for costs incurred. A fee must be charged and deposited in the revolving fund to reimburse the costs, whenever such information is furnished to the parent, guardian, attorney, or agent of a child who is not receiving AFDC aids, without regard to the existence of a court order against an absent parent who has a duty of support and maintenance of such child.

Section 453(f) requires the Attorney General to arrange with State agencies which administer AFDC plans to accept requests from parents, guardians, or agents of non-AFDC children for information as to the location of absent parents and to transmit such requests to the Attorney General, and to arrange for further cooperation with such state agencies to aid the Attorney General in carrying out the purposes of this section dealing with parent location.

SECTION 454—DELEGATION OF SUPPORT COLLECTION FUNCTIONS

Section 454 provides for the delegation of support collection functions to states or political subdivisions.

Section 454(a)(1) requires the Attorney General to delegate to states having AFDC plans the authority to enforce the child support rights assigned to the U.S. if he determines such State has an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting amounts of money owed by parents for the support and maintenance of their children. (The effectiveness of state programs is based on the standards set out in Section 454(b), plus the requirements instituted by the Attorney General.)

Section 454(a)(2) allows the Attorney General to determine that a State which delegates all or a substantial part of its support collection functions to its political subdivisions has an effective program.

Section 454(b) prohibits the Attorney General from approving any program as effective and therefore subject to delegation unless the State or political subdivision will:

(1) undertake to:

(a) establish paternity of a child born out of wedlock with respect to whom an assignment as provided herein has been made;

(b) secure support utilizing reciprocal arrangements with other states to obtain or enforce court support orders;

(2) provide for:

(a) establishment of an organizational unit to administer the program;

(b) entering cooperative arrangements with courts and law enforcement officials to assist in administering the program and relating to other matters of common concern.

(c) establishment of a service to locate absent parents utilizing all sources of information and available records and the Justice Department Parent Locator Service.

(3) in accordance with standards prescribed by the Attorney General cooperate with other States and political subdivisions or the Attorney General in:

(a) establishing paternity;

(b) locating an absent parent residing in the State;

(c) securing compliance with a court order against the absent parent for support of a child who is receiving aid under the other State's plan;

(d) carrying out other functions required by this legislation.

(4) make voluntary or administrative arrangements to collect the support obligation if there is no reasonable expectation of such order's enforce-

ment. Any voluntary or administrative arrangement must provide that the support payments will not cease if the family ceases to receive AFDC assistance and the amounts payable under such arrangements, if there is no court order in effect, may be collected as authorized by this legislation.

(5) require, as a condition of permitting support payments under a voluntary or administrative arrangement, that such parent consent to entry of a judgment by an appropriate court in which such parent shall be found to be the parent of the child or children.

(6) establish by law a mechanism for enforcing such voluntary or administrative arrangements; [Note: These provisions thus make the "voluntary" arrangements legally binding.]

(7) comply with other requirements the Attorney General determines necessary to establish an effective program including a full record of collections and disbursements.

(8) reimburse the Attorney General for the costs incurred by the Federal Government in enforcing and collecting the support obligations.

Section 454(c) requires that the Attorney General upon request provide the services of OEO attorneys to States and political subdivisions who have been delegated authority to collect the support obligations.

Upon a showing by such state or subdivision of diligent and reasonable efforts in using its own collection mechanisms, the Attorney General is required upon request to make available the collection facilities of the Department of Treasury. The Attorney General is given discretion to limit the frequency of use of the Treasury facilities.

Section 454(d) provides that States and political subdivisions having an approved collection program are to be reimbursed each quarter, beginning January 1, 1974 for 75% of their program expenses by the Attorney General (except as provided by Sections 456 and 459).

SECTION 455—DISTRIBUTION OF PROCEEDS FROM SUPPORT COLLECTION

Section 455(a) provides for the distribution of amounts collected as support obligations (see Section 457 for definition of term "support obligation"). Such amounts must be distributed according to the following order of priority: [(It should be noted that the bill amends 402(a)(8)(A) of the Social Security Act to provide that 40% of the first $50 of any support collected will go to the family without causing any reduction in the AFDC payment.)]

(A) If the State makes the collection, the proceeds shall be distributed as follows:

(1) The family shall be paid the larger of (i) 100% of the proceeds if they are equal to or less than the amount of the assistance payment which the family would otherwise receive, or (ii) an amount equal to the lesser of either the amount required by a court order to be paid for child support or the amount agreed upon by the parties under a voluntary or administrative arrangement; and

(2) The state shall be paid amounts necessary to reimburse the state for assistance payments made to the family prior to the date on which the support obligation was collected. However, appropriate reimbursement shall be made to the federal government for deposit into the fund, and to any political subdivision to the extent of its participation in the financing.

For example, where a family is getting $200 per month in AFDC and a support order for $300 has been obtained on their behalf, any support payment collected by the State would be distributed as follows:

(a) If a support collection of $100 is made for a month, only $80 would be used to reduce or offset the $200 AFDC payment since $20 of the support payment (40% of the first $50) must be disregarded. Thus, the family would receive $220.

(b) If a support collection of $300 is made, all $300 is paid to the family, which would be off the AFDC rolls for that month.

(c) If a support collection of $350 is made, the first $300 would be paid to the family (the amount specified in the court order); and the remaining $50 would be paid to the state to reimburse it for prior assistance payments made to the family. If no prior obligation was outstanding, the entire amount of $350 would go to the family (see 457(d)(2)). In either case, the family would not be on the welfare rolls that month.

[Note: This same example would apply below when a political subdivision or the Attorney General makes the collection, except that the political subdivision or the federal government respectively would receive the remaining $50 in situation (c) above if any prior obligation was outstanding.]

(B) If a political subdivision or its agents makes the collection, the proceeds shall be distributed as follows:

(1) the family shall be paid the larger of (i) 100% of such proceeds if they are equal to or less than the amount of assistance payments which would otherwise be made, or (ii) an amount of such proceeds that is equal to the lesser of the amount required by a court order for child support, or the amount agreed upon by the parties under voluntary or administrative arrangement; and

(2) the political subdivision shall be reimbursed for assistance payments made to the family prior to the date on which the support obligation was collected. However, the federal government must be paid for deposit into the revolving fund the total amount by which such reimbursement exceeds the share of such reimbursed assistance the cost of which was borne by the political subdivision.

Section 455(b) provides that when a family ceases to receive AFDC funds the Attorney General, or state or subdivision with delegated collection authority shall continue to collect support payments for an additional three months and pay such amounts to the family.

If the individual on whose behalf the collection is made authorizes the Attorney General to continue collection of support payments after the three months period noted above, the Attorney General must continue to collect such payments, and pay the amounts collected to the family after deducting any costs incurred in collection. Therefore, former AFDC families can continue to use the collection mechanisms.

[Also note, if a subdivision makes the collection, the federal government would receive the remaining $50 if there was no prior obligation outstanding to the subdivision.]

Section 455(c) provides that if the Attorney General makes the collection, the proceeds shall be distributed as follows:

(1) The family shall be paid the larger of: (i) 100% of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made; or (ii) the amount of such proceeds that is equal to the lesser of the amount required by a court order for child support or the amount agreed upon by the parties under a voluntary or administrative arrangement; and

(2) the Federal government shall be paid for deposit into the revolving fund such amounts as may be necessary to repay past assistance payments.

Whenever the Attorney General, or a political subdivision of a state collects the support obligation and distributes the proceeds of such collection as provided herein (see above) to a family residing in a state or political subdivision which has been found not to have an effective program, the Attorney General must so certify to the Secretary of the Treasury who must reduce the AFDC grant by an amount equal to the amount so certified, and deposit this amount into the revolving fund. However, the reduction shall not be greater than the non-federal share of the amount of the assistance payment such family would have received from such State if the distribution to the family had not been made, reduced by that portion of such non-federal share which was paid by a political subdivision when such subdivision makes the collection.

SECTION 456—INCENTIVE PAYMENT TO STATES AND LOCALITIES

When a political subdivision of a State or when a State acting as the agent of the Attorney General or another State enforces and collects the support obligation (either within or without such State), such collecting state or political subdivision shall be paid an incentive amount equal to 25% of any amount so collected from amounts which would otherwise represent the federal share of assistance to the family. However, when more than one jurisdiction is involved in collection or enforcement, the 25% incentive payment shall be allocated among the jurisdictions as prescribed by the Attorney General.

SECTION 457—SUPPORT OBLIGATION

Section 457 is a key section which defines the support obligation. Section 457(a) provides that the support rights assigned to the U.S. shall be considered an obligation owed to the U.S. by the individual responsible for support. This obligation may be collected by the U.S., or as provided herein, by the states or political subdivision, and such amounts shall be distributed as herein provided.

Section 457(b) provides that the assigned support obligation shall be deemed for collection purposes to be a debt owed to state or subdivision whenever the support rights are delegated to such state or subdivision and shall be collectable under all applicable state and local processes.

Section 457(c) defines the amount of the support obligation to be:

(1) the amount specified in a court support order; or

(2) if there is no court support order, an amount equal to the total amounts of payments which have been or would be made on behalf of the children of an absent parent and their caretaker each month under the state AFDC plan; or

(3) if less, 50% of the monthly income of the absent parent for each such month, but not less than $50 per month.

Section 457(d) provides that any amounts collected from the absent parent shall reduce dollar for dollar the amount of his obligation as defined herein; and to the extent that such amounts exceed the amount necessary to fulfill the distribution requirements herein (see Section 455), be paid to his family.

Section 457(e) provides that interest shall accrue at a rate of 6% per annum on any unsatisfied obligation.

SECTION 458—REGIONAL BLOOD TYPING LABORATORIES

This section provides that the Secretary of HEW shall establish or designate a laboratory in each section of the country to analyze and classify blood for the purpose of determining paternity. In addition, the Secretary must notify courts and public agencies that such laboratory has been established. The use of the laboratory facilities are to be available without cost to courts and public agencies.

This bill does not seek to change the court's rules of evidence, but it will make proper testing facilities available to the courts to the extent that blood tests are admissible evidence.

SECTION 459—SUPPORT COLLECTION SERVICES FOR NON-AFDC RECIPIENTS

Under Section 459, a non-AFDC family can, upon application to the governmental authority administering the support collection services under this Act, use such services. The individual so applying must pay an application fee and reimburse the government for any costs incurred in excess of the fee so imposed.

SECTION 460—CONSENT BY U.S. TO GARNISHMENT

Section 460 provides that the U.S. consents to be subject to garnishment and other legal process in the same manner and to the same extent as a private person on wages and other payments based on employment owed by the U.S. to a parent with a legal obligation to provide child support or make alimony payments.

SECTION 461—CRIMINAL OFFENSE FOR NONSUPPORT

This section provides that a parent who fails to perform his legal duty to support his child (or children) and who has abandoned such child, and the child receives federally funded assistance shall be penalized an amount equal to 50% of the support obligation owed the U.S., or fined not more than $1,000 or imprisoned not more than one year, or any combination of these three penalties.

It is also specifically stated that this section does not preempt any state law imposing criminal or civil penalties for non-support.

The remainder of this bill largely relates to technical and conforming amendments to prior legislation.

COLLECTION OF SUPPORT OBLIGATION BY IRS

The legislation amends 2(a) Subchapter A of Chapter 64 of the Internal Revenue Code of 1954 to provide that upon receiving certification (as provided in 452(b)(1)), the Secretary of Treasury shall assess and collect the amount certified in the same manner as if such amount were a tax imposed by the IRS code, except that (1) no interest or penalties shall be assessed or collected and (2) certain specified paragraphs relating to property exempt from levy shall not apply.

The Conforming Amendments to Part A of Title IV of the Social Security Act include the following significant points:

(1) Forty percent of the first $50 of support collected each month shall be disregarded.

(2) As a condition for eligibility for aid, each applicant or recipient must:
(a) assign any support rights to the U.S., including rights accrued at the time of the assignment and which will accrue during a 3 month period following the month in which aid was last received under the plan;
(b) cooperate with government authorities in establishing paternity and obtaining support or other payments;
(c) provide his Social Security number to be used by the state agency in administering the plan.

The effective date of these amendments would be January 1, 1974.

Mr. Chairman, this concluded my statement. I will be happy to attempt to answer any questions that the committee members might have.

Senator BENNETT. Our next witness is Senator Henry Bellmon, of Oklahoma.

Senator Bellmon, Senator Long is delayed and we have opened the hearing because the witness list is so long. I am supposed to be in another hearing in another subcommittee of this committee and when Senator Long comes in, I may leave. That does not mean that I do not have any interest in what is being said, but I have not figured out a way to be in two places at once.

STATEMENT OF HON. HENRY BELLMON, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator BELLMON. Thank you, Senator. I appreciate the problem. I have just come from the Post Office and Civil Service Committee. We are having hearings, also, and I appreciate the opportunity to appear.

Mr. Chairman, I am not going to take time to read a prepared statement. I ask unanimous consent that the statement I have be made a part of the record.

Senator BENNETT. It will be so entered in the record following your oral testimony.

Senator BELLMON. I would like to take just a moment to outline the main points of S. 1842, a bill which I introduced 2 years ago, and again, at the beginning of the current session. And I wish to thank the committee for giving me a chance to again appear on its behalf.

I have discussed this bill with the chairman on other occasions, and there is no point in going into a great lengthy discussion of it here today. Let me simply give some updated figures on what the AFDC program is now costing. The figures I have show that in 1960 its cost was $1.02 billion. By 1972, the cost had risen to $4.8 billion, and in 1973, the estimated cost was exactly $6 billion. In the President's budget request for fiscal 1974, he is requesting $7,742,859,000, of which the Federal share is over $4 billion.

There are now almost 8 million children involved and a total of 11,084,000 recipients altogether, including the parents. Therefore, I believe it is quite clear that this has become one of the most important social problems that we have in our country.

S. 1842 would accomplish the following. It would establish a Federal Child Support Security Fund and a parent, generally a woman, who has been awarded child support by a court of proper jurisdiction, who finds that the responsible parent is not making the child support payments, could come to the Federal Child Support Security Fund, provide evidence of the amount of child support that the court has ordered, provide evidence that this support had not been paid for 6 months, and immediately begin receiving the child support, to which

she is entitled from the fund. This amount would be the amount of the court order, or $150, whichever is less. The amount of child support paid by the fund would then become a debt to the Federal Government, owned by the responsible parent. The full resources of the Federal Government would then be put into force in order to collect the amount of money that the child was receiving from the fund. This would involve the Internal Revenue Service, it would involve the Social Security Administration, and it could involve the military or any of the Federal agencies that have knowledge or have access to the resources of the responsible parent and would then be in a position to collect the money to repay the fund.

By implementing this plan the mother would not be faced with the expensive legal costs of tracing down the absent parent and collecting the money that is due her family. She would not be faced with the uncertainty as to whether or not the child support payments would be made when they are due. The children would know that they are going to have available the money they need to pay the costs of education, or to pay for the cost of living. As a result, the present situation which is now a little less than chaotic would be greatly stabilized.

This is a much better approach than waiting until these children become welfare recipients before the Federal Government attempts to help them collect the child support to which they are due. It is a far better procedure than the present policy which makes it possible for the responsible parent to neglect their families and force the taxpayers to pick up the cost of supporting these children. I believe the situation we have now is a little less than a national disgrace and I believe that enactment of legislation, such as S. 1842, would do a great deal, Mr. Chairman, to correct the situation and to stop these abuses.

Senator CURTIS (presiding). Senator Bellmon, as I understand your proposed plan, it would cause this Government agency to make the payments in the first instance that are due for child support, and then the agency, in the name of the U.S. Government, would proceed to become reimbursed from the parent?

Senator BELLMON. That is exactly right.

Senator CURTIS. In order that we might know how big this problem is, can you give us any figures or percentages as to what portion of the AFDC load are cases or consist of cases where there is a refusal of the parents to support the children?

Senator BELLMON. Mr. Chairman, I do not have the figures broken down as you have asked for them.

Senator CURTIS. Give me your best thoughts on it as your experience of Governor of Oklahoma?

Senator BELLMON. Well, sir, it is perfectly obvious, I think, that children do not come into this world without parents, and in every case, an adult somewhere is responsible. Now, to say exactly what percent of those children are deserted by runaway fathers is something that at the moment, I can only guess. I will do my best to get those figures, but I would imagine that more than half of the AFDC cases are the result of broken homes, where there is a parent able to provide support if the parent is making conscientious efforts.

Senator CURTIS. Now, would you proceed against the parents only in those cases where a court has fixed their liability?

Senator BELLMON. Under the terms of this bill, the answer is yes. The purpose of this bill is to make certain that parents who are responsible for making child support payments do, in fact, make those payments.

Senator CURTIS. Would your bill give any jurisdiction to the agency which you create to proceed with the court action? I am thinking of a case like this: Suppose there is an unmarried woman, who has given birth to one or more children. She has not proceeded in court to have a court finding on who the father is. What do you propose in cases of that kind?

Senator BELLMON. Mr. Chairman, that particular problem was not the purpose for this bill. Apart from the bill——

Senator CURTIS. Well, I am thinking of it as a necessary step in proceeding to collect, because I can understand that even though the father might be absent, the mother may be certain, in her own mind, as to who the father of the child is, but merely on her representation, it would be difficult for the Federal Government, and probably very unwise for the Federal Government, to proceed to collect when there is no court finding, or no acknowledgement of parenthood.

Senator BELLMON. Well, I would agree. As I say, that was not dealt with in this particular bill. This bill deals with those cases where the court has ordered the payments of child support, and where the responsible parent has refused to make those payments.

Senator CURTIS. Well, I think you made a very worthwhile contribution to understanding the problem and a very worthwhile solution. It is my understanding that quite a sizable proportion, and I do not have the figures, of the AFDC cases are children born of unmarried mothers. My guess would be that very few of those have proceeded to get any kind of court finding as to who the father was, and that if undertaken by this agency, it would not be for the purpose of extending social services to them, but it would be the first step in the collection process.

Senator BELLMON. Mr. Chairman, I would agree that that area needs to be dealt with. It is a much more difficult area than the one that I was trying to get to with S. 1842.

My intention here is to make certain that in those cases, where the parent is known, where the court has ordered that child support be paid, that a mechanism, workable mechanism, be devised so that the mother would be able to get those child support payments without having to go on welfare and letting the taxpayers pick up the cost of raising her family. I would agree, and would support the committee's efforts to go further than that, but that was not the purpose of this bill.

Senator CURTIS. But there would be authority vested to proceed against the mother if she was physically able and could work?

Senator BELLMON. Yes. But, again, the primary purpose is to make certain that the court ordered child support is, in fact, paid.

Senator CURTIS. Well, I thank you very much for your fine statement. Do you have any questions?

Senator FANNIN. Thank you, Mr. Chairman. I just regret Senator Bellmon, I did not have the privilege of hearing your testimony, and I would just ask, are your recommendations similar to what the Senate Finance Committee adopted last year?

Senator BELLMON. The recommendations in S. 1842 are similar, except the provisions of H.R. 1, as I understand it, applied only to the case of a mother whose family was already receiving AFDC payments. In other words, the access to the child support security fund would be denied to a woman until they went on welfare. Now, under the terms of S. 1842, this would not be the case. I feel that we should not force people to go on welfare before they can start making use of this device. I would like to see the woman who is entitled to child support, get it without having to become a welfare case in order to do so.

Senator FANNIN. Thank you very much.

Senator BELLMON. I would say that I strongly support what the committee did in putting that provision in H.R. 1, but I really feel it would be wiser to go ahead and not make it necessary for women to become welfare cases.

Senator FANNIN. Thank you.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator BELLMON. Mr. Chairman, after I introduced S. 1842, our office was literally deluged with mail from women who have been caught up in this tragic circumstance, and I ask unanimous consent that some excerpts from these letters which were earlier printed in the Congressional Record be made a part of the committee hearing at this point.

The CHAIRMAN. Fine. That will be done.

Senator BELLMON. Thank you, sir.

[Excerpts from the letters referred to and Senator Bellmon's prepared statement follow:]

STATEMENT BY SENATOR HENRY BELLMON, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Mr. Chairman, first let me take the opportunity to thank you and members of the Finance Committee for holding a hearing on Senator Nunn's bill, S 2081, and S 1842, my own proposal to insure that abandoned children receive the support and maintenance which their parents are legally required to provide.

Many members of the Committee are already familiar with S 1842, since it is virtually identical to S 2669 which I introduced in the 92d Congress. An amended version received Senate approval as a part of HR 1 last year, but it did not survive the Conference Committee to become public law.

The Federal Child Support Security Act contains several major provisions:

First, it authorizes the Secretary of Health, Education and Welfare to establish a parent locator service to collect and disseminate information in order to help locate parents who have abandoned their children. The Secretary would be authorized to utilize the files of HEW for this purpose, as well as to seek additional information from any department, agency or instrumentality of the Federal Government or of any state. This service would be made available to all who qualify, whether or not they are receiving AFDC payments. This is a key point. To me it makes little sense to wait until abandoned children become welfare cases before efforts are undertaken to require responsible parents to provide support.

Second, S 1842 establishes a Federal Child Support Security Fund of $75,000,000 in order to enable the Secretary to make payments for the support and maintenance of any child who qualifies.

Third, a child may be entitled to receive support payments from the Security Fund if the Secretary is satisfied that the child's parent has been absent from the state for at least six months, that a valid child support court order has been issued, and that the child has not received financial contributions from the parent as required by the court order for at least three months.

The amount of payment from the Security Fund would be equal to the amount of the court order or $150, whichever is less. This payment would be reduced by the amount of any future financial contributions which the parent chooses to make. Payment from the fund would be stopped if for three consecutive months the payments have been reduced to zero due to these financial contributions.

An application for a child support payment may be filed by the deserted child or his parent, guardian, or attorney, or by any public welfare agency which is providing financial or other assistance to the child.

Fourth, any child support payments made from the Security Fund shall be treated as a debt due and owing to the federal government by the responsible parent. Such parent shall be liable to the United States for the amount of such payments plus interest at the rate of 8% per annum. The Attorney General is charged with collection from the responsible parent, and any amounts collected shall be deposited in the Security Fund. In order to assist the Attorney General, section 31(a) of the Internal Revenue Code will be utilized as well as the services of OEO attorneys.

Fifth, the federal share of AFDC payments caused to be issued because a parent has deserted will become a financial obligation and so the federal government and collection mechanisms as explained above will go into effect.

Mr. Chairman, there certainly exists a need for the legislation I have just outlined. Under our present divorce laws, it is extremely easy for a parent, usually a father, to avoid his court-imposed duty of child support. Usually he can do this by moving to another state, or by simply getting an unlisted telephone number. Clearly the system needs to be tightened up, to avoid future abuses of this nature.

If a father refuses to abide by a child support court order, the mother has several alternatives. In the simplest situation, if both parents reside in the same state, the mother has various state remedies open to her. Since the father is within the jurisdiction of the State Courts, a binding court order can be applied against him. The State Attorney General's Office can also be helpful.

However, quite often this is not the case. Frequently the normal course of events finds the two parents living in different states. If the father finds his financial burden onerous, as many do, or simply wants to get out of paying child support, he can do so simply by moving across the state line. The abandoned family is then faced with high and repeated collection costs which frequently exceed the value of any child support payments won. The result is that the family often turn to welfare for support and the taxpayer pay the bill.

Most, although not all, states have reciprocity laws, to help enforce alimony and child support decrees. However, in order to enforce these laws, it is necessary that the mother know the address of the father, so that papers can be served. This process can be both difficult and expensive. Put bluntly, their laws simply are not working and they will not work until the Federal government undertakes a great role in their enforcement.

Most of the time, the mother does not have the money necessary to hire a private investigator, who may be unable to track down the father who is living thousands of miles away. Even if she does, and is successful, it is both emotionally disturbing to the family and economically counter-productive to go through the same lengthy procedures each time a payment is missed, which may be once a month. Also it is impossible for a mother to rear and educate a family when the source of income is uncertain and sporadic.

Special procedures exist for those mothers forced to go on welfare, or to remain on welfare when the father leaves the home. Present laws require that state welfare agencies establish a separate, identified unit whose purpose is to secure support for children from deserting parents, utilizing any reciprocal arrangements adopted with other states to obtain or enforce court orders for support. Also, the State welfare agencies are required to enter into cooperative arrangements with the Courts and with law enforcement officials to carry out this program, with access authorized in some instances to both Social Security and Internal Revenue Service orders to locate the deserting parents. However, to quote the Senate Report to HR 1 last fall, "the effectiveness of the provisions of present law has varied widely among the states." Even with this assistance, the major problem is locating the father, as very few agencies have the funds or the personnel necessary to do the job properly.

The result of the above situation is that the remaining parents, generally mothers, find it difficult or even impossible to obtain the income required to

provide the care which children need. In literally millions of cases the mothers of these children turn to the federal welfare programs for survival. This is one reason we have seen the costs of Aid to Families with Dependent Children rise astronomically from $1.02 billion to more than $8 billion in 1972, and the trend continues sharply upward.

This measure would insure that deserted children are properly supported and the responsible parent is made to pay for this support. The benefits of such a proposal are obvious. It will reduce the cost of AFDC payments by not only reducing the federal share of such payments but also be keeping countless thousands of respectable women off the welfare rolls.

This Committee would do not only these families but the taxpayers of this country a great service by reporting out legislation to guarantee that runaway fathers meet their family obligations.

HOW THE BILL WOULD WORK

Mr. Chairman, the legislation I am proposing would accomplish that purpose. It will create the authority and the legal mechanism to bring order out of the chaotic, costly and destabilizing child support conditions which exist today.

This bill establishes the Federal child support security fund. It provides that court established child support payments may be made from the fund. Such payments become an obligation of the responsible parent to the Federal Government, and could be withheld from the parent's salary the same as social security taxes are withheld at the present time. The bill also provides the Secretary of Health, Education, and Welfare with the necessary authority to collect from responsible parents the amount of child support paid in behalf of the parent. In this regard, the bill provides for the release of necessary information by any department or agency to enable the Attorney General to take necessary action to recover child support payments made in behalf of responsible parents.

Mr. Chairman, the most eloquent arguments that could be made in behalf of this bill can be made by the women who have pursued every avenue now open to them in an effort to get the child-support money to which they are legally entitled. without success. As a result, many feel disgraced to be forced to live on welfare.

Others are holding down two and three jobs in an effort to stay off welfare, and their children are suffering as a result. They badly need the help of Congress in working out a system to get them the money they have been granted without going through the costly, emotionally destabilizing, intricate legal procedures which are now their only recourse, and which so frequently end in failure.

This bill would shift the burden of supporting dependent children from the Federal Treasury to the responsible parents. It would help to stabilize the income of these families. It would relieve the emotional stress faced by these families and perhaps help prevent the break-up of so many families.

We have laws against "tax dodgers." We have laws against "draft dodgers." It is time we had a law against "child-support dodgers."

Congress will do a great service not only to the families of broken homes but to the taxpayers of the country by approving the legislation needed to make certain that runaway fathers meet their family obligations.

REPRESENTATIVE SAMPLE

I am writing you as a last resort, and hopefully to furnish an example for the Senate Bill you have introduced to obligate the father of minor children to provide support. I have followed the advice of Governor Hall's office, the Welfare Department, and Tulsa District Attorney's office to get my husband to pay his obligation instead of the State Welfare Department, but I can't afford to hire private investigators.

On May 1, 1969, I was divorced from my husband in Tulsa County, Oklahoma. He was ordered to pay child support for our 3 children, who are now 6, 8, and 10. I haven't received a penny from him yet. He was also ordered to pay my attorney $300.00 in fees.

I learned he was on probation before in Oklahoma for failing to provide. He was then, May 1, 1969, remarried, and I guess he's still married. They were living in East Tulsa County, but managed to sell her house and property and moved out of state to avoid paying child support.

I was billed for the attorney fees which I was unable to pay. I had to pay the gas company $48.00 in January, 1972, for a gas bill he didn't pay in 1965 when we were married.

I started drawing A.D.C. for my 3 children and still am.

The Welfare office and D.A.'s office told me I had to have his address before I could do anything. I learned he had been employed for Tri-State Trucking Company in Joplin, Missouri. I got his address by calling long-distance information, in Neosho, Missouri.

I went to the Tulsa District Attorney's office in December 1971, and went back regularly after that on the date they told me to.

On May 8, 1972, the lady in the District Attorney's office told me my husband had moved to somewhere else in Joplin, Missouri. The District Attorney's office said they have to close their file until I could furnish them with his new address in Joplin, Missouri, as it is in a different country. He still works for Tri-State Trucking Company.

I called Joplin information and they told me the street he lives on but they can't give me his address because he has a unlisted number. I can't understand why he only has to cross a state or county line and get an unlisted phone number.

I'd like to add my support to your Federal Child Support Security Bill. I'm one of the many women raising a child alone. My daughter is five and her father, a resident of another state, did not want a child and has never supported her. Fortunately, my secretarial position provides a steady income and we won't starve by any means, but support would enable planning ahead for an education, as well as providing the ever-increasing, ever more costly, daily needs of a growing girl.

I would like to call your attention to some things in regard to welfare recipients. Several years ago I was on A.D.C. This would have been entirely unnecessary had legal action been taken to force my previous husband to pay the child support my children were granted in court. This would have paid the necessary baby sitter and the amount of money I made working, even though small, would have been enough for us to live. He lived in Texas, however, and the reciprocal action was impossible even though I signed three separate papers to authorize his arrest. Fortunately I received sheet metal training through Cessna Aircraft and was able to make enough money to support my family and pay a baby sitter too. Cessna paid women the same as men. However, many women in the same shape I was in, quit their jobs and went back on Welfare as they lived as well without working and were home with their children. I am now married to a Policeman and we don't have as much money as when I was on Welfare. My husband is seriously thinking of going back to truck driving. In addition to drawing welfare payments, many women took in ironing and did babysitting and came out with quite an income.

I'm writing in favor of your Welfare Change Plan.

I am 16, and have 2 younger sisters and a brother. Our father left us in 1959, and hasn't contributed any help whatsoever in our favor. Even before that he didn't support us.

Our mother was sick and couldn't work, so Welfare has helped us. She's doing a lot better now. She's been trained, but can't find any kind of work other than domestic work, so we are still on Welfare.

I feel that our father should have some responsibility to not only our family, but to his several other families as well, forced or otherwise.

My family and I all agree strongly with this plan. I sincerely hope to see it put to work, because I dont like the idea of having other people support me through life when they have families of their own to support.

This morning I read of your proposal to establish a "federal child support security fund. I, and I am sure many other divorced mothers, applaud you for this action. There are so many of us in the same position—we work to support our children, but wages for women are not sufficient to afford our children with most of the necessities of life.

For myself and my children, I cannot in all conscience sit back and live on welfare. I am capable of working and enjoy it. I do not make enough to hire an attorney to track down the father of my children and institute action against him. On the other hand, I make too much to qualify for legal aid to start proceedings.

The legislation which you have introduced, if passed, will mean that my children and many others like them will have a fair chance—which they deserve.

I am one of the many women that doesn't get child support from my ex-husband and it isn't easy for a woman to support four children.

There are many women in Oklahoma with the same problems. The lawyers can't do anything without money. The state can't pick them up unless we know where to tell them the fathers are.

The only way we can find out is if we are drawing welfare. The welfare department will find out where they are and making them pay payments but still they aren't having any luck either.

We can't live on $192.00 per month—this is allowed for a mother of four children on welfare, so I work—six days a week as a cashier and reservationist.

I think this is the best solution to all the problems of women who are left alone to raise children with no help from the father.

The children don't have a chance to participate in activities, clubs, church and social life as the children with both a mother and father.

It costs $27.00 a month to feed three children on school lunches.

The women have to carry all the responsibilities and it is rough. We have to see that they have food, clothing, shelter and love. Believe you me it is hard working and having time to take individual time for each of them.

Well, I've had my say, Mr. Bellmon, and again I don't know where, who or how you got the idea to have this bill introduced but I will say you are on my good list. I know there are many, many women in the state of Oklahoma who feel the same as I do.

I want to congratulate you on your efforts to make a federal crime of the abandonment of children by fathers who are fully capable of supporting them.

I have practiced law forty years in Oklahoma City and one of the tragedies has been the complete failure of the law profession under the present setup to make fathers support their children in these divorce cases. The moral blindness of people as to the severe criminality in a healthy, able-bodied father of four or five little children going off and abandoning them. The average District Attorney in Oklahoma rants and raves about burglary and car stealing, which in my opinion are insignificant crimes compared to that of abandoning little children. As a result, when you send some little mother over to see the District Attorney, he either will not do anything or tell them to go back to their lawyer and the lawyer ought to get a contempt citation against the father and make him support his children. The lawyer has heavy overhead today to keep his office open and this mother hasn't any money to pay the fee, she has no money to pay the sheriff to go bring him back from California, Kansas or some other state and the result is nothing is done.

We have a standard reciprocity law which most of the states subscribe to where your local District Attorney can send a case to the county where the man is located in some foreign state and that District Attorney is supposed to bring him down before the Judge and either jail him or make him pay. However, my experience with that law is that it is a total failure and just doesn't work.

The federal government will return some kid who stole some old $400 jalopy car and crossed the state line under the Dyer Act. Under the Mann Act, they'll return some boy who took some questionable woman across the state line, but a father who abandons a bunch of hungry kids is allowed to go scott free.

I certainly wish you all the success in the world in this endeavor, and it will save the taxpayers a lot of money, as this Aid to Dependent Children is getting to be a terrific cost to the state and federal government.

I received your recent letter and would like to say that I'm glad to see something being done toward the Child Support situation. I hope this will benefit everyone and not just those on welfare. You see I don't believe in people

getting welfare when they are able and capable of working. I want to make my own way and take care of my own children but I also feel that a father who is working, making good money should also be made to live up to the court order and provide the child support he agreed to and was ordered to pay.

Under the "Uniform Reciprocal Support Act" I have been unable to get anything done. He pays just when he feels like it and that's getting to be less and less. I have the distinct impression from the District Attorney's office that if I were on welfare I would accomplish more. I think this is terrible that a taxpayer cannot get the cooperation through the laws that someone who is on welfare and drawing my money can.

Can you please tell me where I can get a copy of the Uniform Reciprocal Support Act and if there is any way I might be able to collect through the Texas laws since he is there and is employed. From what I've been told it appears anyone can run to Texas and get out of paying anything they owe. If this is the case it is a sad state that our laws are in. A law is not a law if it doesn't have teeth.

Thank you for any information you can give me and for your introducing this bill on the Federal Child Support Security Act.

This letter is to advise you of my support along with many other women I know in the same position of the Federal Child Support Security Act.

I was divorced in 1967 and left with four children, two of which are now grown, left home and self supporting. Out of the four years I have been divorced I have received child support payments only eight months. I work to try and support my two remaining children and at one time I worked two jobs until it was too much both mentally and physically. It is all I can do to keep things going financially—and I like many others could use this help. The children's father's whereabouts is unknown at this time. Of course many mothers in my position do not have the money to hire an attorney to help them. To me this plan sounds like a very good one.

I wholeheartedly agree with the Child Support Bill you have introduced; if this passes it will be the answer to all my prayers.

I am the mother of two children, and haven't received any support at all this year—even taking every possible action that I know of. The D.A., the Grand Jury . . . but still no results. I just hope and pray that it will be okayed.

I've been hearing and reading about the impending law to make missed child support payments a debt of the father to the Federal Government. I applaud this legislation, as a divorced mother who has never received a cent from an irresponsible father. I worked all last year and saved money like a "Scrooge" to put myself through college, and my daughter and I are forced to live with my parents, who are lovely people, but it doesn't make the situation any better, because I have too much money to get on welfare. What a deplorable system!

I was so happy to read the article published in the Daily Oklahoman regarding Child Support payments.

My ex-husband is three years behind on payments. We have a 15–16 and 17 year old. It has been quite a struggle to make the living, but by the grace of God we have made it. They are so wonderful to help themselves and all are honor students. Things look a bit serious now, as they have cut my hours at the Post Office. I work two hours a day at the Post Office, then about three hours at a cafe and then a beautician the rest of the day and part of the night, with the full realization that I am a mother twenty-four hours a day.

Any assistance will help and I do hope it passes. I have tried to find my husband and I have signed and agreed to sign anything to force him to pay and I seem to get the runaround everywhere I go. I have tried to get something done through the County officials and have caught them in several lies, so I have given up there. I knew he was living in the City, but driving a truck in and out and I called them one time and told them exactly where the could have him picked up and nothing was done. I checked with Oklahoma City and a warrant was never sent to them for his arrest.

I paid an Oklahoma City attorney $225 as a retainer and he never did do anything except send me about five letters saying I would have to give him more information, which didn't make sense because they had his correct address and he is too big a lawyer for that.

I have heard recently that my husband is mixed up completely in the Mafia rackets or something. One of his greatest faults was gambling and it sounds logical. He has made no contact to see his three childern and has sent less than $300 since he left seven years ago.

I could leave well enough alone except for the fact when you are trying to help young ones to be responsible adults and their parents show this kind of example, I just can't see it. I have tried to keep hate out of it and feel I have succeeded there. Where can I go from here—I do really appreciate you putting out the effort to revise some of these situations. I know it will help many.

I would like to commend you on your attempt to pass the Federal Child Support Security Act. It is a pity that it has taken so long for a bill such as this to be introduced.

Few people realize how many "neglected children" there are in this world simply because their fathers refuse to support them.

My ex-husband is a professional man earning in excess of $1500 per month, yet the court awarded me a mere $150 per month for the support of two children. There is now an accumulated arrearage of more than $2500. As I live in Arkansas and he lives in Minnesota, I have been unable to force him to pay even through the Department of Court Services. I have too much pride to ask for welfare assistance and have often worked two jobs to take care of our needs.

Please Senator Bellmon, for the sake of millions of children, don't give up your fight. Children should not be made to suffer for the vengeful acts of their parents.

I was gratified to read in today's Daily Oklahoman that you are proposing a bill which would enable enforcement of child support by Social Security Administration.

My former husband is an Italian citizen and has been living in Lexington, Kentucky since 1966. I met and married him there and we have one son. Our marriage faltered in 1968 and I was forced to return to my home, Oklahoma City. Since that time, he has not contributed to the support of our son. I was granted child support from the Fayette County Court, Lexington, after our separation, and again from the Oklahoma County Court following a divorce which I obtained through publication in December, 1970. However, I have not been able to enforce either ruling because I do not have his precise address. Furthermore, his work carries him out of town a great deal, adding another complication to having him served with the necessary papers. I have written to the immigration authorities in Cincinnati, Ohio, under whose jurisdiction he lives. However, their reply was that they could not intervene because this was a "civil" matter.

I have a good job as a secretary, but it has been a continual struggle for me to support our son. With the current wage freeze and without the financial assistance from my husband, our future looks bleak, at best I have always felt that I should accept my responsibilities and have done so to the best of my ability without seeking public assistance. However, I feel that my husband should accept his share of the responsibility in raising our son. I have never sought alimony, although his income could easily accommodate both alimony and child support.

I would like to thank you for a well thought out approach to this problem, and for your interest. I don't know why someone hasn't thought of this as a solution before now. I am afraid that it is almost too good to be true. It seems that so many well conceived ideas meet with defeat. I only hope that you are able to convince the necessary people of the merit of your idea and I am with you all the way.

I was reading your article on the Child Support Bill. I have just recently gone through a divorce and my ex-husband was to send child support for our three children. The first month and a half he did pretty fair but since the last August I have received nothing.

It is hard trying to furnish the children the things they need on just what I make, and really it is not right by law or state that a mother as it is in my case have the complete support. The father has a responsibility to his children also.

In my case it was a one sided divorce. This was what my husband wanted and this is what he got.

Our divorce was granted in Missouri and since then the children and I have come back to Oklahoma, which is our home and a Great State if I may say so.

I hope for others that this bill passes because it is not easy to meet expenses. If others have had as much trouble as I have getting by, I wish you the best in obtaining this. If I can do anything to help on this bill I will try. Good luck.

I am writing to inquire about a bill that I was told you were working on. This bill concerns child support. I think the bill is supposed to enable the Federal Government to subtract the child support from the father's Social Security, so the mother would receive it regularly.

I would like very much to have a copy of this bill, if it exists. I think it is a very worthwhile subject, and I don't think enough people realize the difficulty a mother has in trying to collect this money.

In my own case for example: I was divorced in January of 1971 and since then the father has paid $120 in child support. He is supposed to pay $60 per month.

I finally decided to try and do something about it, but it isn't very easy. A private lawyer could probably help me, in fact I talked to one, but it would cost a small fortune, that if the father didn't pay, I would have to, and with raising a small child I don't need any more expenses than I have to have. I went to the District Attorney's office, but I needed an address of where he was and where he had just recently worked (which I didn't find out about till after he had already quit). They mailed him a letter in care of that address, and now we have to wait 30 days; at that time, I will have to have a definite address and they will not help me in any way to get one. Neither will they talk to me on the phone, I either write, which takes time, of I take off from work and go in person, which costs my wages.

Anyway, this is just a few of the problems a mother encounters when trying to collect child support from an irresponsible father and I think that anything that could be done about this would be terrific. Please feel free to use this letter in any way you wish, and I will expect a copy of the bill as soon as it is convenient for you.

If you need any petitions to be signed, please feel free to send me one.

The CHAIRMAN. The next witness will be Hon. Caspar W. Weinberger, Secretary of Health, Education, and Welfare.

Mr. Secretary, we are pleased to have you here today.

STATEMENT OF HON. CASPAR W. WEINBERGER, SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY WILLIAM A. MORRILL, ASSISTANT SECRETARY, PLANNING AND EVALUATION; STEPHEN KURZMAN, ASSISTANT SECRETARY FOR LEGISLATION; AND ROBERT B. CARLESON, COMMISSIONER OF WELFARE AND SPECIAL ASSISTANT TO THE SECRETARY FOR WELFARE

Secretary WEINBERGER. Thank you, Mr. Chairman.

The CHAIRMAN. Would you identify, for the record, your associates who are here?

Secretary WEINBERGER. Yes.

I appreciate very much the opportunity to appear before your committee. I have, on my left, Mr. Robert Carleson, our Commissioner of Welfare and Special Assistant to the Secretary for that purpose. On my right is Stephen Kurzman, who is the Assistant Secretary for Legislation, and Mr. William Morrill, who is the Assistant Secretary for

Planning and Evaluation. We are all here, although the statement I have is a brief one, to enable us to answer in detail any questions that the committee might have. I have a short statement and can summarize it, in accordance with the request contained in the rules for this hearing, if you prefer that I do that. I would also ask that it be inserted into the record, in full.

The CHAIRMAN. Fine, we will do that, Mr. Secretary. I am sure that the members can read the full statement with regard to what they want to interrogate about. You go right ahead.

Secretary WEINBERGER. First, on the child support issue, we support legislation to require absent parents to meet their obligations to their families, and we welcome the initiative this committee has taken on this front.

A major problem with the current welfare program arises when parents desert their children and are able to contribute to their support but do not. The result is an unnecessary burden on the Nation's welfare system. When public welfare supports the family of a parent who has left his children, the public has a stake in assuring that he meets as much of his support obligation as he can.

This concept is beginning to take hold in the States. California has taken the lead in developing, as part of its welfare reform program, a comprehensive effort of increasing requirements that absent parents meet their responsibilities.

Mr. Carleson, who is with me, and with our Department now, was one of those who were instrumental in having that program begun in California. Incentives to California counties to intensify their efforts are paying off. The State of Washington, using a somewhat different method to achieve the same objective, has also had good results. Both States are recovering more funds than it costs to collect them, in ratios of 3 or 4 to 1. In less than a year and with the program only partially instituted, California has doubled its absent parent contributions. Though not measurable, an additional important effect may be the deterrent to the parent to desert in the first place.

I agree with the statement Senator Bellmon made a moment ago, that it is the strains on family life that is the critical thing here. So from both points of view, the programs seem to be working very well.

It is now the policy of our Department to urge other States to follow the example set by California and Washington in intensifying their efforts to require child support.

While I strongly support the objectives of the committee, it is my conviction that an effective child support program can be mounted through the States without establishing another new Federal program and bureaucracy. The experience in California and Washington suggests that improved fiscal incentives, some of which require legislative authority, combined with strong support from the Department, would be sufficient to assure a vigorous effort.

Responsibility to establish paternity and obtain child support has traditionally been a State function. The pending bills, S. 2081 and S. 1842, would clearly move this responsibility to the Federal Government.

The Attorney General would be responsible for enforcing child support law. If, in the opinion of the Attorney General, a State failed to perform, the Department of Justice would step in and provide

Federal enforcement. The Attorney General would also be charged with locating absent parents, establishing paternity, obtaining support orders, and collecting payments, and would be responsible for enforcing the provisions of the bill which would for the first time make nonsupport a Federal crime. The Attorney General and the Director of the Office of Economic Opportunity would be instructed to enter into an agreement whereby OEO attorneys would assist the Attorney General and State and local governments in carrying out the absent parent support function.

We, of course, recognize the committee's concern about the spotty performance of the States in obtaining child support from absent parents. However, I am convinced that, with a combination of incentives and sanctions provided by new legislation and increased Federal emphasis through regulation, and I might add, increased urging by our Department, the States can do a more effective job in solving this problem without a new Federal program. I believe that several conditions are necessary to insure an aggressive and successful absent parent support program—

Adequate incentives must be provided, both to the States and to the deserted parent;

Realistic sanctions must be included for failure to participate adequately;

Administrative costs which States incur must be shared; and

Technical support must be provided to State and local personnel by us.

In accordance with my basic position that the Federal role in this area should be one of the assuring effective State programs, I would suggest several specific changes in S. 2081:

First, the provisions for Federal enforcement of child support laws should be deleted, along with the provisions on using legal services attorneys for these purposes, because we believe the States can do a better job.

Second, I recognize the importance of a national contact point for authorized State officials to obtain information in the possession of the Federal Government about absent parents. We support the maximum use of HEW resources and authorities to this end. We are very much concerned, however, as indicated by our recent Advisory Committee on Automated Personal Data Systems report, about the dangers of interchanges between personal data systems and therefore what we do in this regard must take into consideration the rights of the individual to privacy reviewed in the report, and endorsed by the Department, as well as the need to protect the individual against abuse of information. I am willing to commit Department resources fully to making certain this service is provided efficiently to the States, consistent with the principles enunciated in the advisory committee report.

Third, if the States retain the responsibility for enforcement of absent parent support, the establishment of a national revolving fund for disbursement of child support, incentive payments, and reimbursement of administrative and other costs would be made unnecessary, and should be deleted.

I might add, Mr. Chairman, I have serious problems about whether there would be sufficient incentive under that kind of provision for State activity, incentive which we think is very necessary.

Fourth, it is unnecessary to establish a separate system of blood testing laboratories to determine paternity. A number of laboratories specializing in the newer and more comprehensive 8-point blood test already exist, and Federal funding of such tests through existing programs should insure that this service is available nationally.

Fifth, I do not support the provisions which make failure to pay child support a Federal crime or create a Federal debt. Failure to pay child support should remain a violation of State, rather than Federal, law and the imposition of penalties should be a State, rather than a Federal, responsibility. Otherwise, we might set a dangerous precedent, increasing drastically Federal criminal jurisdiction.

Garnishment of Federal wages is considered by some to be a complex problem. I personally support the principle that parents who happen to be Federal employees should be held responsible for the support of their children, as we are recommending for everyone else. However, garnishment of Federal salaries involves a number of legal and policy questions which go beyond the field of child support and would necessarily require consideration by the Civil Service Commission and the Justice Department.

Finally, I support, with revisions, the provisions of S. 2081 which would strengthen the incentives to States. First, I support the bonus payment to the deserted parent of 40 percent of the first $50 per month, but recommend that it be financed fully from the Federal share of the amount collected. This change would insure that the States' incentive to collect absent parent support is not adversely affected.

Second, although I strongly support Federal financial participation in the administrative costs of child support enforcement activities, I believe that the primary Federal emphasis should be on results obtained, rather than on the cost of administration. Therefore, I would recommend that the bill be amended to provide that the Federal Government reimburse States at the rate of 50 percent of all the direct and indirect administrative costs—except judiciary—for all absent parent support activities. This would be substantially more than the 50 percent of increased effort which our regulations now provide, but less than the 75-percent match proposed by the bill.

Third, to emphasize incentives for State and local actions based upon results, I recommend that the bill be amended to permit the States and localities to retain 50 percent of the remaining Federal share after the bonus payment is deducted. This change would equalize incentives across State lines regardless of the varying Federal matching ratio for assistance payments.

Finally, I would suggest that the provision requiring mothers to cooperate in determining paternity and collecting child support be clarified so that the extent of cooperation States may require is explicitly stated and individual rights are protected.

We are extremely encouraged by your interest and activity in this field. I am convinced that a carefully designed program will be effective in assuring that absent parents support their children as fully as possible. We will make maximum effort to insure the success of this program.

Very briefly, Mr. Chairman, members of the committee, I will turn to the work bonus, since your request included the suggestion that we give some views on that.

We recognize, as you do, the serious problems that result from the fact that the aid to families with dependent children program (AFDC) favors the single parent family over the intact family and, in some States, the family with an unemployed parent over the family with an employed parent. These are longstanding weaknesses of the present system of cash assistance, even though there were legitimate reasons for structuring the program in this way when it was launched. Changing attitudes and the pyramiding of overlapping programs have aggravated the problems.

Today, there is a recognition that society should not continue to aid some categories of the needy while ignoring others who are equally in need. There is a consensus that individuals should be self-supporting whenever possible, that jobs are far better than welfare, and that these goals should be achieved in a way that minimizes administrative costs and, by directing benefits to those with the greatest need, insures that only the truly needy will receive public assistance.

Similarly, there is considerable support for the concept that tax relief is often the most equitable and most easily administered technique for providing financial aid to low-income people. The committee's work bonus proposal has the effect of providing an additional form of tax relief to employed low-income families.

Our preliminary estimate is that the committee's proposal would involve an additional annual Federal cost in the range of $700 to $900 million, and, of course, that has to be considered in the light of the administration's fiscal policies.

It is in this context that the administration has been reexamining the whole range of current assistance programs and evaluating the feasibility and desirability of a wide range of reform options. The administration's forthcoming proposals may well contain some of the concepts contained in the committee's work bonus proposal.

As presented last year, the committee's work bonus proposal was intended to lessen the burdens imposed by the social security tax. Although this proposal can be characterized as tax relief for low-income families—an objective the administration has supported—it is also a needs-based income maintenance proposal and should be evaluated as such.

Work bonus as income maintenance

As an income maintenance device, the work bonus must be judged in relation to coverage of all employed needy individuals. As such, the work bonus could have the disadvantage of adding yet another program to the many present assistance programs. The work bonus would not cover the self-employed or those not covered by social security. In addition, the proposal could complicate our present coverage of employed AFDC recipients, depending upon the interrelationship ultimately developed between AFDC and the work bonus. We must also consider the way the work bonus would relate to other programs to assist low-income families, such as the food stamp, housing, and health care programs, as well as AFDC, and all of these are included in the work we are now doing.

It is difficult to estimate the administrative costs and identify all the operational problems of the work bonus program. For example, low income families often have fluctuating incomes and several jobs, which

would create a substantial administrative burden for the Federal Government and for employers. Extensive reconciliation might be needed at the end of the year. These and other administrative complications require further consideration, and we would be glad to work with the committee to help resolve them.

Work bonus as tax relief

It is certainly true that the social security payroll tax is a significant payment for low-wage earners. For the first time since such a tax has been levied, more than half the Nation's taxpayers will this year pay more social security tax than Federal income tax. The committee has suggested one way of reducing payroll tax contributions; we see alternative techniques which may be preferable.

In general terms, an alternative might be to reduce or eliminate withholding of the payroll tax for a family with an income below the low-income allowance level. As income rises above this level, withholding would gradually phase in, just as the committee proposal would phase down the work bonus. Assuming the alternative would be feasible when its details were developed, it would have the major advantage of avoiding the issuance of a separate Federal check to beneficiaries.

Conclusion

Mr. Chairman, I have attempted to point out some of the strengths and weaknesses of the work bonus proposal. Clearly, I personally see more advantages in aiming the proposal at tax relief rather than at an income maintenance plan. To emphasize and structure the proposal as an efficient tax relief measure will, in my view, require more work, but I would quickly add that we would be glad to undertake such an effort with the committee, consistent with the fiscal policies of the administration. Accordingly, because of the need for speed in enacting the technical provisions of H.R. 3153, which are the social security amendments we feel we need, in order to fulfill the commitment of the Congress and the administration that SSI checks will go out on time in January, we would strongly urge that consideration of the work bonus and other such reforms be kept apart from H.R. 3153.

III. ADDITIONAL SOCIAL SECURITY AMENDMENTS

At this point, Mr. Chairman, I would like to submit to the committee for the record a number of technical and other relatively minor amendments to the Social Security Act which we urge the committee to consider in conjunction with H.R. 3153, which we see as a necessary technical bill which should be passed as soon as possible.

Mr. Chairman, thank you very much for this opportunity to present our views on these important matters.

[Technical and other relatively minor amendments to the Social Security Act, submitted by Secretary Caspar Weinberger, follows. Hearing continues on p. 107.]

On June 14, in response to your request for a report on H.R. 3153, a bill containing technical and conforming amendments to the Social Security Act, the Department submitted an amendment to that bill in the nature of a substitute. Since then we have made some technical improvements in the amendment and identified several additional issues which we believe it should address. Attached is a revised version of the amendment which incorporates these technical improvements and our proposals for dealing with the newly identified issues.

We have also added to the amendment several important changes in the Social Security Act which the Department believes the Congress should act upon as soon as possible. These proposals appear in sections 12 through 15 of the revised amendment.

Sections 12 and 13 contain the amendments to titles II and IV of the Social Security Act that the Department submitted to the President of the Senate on June 13 as a separate draft bill. The proposals are explained in detail in the letter transmitting the draft bill.

Sections 14 and 15 are amendments to title XIX of the Act that were originally presented as part of the President's proposed budget. Extensive analysis of the Medicaid program has convinced us that it would be significantly improved by two changes in the provisions concerning the health care services provided under approved State plans. First, the availability to Medicaid beneficiaries of less expensive alternatives to inpatient hospitalization should be increased. To achieve this objective, the bill would impose a new requirement that approved State plans include coverage for ambulatory health care provided in freestanding clinics, in addition to the current requirement that the plans include coverage for services provided in the outpatient facilities of hospitals. Second, available resources for dental care should be concentrated on the provision of care to children, where the need is most critical and the long-range benefits greatest. Therefore the bill would terminate federal matching payments for dental care, other than emergency and surgical services, provided to adult Medicaid beneficiaries.

Apart from the incorporation of these major proposals, the revised amendment differs significantly from the previous version in only a few respects. First, sections 7(a) and 7(b) of the amendment have been redrafted to place new and somewhat different limitations upon the use of the income and resources tests of State adult assistance plans under the new supplemental security income program. In addition a new section 7(j) has been added which would clarify the Secretary's authority to appoint individuals to conduct hearings under the new title XVI program.

Second, subsection (n) has been added to section 9 of the amendment. This new subsection deals with technical problems involving Medicaid eligibility and the availability of title XIX federal matching created by the enactment of P.L. 93-66.

Third, a new section 10 has been added to the amendment that would repeal three unnecessary and confusing provisions of title VI of the Act, which establishes the new program of grants to the States for services to the aged, blind, and disabled.

Fourth, a new section 11 has been added to the amendment that would make all supplemental security income beneficiaries ineligible for food stamps and surplus commodities. It would also establish a program of Federal payments to replace this assistance for beneficiaries not otherwise receiving such payments who received State plan assistance and either food stamps or commodities in December of 1973.

We would appreciate the opportunity to discuss these revisions in our proposed amendment, as well as the remaining provisions of our original proposal, with members of the Committee Staff.

Summary of Proposed Amendment in the Nature of a Substitute to H.R. 3153

The proposed amendment is a complete substitute for the provisions of H.R. 3153.

Under the proposed substitute, section 2 of the bill would contain amendments relating to OASDI. Subsection (a) would amend section 202(m) of the Social Security Act to provide that a sole surviving widow or widower may not receive a minimum survivor's benefit larger than the benefit which the insured worker would be receiving if still alive. This limitation is currently imposed with respect to regular widow and widower insurance benefits.

Section 2(b) of the bill would amend section 202(q)(3)(H) of the Act to provide for reduction of widow's or widower's benefits in cases of simultaneous first entitlement to old-age and widow's or widower's benefits prior to age 65. The Act currently provides for such reductions when entitlement to a reduced widow's or widower's benefit follows entitlement to an old-age benefit.

Section 2(c) of the bill would amend section 202(w) of the Act to provide that when the primary insurance amount based on the average earnings of an indi-

vidual is less than the special minimum primary insurance amount, but this lower primary insurance amount would yield a larger retirement benefit than the special minimum because of delayed retirement credits, the higher benefit shall be paid. Under current law delayed retirement credits are not applicable to benefits based on the special minimum primary insurance amount.

Section 2(d) of the bill would amend section 203(f)(8) of the Act to assure that automatic increases in the retirement test exempt amount take into account all increases in wage levels by providing that increases in the exempt amount be measured from the last increase in that amount. Under current law, exempt amount increases are measured from the last increase in the contribution and benefit base, and in some cases the contribution and benefit base may be increased without an increase in the exempt amount because of rounding.

Section 2(e) of the bill would amend section 228(d) of the Act to make supplemental security income beneficiaries ineligible for special age 72 benfits.

Section 2(f) of the bill would correct erroneous designations and cross-references in section 226 of the Social Security Act.

Section 3 of the bill would contain amendments relating to AFDC. Subsection (a) would amend section 229(E)(c) of the Social Security Amendments of 1972 to correct an erroneous reference to section 402(a) of the Social Security Act. Currently, the reference is to section 402(a)(15)(B), while it should properly be to section 402(a)(15)(A). Subsection (b) would amend section 403(f) of the Social Security Act, as it was amended by the Social Security Amendments of 1972, to correcet two similar erroneous references to section 402(a)(15)(B) of the Act, which should properly be to section 402(a)(15)(A).

Section 3(c) of the bill would amend section 414 of the 1972 Amendments to make the amendment contained therein effective beginning January 1, 1974. Currently, the effective date is January 1, 1973. However, since the amendment refers to individuals receiving benefits under title XVI of the Social Security Act, and since the new title XVI will not become effective until January 1, 1974, changing the effective date of section 414 would make clear that the section was not meant to apply to the current title XVI program.

Section 4 of the bill would contain amendments relating to the establishment of the supplemental security income program. It would amend sections 301 and 303 of the Social Security Amendments of 1972 to redesignate title XVI of the current Social Security Act as title XX and to modify the manner by which the programs authorized by titles I, X, XIV, and XVI of the current Social Security Act are to be limited to Puerto Rico, Guam, and the Virgin Islands. Rather than repeal those titles, except with respect to the three territories, the bill would, in section 5(a), define "State" for purposes of those titles to mean only those three territories.

Section 4 of the bill would also require the Secretary to make payments to States after December 31, 1973, in accordance with the provisions of the Social Security Act as in effect prior to January 1, 1974, for activities carried out through the close of December 31, 1973 under State plans approved under titles I, X, XIV, or XVI, and for activities carried out after December 31, 1973, which the Secretary determines are necessary to bring to a close activities carried out under such State plans.

Finally, section 4 of the bill would amend section 303 of the Social Security Amendments of 1972 to provide for the continuation of section 9 of the Act of April 19, 1950 (relating to special payments to States for aid to Navajo and Hopi Indians) with respect to the AFDC program.

Section 5 of the bill contains amendments relating to the general provisions of the Social Security Act. Subsection (a) would amend section 1101(a)(1) of the Act to define the term "State" for purposes of each title of the Social Security Act.

Section 5(b) of the bill would make numerous changes of a technical nature in title XI of the Act to reflect the amendments contained in the Social Security Amendments of 1972. The most significant of these changes is a provision authorizing section 1115 demonstration projects for the new title XVI.

Section 5(c) of the bill would amend section 1122(d)(1) of the Act to provide that in the case of disapproved capital expenditures by an institution reimbursed on a fixed fee or negotiated rate basis the Secretary shall determine the amount that the reimbursement is to be reduced because of the expenditures. There is currently no provision governing the determination of reductions for institutions reimbursed on a fixed fee or negotiated rate basis which is not a per capita basis.

Section 5(d) would amend section 1122(d)(2) of the Act to correct a technical error in the authority of the Secretary to include expenses related to capital expenditures in determining federal payments in certain cases. The Act currently provides that he shall not include such expenses. It should provide that he shall not exclude them.

Section 5(e) would amend section 1130(a) of the Act to add title VI to the programs subject to the limitation on grants to the States for Social Services.

Section 6 of the bill would contain amendments relating to the Professional Standards Review program. Subsection (a) would amend section 1160(b)(1) of the Social Security Act to correct a technical error in the provisions governing sanctions for noncompliance with obligations imposed under the program.

Section 6(b) would amend section 1162(b)(2) of the Act to authorize the appointment of representatives of any State organization of doctors of medicine or osteopathy and any State hospital association to statewide professional standards review councils. The Act currently authorizes appointment of representatives of the State medical society and the State hospital association.

Section 7 of the bill would contain amendments relating to the supplemental security income program. Subsection (a) would amend section 1611(g) of the Social Security Act to provide that individuals who were receiving assistance under State plans on the effective date of the supplemental security income program are entitled to have their resources tested under standards in those plans more liberal than the standards for supplemental security income only so long as they continued to reside in the State from which they received assistance under a State plan and did not become ineligible for supplemental security income benefits for more than six months. Subsection (b) would make a similar change in section 1611(h) of the Act with respect to income exclusions applicable to individuals who are blind.

Section 7(c) of the bill would amend section 1612(a)(2)(E) of the Act to authorize the Secretary to provide that gifts and inheritances not readily convertible into cash are not income.

Section 7(d) of the bill would eliminate the defined term "child" from title XVI, since the concept embodied in the definition is not relevant to the determination of eligibility for, or the amount of, supplemental security income benefits.

Section 7(e) of the bill would amend section 1612(b)(2) of the Act to extend the $240 annual income exclusion to federal veterans' pensions based on need.

Section 7(f) of the bill would amend section 1613(a)(2) of the Act to exclude any motor vehicle of reasonable value, rather than only an automobile, from the resources of an individual.

Section 7(g) of the bill would amend section 1614(a)(3) of the Act to make it clear that an individual whose eligibility for benefits is determined under the disability standard of a State plan is not subject to the standards for disability determinations provided in title XVI.

Section 7(h) of the bill would amend section 1631(a)(4)(B) to authorize initial payments for not more than three months to presumptively blind individuals as well as presumptively disabled individuals.

Section 7(i) of the bill would amend section 1631(a)(4)(B) of the Act to make it clear that initial payments to a presumptively blind or disabled individual are not recoverable only if the basis for later determining that the individual was not eligible for the payments is a determination that he is not blind or disabled.

Section 7(j) of the bill would amend section 1631(d)(2) of the Act to clarify the Secretary's authority to appoint persons to conduct hearings under title XVI.

Section 7(k) of the bill would amend section 401 of the Social Security Amendments of 1972 to relate the limitation on the fiscal liability of a State for supplementary payments in fiscal year 1974, during which the supplemental security income program will be in effect for only a half year, to one-half, rather than all, of the State's calendar year 1972 expenditures for assistance to the adult categories. It would also make a technical correction in the provisions governing the determination of a State's 1972 expenditures.

Section 7(l) of the bill would amend section 402 of the 1972 Amendments to expand the period during which the States must assist in implementation of the supplemental security income program to include the second half of fiscal year 1974 as well as fiscal year 1975.

Section 8 of the bill would contain amendments relating to the Medicare program. Subsection (a) would amend sections 1814(a) and 1862(a)(12) of the Social Security Act to make it clear that certification for an inpatient admission in connection with the program of dental services is required only when the dental services are not covered by Medicare.

Section 8(b) of the bill would amend section 1843 of the Act to provide for adjustment of State agreements for the coverage of certain individuals in light of the establishment of the supplemental security income program.

Section 8(c) of the bill would amend section 1861(r) of the Act to provide that an optometric examination is a physician service only if the examining optometrist provides prosthetic lenses.

Section 8(d) of the bill would amend section 1865(a) of the Act to provide that an institution accredited by the Joint Commission on Accreditation of Hospitals shall not be deemed to meet the institutional planning requirements imposed by the Act unless the Secretary determines that the Commission requires such planning as a condition of accreditation.

Section 8(e) of the bill would amend section 1876(a)(3)(A)(ii) by deleting an unnecessary and ambiguous clause in the provisions governing the disposition of savings realized by an HMO.

Section 8(f) of the bill would amend section 1876(g)(2) of the Act by deleting an unnecessary clause in the provisions governing allowable HMO premium charges.

Section 8(g) of the bill would amend section 1876(i)(6) of the Act to provide for the inclusion of the cost of reinsurance required by State laws in determining the costs incurred by an HMO.

Section 8(h) of the bill would amend section 226(b)(2) of the Social Security Amendments of 1972 to permit an individual enrolled in an HMO when it enters a risk sharing contract with the Secretary to elect not to participate in the HMO under that risk sharing agreement for up to three years after the agreement is made. Current law provides only for a period of election running from July 1, 1973 to June 30, 1976.

Section 9 of the bill would contain amendments relating to the Medicaid program. Subsection (a) would amend section 1902(a)(34) of the Social Security Act to provide that application for retroactive Medicaid coverage may be made on behalf of a deceased individual by someone else.

Section 9(b) of the bill would amend section 1902(a)(35)(A) of the Act to require the disclosure of the names of those who own obligations secured by the assets of an intermediate care facility as well as the names of those who are owners of the facility.

Section 9(c) of the bill would amend section 1902(e) of the Act which provides for extended Medicaid eligibility for certain AFDC recipients. Extended eligibility would be limited to those actually receiving AFDC, rather than those eligible for or receiving aid, the first month of the extension period would be moved forward one month to the month in which the family became ineligible for cash assistance, and extended coverage would be granted to those who become ineligible for AFDC because of increased hours of employment as well as increased income.

Section 9(d) of the bill would amend sections 1903(a)(1) and 1903(b)(1) of the Act to provide for limitations on federal payments for expenditures related to disabled as well as aged individuals eligible for Medicare.

Section 9(e) of the bill would amend section 1903(a)(4) of the Act to make it clear that 100 percent federal matching for the cost of inspecting long term care institutions will be made for costs incurred, rather than sums expended, between October 1, 1972 and June 30, 1974.

Section 9(f) of the bill would amend section 1903(a)(5) of the Act to make it clear that 90 percent federal matching is available for the cost of providing family planning services, not merely for the cost of administering family planning programs.

Section 9(g) of the bill would amend section 1903(b)(1) of the Act to provide that the limitations on federal payment for expenditures related to individuals eligible for Medicare do not apply to expenditures arising out of the requirement that States provide retroactive Medicaid eligibility in certain cases.

Section 9(h) of the bill would amend section 1903(g)(1)(C) to eliminate the requirement that the review of the utilization of institutional care be performed by individuals not associated with the institution involved.

Section 9(i) of the bill would amend section 1905(h)(1)(B) to give the Secretary authority under title XIX to establish standards for the active treatment of mental illness.

Section 9(j) of the bill would correct various erroneous designations and cross-references in title XIX.

Section 9(k) of the bill would delete various obsolete provisions in title XIX.

Section 9(l) of the bill would amend section 249E of the Social Security Amendments of 1972 to provide that continued Medicaid coverage for individuals who would otherwise be ineligible for Medicaid because of the OASDI benefit increases contained in Public Law 92-336 shall terminate in January of 1974 when the supplemental security income program begins.

Section 9(m) of the bill would amend various provisions of title XIX of the Act to take account of the new supplemental security income program. States which did not elect to return to their 1972 Medicaid eligibility standards would be required to provide Medicaid coverage to individuals receiving federal supplemental security income benefits. They would be given the option to provide coverage for categories of individuals receiving or eligible to receive State supplementary payments. However, federal matching for coverage of individuals in these categories would be available only with respect to individuals meeting income standards established by the Secretary. This subsection would also clarify the eligibility standards to be applied in States which choose to return to their 1972 standards.

Subsection (n) would amend various provisions of part D of Public Law 93-66 to clarify and make technical modifications in the provisions of that part providing for Medicaid eligibility for certain categories of individuals after the supplemental security income program becomes effective.

Section 10 of the amendment would delete three unnecessary and confusing provisions from title VI of the Act, which establishes the new program of grants to the States for services to the aged, blind, and disabled.

Section 11 of the amendment would amend various provisions of law to make all supplemental security income beneficiaries ineligible for food stamps and surplus agricultural commodities. It would also establish a program for payment by the federal government of the bonus value of food stamps to supplemental security income beneficiaries not otherwise receiving such a payment who were recipients of both State plan assistance and either food stamps or surplus commodities in December 1973.

Section 12 of the amendment would amend title II of the Social Security Act to preclude the payment of retroactive benefits if it would result in a permanent reduction in monthly benefits, except in certain limited circumstances.

Section 13 of the amendment would delete from title IV of the Act the requirement that States participating in the AFDC program take into consideration any expenses reasonably attributable to the earning of income in determining need. Instead, the amount of income which must be disregarded in any month would be adjusted from $30 plus one-third of the remainder to $60 plus an amount equal to expenses for child care plus one-third of the remainder.

Section 14 would amend title XIX of the Social Security Act to require that payment for services provided in free-standing clinics be included in State Medicaid plans approved under that title.

Section 15 would amend title XIX to terminate federal Medicaid matching for dental services, other than emergency and surgical services, to services provided to children.

AMENDMENTS

Intended to be proposed by_____
to H.R. 3153, a bill to amend the Social Security Act to make certain technical and conforming changes, viz:

Strike everything after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Social Security Technical Amendments of 1973".

AMENDMENTS RELATING TO OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

EXCLUSION OF WIDOWS AND WIDOWERS FROM CERTAIN PROVISIONS CONCERNING MINIMUM SURVIVOR'S BENEFIT

SEC. 2. (a)(1) Paragraph (1) of subsection (m) of section 202 of the Social Security Act (as amended by Public Law 92-603) is amended by—

(A) inserting ", other than an individual who is entitled to monthly benefits under subsection (e) or (f)," immediately after "an individual"; and

(B) striking out ", except as provided in paragraph (2)".

(2) Paragraph (2) of such subsection is amended by striking out "In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f), such individual's benefit amount, after reduction under subsection (q)(1)," and inserting "In any case in which an individual is entitled to a monthly benefit under subsection (e) or (f) on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for such month on the basis of such wages and self-employment income, such individual's benefit amount, after reduction under subsubsection (q) and subparagraph (B) of subsection (e)(2) or (f)(3)," in lieu thereof.

Reduction of Benefit Amounts When Initial Entitlement to Widow's or Widower's Insurance Benefit and Old-Age Insurance Benefit Occurs in Same Month

(b) Section 202(q)(3)(H) of such Act is amended by striking out "to which such individual was first entitled for a month before she or he became entitled to a widow's or widower's benefit".

Increase in Old-Age Insurance Benefit in Certain Cases of Delayed Retirement

(c) Section 202(w) of such Act is amended by inserting at the end thereof the following new paragraph:

"(5) If an individual's primary insurance amount is determined under paragraph (3) of section 215(a) and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 215(a) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph."

Inclusion of All Wage Level Increases in Automatic Adjustment of Earnings Test

(d) Section 203(f)(8)(B)(ii) of such Act is amended by—

(1) striking out "contribution and benefit base" and inserting "exempt amount" in lieu thereof; and

(2) striking out "section 230(a)" and inserting "subparagraph (A)" in lieu thereof.

Elimination of Benefits at Age 72 for Uninsured Individuals Receiving Supplemental Security Income Benefits

(e) Section 228(d) of such Act is amended by—

(1) striking out "XVI" and inserting "XX" in lieu thereof; and

(2) by inserting "and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93-66 for the folowing month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93-66 for such month, unless the Secretary determines that such benefits are not payable with respect to such individual for the month following such month" immediately before the period at the end thereof.

Correction of Erroneous Designations and Cross-references

(f)(1) Section 226 of such Act is amended by—

(A) redesignating subsection (a)(1) as subsection (a);

(B) redesignating clauses (A) and (B) of subsection (a), as redesignated by this subsection, as clauses (1) and (2) respectively; and

(C) redesignating the second subsection (f) (concerning entitlement to hospital insurance benefits in the case of widows and widowers, and the

third subsection (f) (concerning entitlement to hospital insurance benefits in the case of certain uninsured individuals) as subsections (h) and (i) respectively.

(2) Section 226(h)(1)(A) of such Act, as redesignated by this subsection is amended by striking out "and 202(e)(5), and the term 'age 62' in sections" and inserting, "202(e)(5)," in lieu thereof.

(3) Section 226(h)(1)(B) of such Act, as redesignated by this subsection, is amended by striking out "shall" and inserting "and the phrase 'before he attained age 60' in the matter following subparagraph (G) of section 202(f)(1) shall each" in lieu thereof.

(4) Paragraphs (2) and (3) of section 226(h) of such Act, as redesignated by this subsection, are each amended by striking out "(a)(2)" and inserting "(b)" in lieu thereof.

EFFECTIVE DATES

(g)(1) The amendments made by subsections (a), (b), and (c) shall be effective with respect to monthly benefits under title II of the Social Security Act for months after December 1972.

(2) The amendments made by subsection (d) shall be effective with respect to taxable years ending after December 1973.

(3) The amendments made by subsection (e) shall be effective with respect to monthly benefits under title II of the Social Security Act for months after December 1973, except that clause (2) of that subsection shall be effective with respect to the termination of payments under State plans approved under title I, X, XIV, or XVI for months after November 1973.

AMENDMENTS RELATING TO AID TO FAMILIES WITH DEPENDENT CHILDREN

TECHNICAL CORRECTION IN SECTION REFERENCE

SEC. 3. (a) Section 299E(c) of the Social Security Amendments of 1972 is amended by striking out "402(a)(15)(B)" and inserting in lieu thereof "402(a)(15)(A)".

Technical Correction in Section Reference

(b) Section 403(f) of the Social Security Act is amended by striking out "402(a)(15)(B)" both times it appears in such section and inserting in lieu thereof "402(a)(15)(A)".

Technical Correction in Effective Date for Determining Title IV Eligibility

(c) Section 414(b) of the Social Security Amendments of 1972 is amended by striking out "1973" and inserting in lieu thereof "1974".

MODIFICATION OF PROVISIONS ESTABLISHING SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 4. (a) Section 301 of the Social Security Amendments of 1972 (Public Law 92-603) is amended by striking out "title XVI of the Social Security Act is amended to read as follows:" and inserting in lieu thereof "the Social Security Act is amended by redesignating title XVI as title XX, by redesignating sections 1601 through 1605 as sections 2001 through 2005, respectively, and by inserting the following new title before title XVII:".

(b) Section 303 of the Social Security Amendments of 1972 is amended to read as follows:

"AMENDMENT TO ACT OF APRIL 19, 1950

"SEC. 303. Section 9 of the Act of April 19, 1950 (64 Stat. 47) is amended, effective January 1, 1974, to read as follows:

"SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under section 403(a) of the Social Security Act) an amount, in addition to the amount prescribed to be paid to such State under such section, equal to 80 per centum of the total amount of contributions by the State toward expenditures during the preceding quarter by the State, under the State plan approved under the Social Security Act for aid to dependent children to Navajo and Hopi Indians residing within the boundaries of the State on reservations or on allotted or trust lands, with respect to whom

payments are made to the State by the United States under section 403(a) of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such section.' ".

(c) Notwithstanding the provisions of section 301 of the Social Security Amendments of 1972 (as amended by subsection (a) of this section) and subsections (a) and (b) of section 5 of this Act, the Secretary of Health, Education, and Welfare shall make payments to the 50 States and the District of Columbia after December 31, 1973, in accordance with the provisions of the Social Security Act as in effect prior to January 1, 1974, for (1) activities carried out through the close of December 31, 1973, under State plans approved under title I, X, XIV, or XVI, and (2) administrative activities carried out after December 31, 1973, which the Secretary determines are necessary to bring to a close activities carried out under such State plans.

AMENDMENTS RELATING TO GENERAL PROVISIONS OF SOCIAL SECURITY ACT

CONFORMING AMENDMENT RELATING TO DEFINITION OF "STATE"

SEC. 5. (a) Section 1101(a)(1) of the Social Security Act is amended to read as follows:

"(1) The term "State", except where the context indicates otherwise, when used in (A) titles IV, VII, XI, and XIX, means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam; (B) title V means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; (C) titles I, X, XIV, and XX, means Puerto Rico, the Virgin Islands, and Guam; (D) titles VI and XVI, means the fifty States and the District of Columbia; and (E) any other title, means the fifty States, Puerto Rico, and the District of Columbia."

Conforming Amendment Relating to Title References

(b) Title XI of such Act is further amended by—

(1) striking out "XVI, or XIX" in section 1106(c)(1)(A) and inserting in lieu thereof "XIX, or XX";

(2) striking out "XVI" in section 1108(a) and inserting in lieu thereof "XX";

(3) striking out "XVI" in section 1109 and inserting in lieu thereof "XX", inserting "or the eligibility of and amount of benefits for any individual under title XVI," following "part A of title IV," in such section, and inserting "or the eligibility of and amount of benefits for any other individual under title XVI" following "such titles" in such section;

(4) striking out "and XVI" in section 1111 and inserting in lieu thereof "XVI, and XX";

(5) striking out "X, XIV, XVI, or XIX" in the first sentence of section 1115 and inserting in lieu thereof "VI, X, XIV, XIX, or XX";

(6) striking out "1002, 1402, 1602, or 1902" in section 1115(a) and inserting in lieu thereof "602, 1002, 1402, 1902, or 2002";

(7) striking out "1003, 1403, 1603, or 1903" in section 1115(b) and inserting in lieu thereof "603, 1003, 1403, 1903, or 2003;

(8) inserting at the end of section 1115 the following new sentence: "The Secretary may also waive any of the requirements of title XVI to the extent, and for the period, he determines to be necessary to carry out any experimental, pilot, or demonstration project under such title which, in his judgment, is likely to assist in promoting the objectives of such title, and the costs of any such project shall be covered as if such costs were expenditures under section 1631.";

(9) striking out "X, XIV, XVI, or XIX" in section 1116(a)(1) and inserting in lieu thereof "VI, X, XIV, XIX, or XX";

(10) striking out "1004, 1404, 1604, or 1904" in section 1116(a)(3) and inserting in lieu thereof "604, 1004, 1404, 1904, or 2004";

(11) striking out "X, XIV, XVI, or XIX" in section 1116(b) and inserting in lieu thereof "VI, X, XIV, XIX, or XX";

(12) striking out "X, XIV, XVI, or XIX" in section 1116(d) and inserting in lieu thereof "VI, X, XIV, XIX, or XX";

(13) striking out "1003(a), 1403(a), and 1603(a)" in section 1118 and inserting in lieu thereof "603(a), 1003(a), 1403(a), and 2003(a)" and striking out "X, XIV, and XVI" in such section and inserting in lieu thereof "VI, X, XIV, and XX";

(14) striking out ", other than medical assistance to the aged," in section 1119, striking out "XVI" in such section and inserting in lieu thereof "XX", and striking out "1603(a)" in such section and inserting in lieu thereof "2003(a)"; and

(15) striking out "XVI" in section 1121 and inserting in lieu thereof "XX".

Determination of Amount of Exclusion for Disapproved Capital Expenditures by Institutions Reimbursed on Fixed Fee or Negotiated Rate Basis

(c) The last sentence of section 1122(d)(1) of such Act is amended by inserting "or a fixed fee or negotiated rate" immediately after "per capita" each time that it appears therein.

Technical Improvement of Authority to Include Expenses Related to Capital Expenditures in Certain Cases

(d) Section 1122(d)(2) of such Act is amended by striking out "include" the last time that it appears therein and inserting "exclude" in lieu thereof.

Inclusion of Title VI in Limitation on Grants to States for Social Services

(e) Section 1130(a) of such Act is amended by—

(1) inserting "603(a)(1)," immediately after "403(a)(3),";

(2) striking out "1603" and inserting "2003" in lieu thereof; and

(3) striking out "recipients of aid or assistance (under State plans approved under titles I, X, XIV, XVI, or part A of title IV), or applicants (as defined under regulations of the Secretary) for such aid or assistance" and inserting "recipients of aid or assistance under any plan of the State approved under titles I, X, XIV, or XX, or part A of title IV, or of supplemental security income benefits under title XVI, or applicants (as defined under regulations of the Secretary) for such aid, assistance, or benefits."

Effective Date

(f) The amendments made by subsections (a), (b), and (e) shall be effective January 1, 1974.

AMENDMENTS RELATING TO PROFESSIONAL STANDARDS REVIEW

TECHNICAL IMPROVEMENT OF SANCTIONS FOR PROVIDER AND PRACTITIONER NONCOMPLIANCE

SEC. 6. (a) Section 1160(b)(1) of the Social Security Act (as amended by Public Law 92-603) is amended by inserting "or" immediately before "for such period as the Secretary may prescribe" in the matter after clause (B).

Representation of various medical societies and hospital associations on statewide Professional Standards Review Council

(b) Section 1162(b)(2) of such Act is amended by—

(1) striking out "the State medical society" and inserting "State organizations of doctors of medicine or doctors of osteopathy" in lieu thereof; and

(2) striking out "association" and inserting "associations" in lieu thereof.

AMENDMENTS RELATING TO SUPPLEMENTAL SECURITY INCOME

LIMITATIONS ON ELIGIBILITY DETERMINATIONS UNDER RESOURCES TESTS OF STATE PLANS

SEC. 7. (a) Section 1611 of the Social Security Act (as amended by Public Law 92-603) is amended by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g) In the case of any individual or any individual and his spouse (as the case may be) who—

"(1) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI,

"(2) has, since December 31, 1973, continuously resided in the State under whose plan he or they received aid or assistance for December 1973, and

"(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable.

the resources of that individual or that individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in sections 1611 (a)(1)(B) and 1611(a)(2)(B) during any period that the resources of that individual or that individual and his spouse (as the case may be) do not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received aid or assistance for December 1973."

Limitations on Eligibility and Benefit Determinations Under Income Tests of State Plans for Aid to the Blind

(b) Section 1611 of such Act is amended by striking out subsection (h) and inserting in lieu thereof the following new subsection:

"(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under title X or XVI,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under whose plan he or they received aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1612 without application of this subsection."

Exclusion of Certain Gifts and Inheritances from Income

(c) Section 1612(a)(2)(B) is amended by inserting ", except that the Secretary may by regulation provide that gifts and inheritances which are not readily convertible into cash are not income" immediately after "inheritances".

Elimination of Definition of Child

(d)(1) Section 1612(b) of such Act is amended by—

(A) striking out "a child who" in clause (1), and inserting "under the age of 22 and" in lieu thereof;

(B) striking out "a child" in clause (9), and inserting "under age 21" in lieu thereof; and

(C) striking out "a child who is not an eligible individual" in clause (10), and inserting "an individual who is not an eligible individual or eligible spouse" in lieu thereof.

(2) Section 1614(a)(3)(A) of such Act is amended by striking out "a child" and inserting "an individual" in lieu thereof.

(3) Section 1614(f)(2) of such Act is amended by striking out "a child".

(4) Section 1614 of such Act is further amended by striking out subsection (c) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

Application of Income Exclusions to Veteran's Pensions

(e) Section 1612(b)(2) of such Act is amended by inserting "(except any federal veteran's pension)" immediately after "other than income".

Exclusion of Motor Vehicle from Resources

(f) Section 1613(a)(2) of such Act is amended by striking out "an automobile" and inserting "a motor vehicle" in lieu thereof.

Individuals Determined to be Disabled Under State Plans not Subject to SSI Disability Standards

(g) Section 1614(a)(3) of such Act is amended by—

(1) striking out the last sentence of subparagraph (A); and

(2) inserting at the end thereof the following new subparagraph:

"(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973, so long as he is continuously disabled as so defined."

Authorization of Initial Payments to Presumptively Blind Individuals

(h) Section 1631(a)(4)(B) of such Act is amended by—

(1) inserting "or blindness" immediately after "disability" each time it appears therein; and

(2) inserting "or blind" immediately after "disabled".

Initial Payments to Presumptively Disabled or Blind Individuals Unrecoverable Only if Individual Is Ineligible Because Not Disabled or Blind

(i) Section 1631(a)(4)(B) of such Act is amended by inserting "solely because such individual is determined not to be disabled or blind" immediately before the period at the end thereof.

Clarification of Secretary's Authority to Appoint Persons to Conduct Hearings

(j) Section 1631(d)(2) of such Act is amended by—

(1) striking out "serve as hearing examiners in" and insert "conduct" in lieu thereof;

(2) strike out "specific standards prescribed" and insert "requirements" in lieu thereof; and

(3) strike out "by or under subchapter II of chapter 5" and insert "appointed under section 3105" in lieu thereof.

Technical Correction of Limitation on Fiscal Liability of States for Optional Supplementation

(k)(1) Section 401(a)(1) of the Social Security Amendments of 1972 is amended by—

(A) inserting ", other than fiscal year 1974," immediately after "any fiscal year"; and

(B) inserting ", and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures" immediately before the period at the end thereof.

(2) Section 401(c)(1) of such Act is amended by inserting "excluding" immediately before "expenditures authorized under section 1119".

Modification of Transitional Administrative Provisions

(l) Section 402 of the Social Security Amendments of 1972 is amended by—

(1) striking out "XVI" the first time that it appears therein and inserting "VI" in lieu thereof;

(2) inserting "the third and fourth quarters in the fiscal year ending June 30, 1974, and" immediately after "with respect to expenditures for"; and

(3) inserting "the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of" immediately after "during such portion of".

Effective Date

(m) The amendments made by subsections (a) through (j) shall be effective January 1, 1974.

AMENDMENTS RELATING TO MEDICARE

CLARIFICATION OF COVERAGE OF HOSPITALIZATION FOR DENTAL SERVICES

SEC. 8. (a)(1) Section 1814(a)(2)(E) of the Social Security Act (as amended by Public Law 92-603) is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;"

(2) The last sentence of section 1814(a) is amended by striking out "or (D)" and inserting "(D), or (E)" in lieu thereof.

(3) Section 1862(a)(12) of such Act is amended by striking out "a dental procedure" and all that follows thereafter, and inserting "the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services; or" in lieu thereof.

Continuation of State Agreements for Coverage of Certain Individuals

(b)(1) Section 1843(b) of such Act is amended by adding at the end thereof the following: "Effective January 1, 1974, and subject to section 1902(e), the Secretary shall, at the request of any State not eligible to participate in the program established under title XX, continue in effect the agreement entered into under this section with such State insofar as it includes individuals who are eligible to receive benefits under part A of title IV, or supplemental security income benefits under title XVI, or are otherwise eligible to receive medical assistance under the plan of such State approved under title XIX. The provisions of subsection (h)(2) of this section as in effect before January 1, 1974, shall continue to apply with respect to individuals included in any such agreement after such date. Effective January 1, 1974, all references to title XVI in agreements entered into under this section with States eligible to participate in the program established under title XX shall be deemed to be references to title XX.".

(2) Section 1843(f) of such Act is amended by—

(A) striking out "XVI" the first time it appears therein and inserting "XX" in lieu thereof;

(B) inserting "; or receiving supplemental security income benefits under title XVI," immediately after "IV," the first time that it appears therein;

(C) striking out "if the agreement entered into under this section so provides,";

(D) striking out "I, XVI, or"; and

(E) striking out "individuals receiving money payments under plans of the State approved under titles I, X, XIV, and XVI, and part A of title IV, and".

Optometric Examination a Physician Service Only if Lenses Supplied

(c) Clause (4) of section 1861(r) of such Act is amended by—

(1) striking out "establishing the necessity for" and inserting "attesting to the need for" in lieu thereof; and

(2) inserting "which he supplies" immediately after prosthetic lenses".

Additional Qualifications on Effect of Accreditation

(d)(1) Clause (3) of subsection (a) of section 1865 of such Act is amended by striking out "paragraph (6)" and inserting "paragraphs (6) and (8)" in lieu thereof.

(2) The matter after clause (4) of such subsection is amended by—

(A) inserting "as defined in section 1861(k)" immediately after "utilization review plan";

(B) inserting ", requires institutional plans as defined in section 1861(z) (or imposes another requirement which serves substantially the same purpose)," immediately after "serves substantially the same purpose)"; and

(C) inserting ", section 1861(e)(8)," immediately after "section 1861(e)(6)".

Technical Improvement of Provisions Governing Disposition of HMO Savings

(e) Section 1876(a)(3)(A)(ii) of such Act is amended by striking out ", with the apportionment of savings being proportional to the losses absorbed and not yet offset".

Technical Improvement of Provisions Governing Allowable HMO Premium Charges

(f) The last sentence of section 1876(g)(2) of such Act is amended by—

(1) inserting "of its premium rate or other charges" immediately after "portion";

(2) striking out "may" and inserting "shall";

(3) striking out "(i)"; and

(4) striking out "less (ii) the actuarial value of other charges made in lieu of such deductible and coinsurance".

Inclusion of Cost of Reinsurance Required by State Law in Payments to HMO's

(g) Section 1876(i)(6)(B) of such Act is amended by—

(1) striking out "(other than those with respect to out-of-area services)"; and

(2) inserting ", other than reinsurance costs incurred with respect to out-of-area services, and reinsurance costs incurred pursuant to the requirements of the laws of the State in which such organization is located (as determined under regulations prescribed by the Secretary)" immediately before "; and".

Expanded Opportunity To Elect Not To Receive All Medicare Services From Risk-Sharing HMO

(h) Section 226(b)(2) of the Social Security Amendments of 1972 is amended by—

(1) striking out "are" the first time that it appears therein and inserting "were" in lieu thereof;

(2) striking out "July 1, 1973" the first time that it appears therein and inserting "the date that such organizations entered into such contracts" in lieu thereof; and

(3) by inserting ", or the date on which an organization enters into such a contract, whichever is later" immediately after "July 1, 1973" the second time that it appears therein.

Effective Dates

(i)(1) The amendments made by subsection (a) shall be effective with respect to admissions subject to the provisions of section 1814(a)(2) of the Social Security Act which occur after December 31, 1972.

(2) The amendments made by subsection (b) shall be effective January 1, 1974.

(3) The amendments made by subsection (c) shall be effective with respect to services provided after October 20, 1972, for which payment is made under title XVIII of the Social Security Act.

(4) The amendments made by subsection (d) shall be effective with respect to fiscal years of any provider of services under title XVIII of such Act beginning after March 31, 1973.

(5) The amendments made by subsections (e), (f), and (g) shall be effective with respect to services provided after June 30, 1973, for which payment is made under title XVIII of such Act.

AMENDMENTS RELATING TO MEDICAID

APPLICATIONS FOR ASSISTANCE ON BEHALF OF DECEASED INDIVIDUALS

SEC. 9. (a) Section 1902(a)(34) of the Social Security Act (as amended by Public Law 92-603) is amended by inserting "(or application was made on his behalf in the case of a deceased individual)" immediately after "he made application".

Expansion of Intermediate Care Facility Ownership Disclosure Requirements

(b) Section 1902(a)(35)(A) of such Act is amended by inserting "or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility" immediately after "intermediate care facility".

Technical Modification of Extended Medicaid Eligibility for AFDC Recipients

(c) Section 1902(e) of such Act is amended to read as follows:

"(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family was receiving aid under the plan approved under part A of title IV) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan."

Limitation on Payments to States for Expenditures in Relation to Disabled Individuals Eligible for Medicare

(d)(1) Section 1903(a)(1) of such Act is amended by inserting "and disabled individuals entitled to hospital insurance benefits under Title XVIII" immediately after "individuals sixty-five years of age or older".

(2) Section 1903(b)(2) of such Act is amended by inserting "and disabled individuals entitled to hospital insurance benefits under title XVIII" immediately after "individuals aged 65 and over".

Federal Payment for Cost of Inspecting Institutions Limited to Expenses Incurred During Covered Period

(e) Section 1903(a)(4) of such Act is amended by striking out "sums expended" and inserting "sums expended with respect to costs incurred" in lieu thereof.

Federal Payment for Family Planning Expenditures Not Limited to Administrative Costs

(f) Section 1903(a)(5) of such Act is amended by striking out "(as found necessary by the Secretary for the proper and efficient administration of the plan),"

Exception to Limitation on Payments to States for Expenditures in Relation to Individuals Eligible for Medicare

(g) Section 1903(b)(2) of such Act is amended by inserting ", other than amounts expended under provisions of the plan of such State required by section 1902(a)(34)" immediately before the period at the end thereof.

Utilization Review by Medical Personnel Associated With an Institution

(h) Section 1903(g)(1)(C) of such Act is amended by striking out "and who are not employed by or financially interested in any such institution".

Authority To Prescribe Standards Under Title XIX for Active Treatment of Mental Illness

(i) Section 1905(h)(1)(B) of such Act is amended by—
(1) striking out ", involves active treatment (i)" and inserting "(i) involve active treatment" in lieu thereof,
(2) striking out "pursuant to title XVIII", and
(3) striking out "(ii) which" and inserting "(ii)" in lieu thereof.

Correction of Erroneous Designations and Cross-References

(j)(1) Section 1902(a)(13)(C) of such Act is amended by striking out "(14)" and inserting "(16)" in lieu thereof.
(2) Section 1902(a)(33)(A) of such Act is amended by striking out "last sentence" and inserting "penultimate sentence" in lieu thereof.
(3) Section 1902(a) of such Act is amended by—
(A) striking out the period at the end of paragraph (35) and inserting "; and" in lieu thereof; and
(B) redesignating paragraph (37) as paragraph (36).
(4) Sections 1902(a)(21), (24), and (26)(B), and the last sentence of section 1902(a), of such Act are each amended by striking out "nursing home" and "nursing homes" each time that they appear therein and inserting "nursing facility" and "nursing facilities", respectively, in lieu thereof.
(5) Section 1903(a) of such Act is amended by striking out "and section 1117" in the first parenthetical phrase.
(6) Section 1903(b) of such Act is amended by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.
(7) Section 1903 of such Act is amended by redesignating the second subsection (j) and subsection (k) as subsections (k) (1), respectively.
(8) Section 1905(a)(16) of such Act is amended by striking out "under 21, as defined in subsection (e);" and inserting "under age 21, as defined in subsection (h); and" in lieu thereof.
(9) Section 1905(c) of such Act is amended by striking out "skilled nursing home" each time that it appears therein and inserting "skilled nursing facility" in lieu thereof.
(10) Section 1905 of such Act is amended by redesignating the second subsection (h) as subsection (i).
(11) Section 1905(h)(2) is amended by striking out "(e)(1)" and inserting "(1)" in lieu thereof.

Deletion of Obsolete Provisions

(k)(1) Section 1903 of such Act is amended by—
(A) striking out subsection (c);
(B) striking out "(a), (b), and (c)" in subsection (d) and inserting "(a) and (b)" in lieu thereof.
(2) Section 1905(b) of such Act is amended by striking out everything after "section 1110(a)(8)" and inserting a period in lieu thereof.
(3) Section 1908 of such Act is amended by striking out the last sentence of subsection (d) and subsections (e) and (f), and redesignating subsection (g) as subsection (e).

Reduction in Period for Medicaid Eligibility Determinations Without Regard to Increased Title II Benefits

(l) Section (249(E) of the Social Security Amendments of 1972 is amended by striking out "October 1974" and inserting "January 1974" in lieu thereof.

Medicaid Eligibility for Supplemental Security Income Beneficiaries

(m)(1) Section 1901 of the Social Security Act (as amended by Public Law 92-603) is amended by striking out "permanently and totally disabled" and inserting "disabled" in lieu thereof.
(2) Section 1902(a)(5) of such Act is amended by—
(A) striking out the comma after "administer the plan" and inserting a semicolon in lieu thereof; and
(B) striking out "XVI (insofar as it relates to the aged)" and inserting "XX (insofar as it relates to the aged) if the State is eligible to participate

in the program established under title XX, or by the agency or agencies administering the program established under title XVI or the State plan approved under part A of title IV if the State is not eligible to participate in the program established under title XX" in lieu thereof.

(3) Section 1002(a)(10) of such Act is amended to read as follows:

"(10) provide—

(A) for making medical assistance available to all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI;

(B) that the medical assistance made available to any individual described in subparagraph (A)—

(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in subparagraph (A); and

(C) if medical assistance is included for any group of individuals who are not described in clause (A) and who do not meet the income and resources requirements of the appropriate State plan, or title XVI, as the case may be, as determined in accordance with standards prescribed by the Secretary—

(I) for making medical assistance available to all individuals who would, except for income and resources, be eligible for aid or assistance under any such State plan or to have paid with respect to them supplemental security income benefits under title XVI, and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical and remedial care and services, and

(II) that the medical assistance made available to all individuals not described in clause (A) shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1905(a) to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under Part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under Part B of title XVIII for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, and (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A);".

(4) Section 1002(a)(13)(B) of such Act is amended by striking out "the State's plan approved under title, I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, XX, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI" in lieu thereof.

(5) Section 1002(a)(14)(A) of such Act is amended by striking out "a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or who meet the income and resources requirements of the one of such State plans which is appropriate" and inserting "any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or who meet the income and resources requirements of the appropriate State plan, or title XVI, as the case may be, and individuals with respect to whom there is being paid, or

who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)" in lieu thereof.

(6) Section 1902(a)(14)(B) of such Act is amended by—

(A) inserting "(other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A))" immediately after "with respect to individuals";

(B) inserting "and with respect to whom supplemental security income benefits are not being paid under title XVI" immediately after "any such State plan";

(C) striking out "the one of such State plans which is appropriate" and inserting "the appropriate State plan, or title XVI, as the case may be," in lieu thereof; and

(D) striking out "or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to section 1902(a)(10)(B) approved under title XIX".

(7) Section 1902(a)(17) of such Act is amended by—

(A) striking out "the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" in lieu thereof;

(B) striking out "if he met the requirements as to need" and inserting "except for income and resources" in lieu thereof;

(C) striking out "a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI" in lieu thereof; and

(D) striking out "and amount of such aid or assistance under such plan" and inserting "such aid, assistance, or benefits" in lieu thereof.

(8) Sections 1902(a)(17) and 1902(a)(18) are each amended by striking out "is blind or permanently and totally disabled" and inserting "(A) with respect to States eligible to participate in the program established under title XX, is blind or permanently and totally disabled, or (B) with respect to States not eligible to participate in such program, is blind or disabled as defined in section 1614" in lieu thereof.

(9) Section 1902(a)(20)(C) of such Act is amended by striking out "or section 1603(a)(4)(A)(i) and (ii)" and inserting ", section 603(a)(1)(A)(i) and (ii), or section 2003(a)(4)(A)(i) and (ii)" in lieu thereof.

(10) The penultimate sentence of section 1902(a) of such Act is amended by striking out "XVI" each time that it appears therein and inserting "XX" in lieu thereof.

(11) Section 1902(c) of such Act is amended by striking out "XVI" and inserting "XX" in lieu thereof.

(12) Section 1902(f) of such Act is amended by—

(A) inserting "not eligible to participate in the program established under title XX" immediately after "State" the first time it appears therein;

(B) striking out "as defined in section 213 of the Internal Revenue Code of 1954" and inserting "as recognized under State law" in lieu thereof;

(C) by striking out "such individual's payment under title XVI" and inserting "any supplemental security income payment and State supplementary payment made with respect to such individual" in lieu thereof; and

(D) inserting at the end thereof the following new sentences: "In States which provide medical assistance to individuals pursuant to clause (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that

subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration and scope to that provided to individuals eligible under clause (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under clause (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to clause (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection."

(13) Section 1903(a)(1) of such Act is amended by striking out "individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)" in lieu thereof.

(14) Section 1903(f)(4) of such Act is amended to read as follows:

"(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual—

"(A) who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI,

"(B) who is not receiving such aid or assistance, and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or with respect to whom there is being paid,

"(C) or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the income of such individual does not exceed standards established by the Secretary, at the time of the provision of the medical assistance giving rise to such expenditure."

(15) The matter before clause (i) in section 1905(a) of such Act is amended by striking out "individuals not receiving aid or assistance under the State's plan approved under tile I, X, XIV, or XVI, or part A of title IV" and inserting "individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XX, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" in lieu thereof.

(16) Section 1905(a)(iv) of such Act is amended by inserting "with respect to States eligible to participate in the program established under title XX," at the end thereof.

(17) Section 1905(a)(v) of such Act is amended by striking out "or" and inserting "with respect to States eligible to participate in the program established under title XX," in lieu thereof.

(18) Section 1905(a)(vi) of such Act is amended by—

(A) striking out "XVI" and inserting "XX" in lieu thereof, and

(B) inserting "or" at the end thereof.

(19) Section 1905(a) of such Act is further amended by inserting immediately after clause (vi) the following new clause:

"(vii) blind or disabled as defined in section 1614, with respect to States not eligible to participate in the program established under title XX,"

(20) The last sentence of section 1905(a) of such Act is amended by striking out "XVI" and inserting "XX" in lieu thereof.

(21) Section 1905 of such Act is amended by inserting at the end thereof the following.

"(j) The term 'State supplementary payment' means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under title XVI, or would but for his income be payable under that title.

"(k) Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93-66 shall not be considered supplemental security income benefits payable under title XVI."

TECHNICAL CLARIFICATION AND MODIFICATION OF MEDICAID ELIGIBILITY AND FEDERAL TITLE XIX MATCHING UNDER PUBLIC LAW 93-66

(n)(1)(A) Clause (2)(A) of section 231 of Public Law 93-66 is amended by—

(i) inserting "received or immediately before would," and

(ii) striking out "or" at the end thereof and inserting "and" in lieu thereof.

(B) Clause (2(B) of that section is amended by—

(i) striking out "was", and

(ii) striking out "need for care in such institution, considered to be eligible for aid or assistance under a State plan (referred to in subparagraph (A)) for purposes of determining his eligibility" and inserting "status as described in subparagraph (A), was included as an individual eligible" in lieu thereof.

(2) The first sentence of section 232 of Public Law 93-66 is amended by—

(A) striking out "(under the provisions of subparagraph (B) of such section)",

(B) striking out "to be a person described as being a person who 'would, if needy, be eligible for aid or assistance under any such State plan' in subparagraph (B)(i) of such section" and inserting "for purposes of title XIX to be an individual who is blind or disabled within the meaning of section 1614(a) of the Social Security Act" in lieu thereof, and

(C) inserting ", and the other conditions of eligibility contained in the plan of the State approved under title XIX (as it was in effect in December 1973)" before the period at the end thereof.

(3)(A) Part D of title II of Public Law 93-66 is amended by inserting at the end thereof the following new section:

"SEC. 235. Notwithstanding the provisions of title XIX of the Social Security Act, including any limitation established by the Secretary of Health, Education, and Welfare pursuant to section 1903(f)(4)(C) of that Act, Federal financial participation shall be available under that title with respect to amounts expended for services for individuals who are, or are eligible to be, individuals with respect to whom mandatory State supplementation is payable pursuant to an agreement under section 212(a), individuals who are, or are eligible to be, individuals with respect to whom additional supplemental security income benefits are payable under section 211, and individuals eligible for medical assistance by reason of sections 231 and 232, provided that the plan of the State approved under title XIX provides that those individuals are eligible for medical assistance under the plan."

(B) Section 230, 231, and 232 of Public Law 93-66 are each amended by striking out the last sentence therein.

Effective Dates

(c)(1) The amendments made by subsections (a) and (g) shall be effective July 1, 1973.

(2) The amendments made by subsection (m) shall be effective January 1, 1974.

AMENDMENTS RELATING TO GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED

SEC. 10. (a)(1) Section 602(a)(11) of the Social Security Act (as amended by Public Law 92-603) is amended by striking out clause (B); inserting "and" at the end of clause (A); and redesignating clause (C) as clause (B).

(2) Section 602(a) of such Act is amended by striking out paragraph (12); and striking out the semicolon at the end of paragraph (11) and inserting a period in lieu thereof.

(3) Section 603 of such Act is amended by striking out subsection (d).

(b) The amendments made by this section shall be effective January 1, 1974.

CASH BENEFITS IN LIEU OF FOOD STAMPS OR COMMODITIES FOR CERTAIN RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 11. (a)(1) There shall be added to the supplemental security income benefits payable under title XVI of the Social Security Act, in the case of (i) an eligible individual under section 1611(a)(1) of that Act who is a qualified individual (as defined in paragraph 3), (ii) an eligible individual under section 1611(a)(2) of that Act who is a qualified individual and whose spouse is not a qualified individual, or (iii) an eligible spouse as defined in section 1614(b) of that Act who is a qualified individual and whose spouse is not a qualified individual, for each month for which those benefits are paid, a cash benefit in lieu of food stamps or commodities equal to the amount by which the sum of—

(A) the amount of the supplemental security income benefits and any payments described in section 1616(a) of the Social Security Act or section 212(a) of Public Law 93-66 payable for that month with respect to that eligible individual or eligible spouse,

(B) the amount of any increased supplemental security income benefits payable for that month pursuant to section 211 of Public Law 93-66 with respect to another person whose needs are taken into account in determining the December 1973 income of that eligible individual or eligible spouse under clause (D), and

(C) the amount of any income, other than the benefits and payments described in clauses (A) and (B), of that eligible individual or eligible spouse for that month,

is less than the sum of

(D) the December 1973 income of that eligible individual or eligible spouse, as defined in section 212(a)(3)(B) of Public Law 93-66, and

(E) an amount equal to $21 if increased supplemental security income benefits are being paid pursuant to section 211 of Public Law 93-66 with respect to another person whose needs are taken into account in determining the December 1973 income of that eligible individual or eligible spouse under clause (D), or $11 if such increased supplemental security income benefits are not being paid,

but not in excess of the applicable amount described in clause (E), as determined under regulations (including regulations concerning the allocation of aid, assistance, benefits, and other income provided to, with respect to, or on behalf of, more than one person) prescribed by the Secretary of Health, Education, and Welfare.

(2) There shall be added to the supplemental security income benefits payable under title XVI of the Social Security Act, in the case of an eligible individual under section 1611(a)(2) of that Act and his eligible spouse as defined in section 1614(b) of that Act who are both qualified individuals, for each month for which those benefits are paid, a cash benefit in lieu of food stamps or commodities equal to the amount by which the sum of—

(A) the amount of the supplemental security income benefits and any payments described in section 1616(a) of the Social Security Act or section 212(a) of Public Law 93-66 payable for that month with respect to that eligible individual and eligible spouse,

(B) the amount of any increased supplemental security income benefits payable for that month pursuant to section 211 of Public Law 93-66 with respect to another person whose needs are taken into account in determining the December 1973 income of that eligible individual and eligible spouse under clause (D), and

(C) the amount of any income, other than the benefits and payments described in clauses (A) and (B), of that eligible individual and eligible spouse for that month,

is less than the sum of

(D) the December 1973 income of that eligible individual and eligible spouse, as defined in section 212(a)(3)(B) of Public Law 93-66, and

(E) an amount equal to $21,

but not in excess of $21, as determined under regulations (including regulations concerning the allocation of aid, assistance, benefits, and other income provided to, with respect to, or on behalf of, more than one person) prescribed by the Secretary of Health, Education, and Welfare.

(3) For purposes of this section, a qualified individual is an individual who—

(A) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI of the Social Security Act,

(B) was, on December 31, 1973, certified as eligible to participate in the food stamp program established by the Food Stamp Act of 1964, or a commodity distribution program for households established under section 32 of Public Law 74-320, section 416 of the Agricultural Act of 1949, or any other law, and

(C) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual, as defined in section 1611(a) of the Social Security Act, or an eligible spouse, as defined in section 1614(b) of that Act with respect to whom supplemental security income benefits are payable under title XVI of the Social Security Act.

(b) Except as the Secretary of Health, Education, and Welfare may by regulation provide, the provisions of title XVI of the Social Security Act relating to the terms, conditions, and procedures applicable to the payment of supplemental security income benefits shall, to the extent that they are not inconsistent with the purposes of this section, be applicable to the payment of the benefits authorized by this section; and the authority conferred upon the Secretary of Health, Education, and Welfare by that title may, where appropriate, be exercised by him in the administration of this section.

(c)(1) No individual who is an eligible individual or eligible spouse with respect to whom supplemental security income benefits are being paid pursuant to title XVI of the Social Security Act, or who is an essential person with respect to whom increased supplemental security income benefits are being paid pursuant to section 211 of Public Law 93-66, shall be considered a member of a household or an elderly person for any purpose of the Food Stamp Act of 1964, other than for the purposes of the matter before the proviso in the last sentence of section 5(b) of that Act concerning disasters which disrupt commercial channels of food distribution, or be eligible to participate in any commodity distribution program for households established under section 32 of Public Law 74-320, section 416 of the Agricultural Act of 1949, or any other law.

(2) Section 3(e) of the Food Stamp Act of 1964 is amended by striking out the third and fourth sentences therein.

(3) Section 416 of the Agricultural Act of 1949 is amended by striking out the last sentence therein.

(4) Section 4(c) of the Agriculture and Consumer Protection Act of 1973 is repealed.

ELIMINATION OF RETROACTIVE PAYMENTS UNDER TITLE II IN CERTAIN SITUATIONS

SEC. 12. (a)(1) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out "An individual" and inserting "Subject to the limitations contained in paragraph (4), an individual" in lieu thereof.

(2) Section 202(j) of such Act is further amended by inserting at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to benefits under subsections (a), (b), (c), (e), or (f) for any month

prior to the month in which he files an application for such benefits if the effect of such payment would be to reduce, pursuant to subsection (q), the monthly benefits to which such individual would otherwise be entitled.

"(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would, except for subparagraph (A), be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(ii) If the individual applying for retroactive benefits is a widow, widower, or surviving divorced wife who is under a disability (as defined in section 223 (d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow, widower, or surviving divorced wife for any month before he or she attained the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible."

(3) The second subsection (f) of section 226 of such Act (concerning entitlement of hospital insurance benefits in the case of certain widows and widowers) is amended by inserting at the end thereof the following new paragraph:

"(4) For the purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow's or widower's insurance benefits under section 202(e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4)."

(b) The amendments made by this section shall apply with respect to applications for benefits under section 202 of the Social Security Act filed after December 31, 1973.

ADJUSTMENT IN THE AMOUNT OF INCOME TO BE DISREGARDED IN DETERMINING NEED UNDER TITLE IV

SEC. 13. (a) Section 402(a)(7) of the Social Security Act is amended by striking out "as well as any expenses reasonably attributable to the earning of any such income".

(b) Section 402(a)(8)(A)(ii) of such Act is amended by striking out "the first $30 of the total of such earned income for such month plus ⅓ of the remainder of such income" and inserting in lieu thereof "the first $60 of the total of such earned income for such month plus an amount equal to any expenses (subject to such limitations as to amount or otherwise as the Secretary may prescribe) which are for the care of a dependent child and are reasonably attributable to the earning of any such income plus ⅓ of the remainder of such income".

(c) Section 402(a)(8)(D) of such Act is amended by striking out "was in excess of their need" and inserting in lieu thereof "was in excess of their need (after deducting from such income $60 plus an amount equal to any expenses, subject to such limitations as to amount or otherwise as the Secretary may prescribe, which are for the care of a dependent child and are reasonably attributable to the earning of any such income)".

(d) The amendments made by this section shall become effective October 1, 1973, or on such earlier date with respect to any State as the State plan of such State approved under title IV of such Act provides.

EXPANSION OF MANDATORY OUTPATIENT SERVICES UNDER STATE MEDICAL ASSISTANCE PROGRAMS

SEC. 14. (a) Paragraph (2) of subsection (a) of section 1905 of the Social Security Act is amended by striking out "outpatient hospital services" and inserting "outpatient services whether provided in a hospital or in any other ambulatory health care facility" in lieu thereof.

(b) Subsection (a) of such section is further amended by striking out paragraph (9).

(c) The amendments made by this section shall be effective with respect to payments under section 1903 of the Social Security Act for quarters beginning after June 30, 1973.

REDUCTION IN SCOPE OF DENTAL SERVICES FOR WHICH FEDERAL MATCHING PAYMENTS WILL BE MADE UNDER STATE MEDICAL ASSISTANCE PROGRAMS

SEC. 15. (a) Paragraph (10) of subsection (a) of section 1905 of the Social Security Act is amended by inserting "for individuals under the age of 21" immediately after "dental services".

(b) Subsection (a) of such section is furthed amended by—

(1) striking out "or" at the end of clause (A);

(2) striking out the period at the end of clause (B) and inserting "; or" in lieu thereof; and

(3) inserting after clause (B) the following new clause:

"(C) any such payment with respect to dental services for any individual who is 21 years of age or older, other than emergency dental services (as defined in regulations prescribed by the Secretary), and oral surgical services and treatment related thereto which legally may be performed by a doctor of medicine or osteopathy or of dentistry."

(c) Clause (1) of section 1902(a)(10) of such Act is amended by inserting ", (10)," immediately after "paragraph (4)".

(d) The amendments made by this section shall be effective with respect to payments under section 1903 of the Social Security Act for quarters beginning after June 30, 1973.

The CHAIRMAN. Mr. Secretary, I am concerned about the situation where it is not to the advantage of the local district attorney to prosecute fathers who have an obligation to support their children. Now, just looking at it from the strictly political point of view, there is a real problem where a father is, let us say, in Florida, and the mother is in Maryland, and the father is not paying support. If the local district attorney files suit to make the father pay, then that father is not going to vote for him. He will probably go in every barroom where he can find an audience and shout and tell people what a sorry, unworthy public official that district attorney is. If someone should know enough about the father's business to say that he knows why the father is running down the district attorney, because he is making the father pay support to his children, then the father will not say that in the next barroom. He will just keep right on running down the good name and reputation of that district attorney for doing his job. The mother, is in another State and cannot vote for that district attorney; she is at the other end. So politically, it is not to the advantage of the district attorney to do his duty in that situation.

All I want to do is provide an arrangement whereby support is collected. Our own Federal Government is paying for most of the cost of this anyway, and we should expect our own lawyers to do that job.

Now, we have done a very effective job with regard to illegal gambling devices. I regret to say that in my State I gained the impression that they were making $25 million a year with illegal gambling devices down there and we just could not get anywhere with it. Finally, we got around to the point where we passed a Federal law on the subject, so this matter is not only the duty of the local law enforcement officer and the local district attorney, but it is also the duty of the U.S. attorney. We can now invoke Federal jurisdiction

for the U.S. attorney to sue, and the U.S. attorney has been working on it and he has succeeded in putting a few people in jail. And if I may say so, that racket is just about broken up.

Now, we have another parallel situation. Right there in the city of New Orleans, there are cases of people being on the welfare rolls more than one time under multiple names. We have found one person that was on those roles 18 different times under 18 different names. Now, you can say that it is not to a mother's advantage to have a child so that she can go on welfare. Well, if she can get on 18 times it is to her advantage. And so, the welfare department in the State called upon the district attorney to prosecute those cases and the district attorney simply took the view that welfare is supposed to look after people like that, and that is not the job of the district attorney to go prosecute somebody for being on the welfare rolls more times than one. He simply would not have anything to do with it. Now, of course, that gives welfare a bad name.

Now, this thing of being on the rolls more times than one gained such respectability that one of the delegates to the Democratic National Convention from New Orleans was on the rolls more times than one. But the State chose to do nothing about that. If you cannot get one man to do the job, you try to get the other man to do the job. It is a great big waste of the taxpayers' money and I am sure that the taxpayer resents his money being paid for somebody being on the welfare rolls 18 times just like the taxpayer resents having to pay welfare money to support the children of some man making $20,000 a year, who has it completely within his power to support his children, and even has a court order to support his children, but will not do it.

Secretary WEINBERGER. Mr. Chairman, we are in full agreement with that, and we have adopted more stringent regulations to enable the Federal Government and the State to investigate cases of welfare fraud. The case you cite is a familiar one and under that kind of provision, if the State permitted that to go on, it would not get any Federal funds. That is a very powerful inducement.

The thing that bother us——

The CHAIRMAN. Well, now, let us just stop there for a moment and review the situation. We have a situation right there in New Orleans where the U.S. attorney, or rather the local district attorney just would not have anything to do with any of this. Now, I do not agree with that But, he has declined to do anything about any of it.

Now, he does not represent the welfare department, but he is not going to do anything about any of these things. All right, now, you have a local U.S. attorney, who will do something about the fraud and he is trying to do something about it. We have got a little problem in this regard that the Federal Government is paying the expense of the lawyers to defend, as well as to prosecute, with the result that we are paying for both sides. We ought to be able to make up our minds which side we are on, but unfortunately the Federal Government is paying both the prosecutor and the defense lawyer and it looks like to me that we could drag this matter out for a generation before we ever get a decision on it, and my guess is that the children would be too old, and the mother no longer be able to produce any more children by the time that they get the thing finally

decided, with the Government paying to drag this thing out. But at the same time, you would think that the Government should be able to put itself on the right side and fight for the right side, and make a person do his duty, and that if the State people will not do their duty, then the Federal Government should put its lawyers in there to do theirs.

Secretary WEINBERGER. Well, Mr. Chairman, I am afraid that there are perhaps some unwarranted assumptions in your statement. The first argument you made was an argument against the practice of having the local district attorney as an elected officer, and for making him an appointed officer. Then he would not worry about what someone said about him in a barroom during a campaign. But, the fact is that you can get better State enforcement by means of inducements and penalty provisions. We have promulgated penalty provisions. If the elected State official, or the elected local official is not interested in prosecuting welfare fund, I suggest that he will become interested very quickly when the Federal Government's regulations take effect and cut off Federal payments for that State. That is one way to do it.

Another way to do it is to offer the incentive for investigation and prosecution; that we agree is a good thing to offer and that we have mentioned in the testimony. The thing that bothers me is that I do not see that you get any permanent improvement by changing responsibility enforcement for officers. You may create a situation where the U.S. attorney or the U.S. Attorney General has no interest in prosecuting these matters either. The effective approach, I think, is to set up a system of incentives and a system of penalties that insures vigorous State action, of the type that is being realized in California and in many other States.

The thing I am worried about is the creation of a whole new Federal crime, a whole new Federal enforcement network, and an enormous Federal bureaucracy far removed from the actual scene of the action.

The CHAIRMAN. Now, Mr. Secretary, if you had your way based on what you are suggesting, you would cut 100,000 poor persons off the welfare rolls in Louisiana who have done no wrong whatever——

Secretary WEINBERGER. No, sir.

The CHAIRMAN [continuing]. Because you cannot make a State district attorney at New Orleans do what you think he ought to do.

Secretary WEINBERGER. No; that would not be the intent of these regulations at all, and they should not be so misinterpreted, Mr. Chairman, with all due respect. The problem here is that if the Federal Government payments are withheld because the State is too lax in its enforcement, and too lax in its checking of the rolls to make sure that wefare fraud does not exist, the State itself would have to bear certain increased burdens so that they would soon get officials who would take the action necessary. That is exactly what is happening in many States. The assumption of these bills is that if you transfer the whole thing to Washington and the Federal jurisdiction, you have cured the problem right away. I suggest that that is not the way to do it. We both want the same objective. We both agree that welfare fraud is a fraud on the people and is a fraud on the people who most

need help. But we are in disagreement as to the proper way to remedy that. I do not think that adding an enormous new Federal list of crimes, and Federal bureaucracy is going to bring any noticeable improvements.

The CHAIRMAN. Well, I just submit to you, Mr. Secretary, that in your procedure whereby you penalize a whole State, you penalize the welfare administrators who are conscientious people doing the best they can with a difficult task, and you penalize all of the poor people by cutting them off of welfare. You penalize 100,000 people in order to put the pressure on an elected official to do his duty. It is something about which we have complained many times, and it is not nearly as efficient as just to say, all right, now, in addition to having a State lawyer who has the burden of doing this thing, we are also going to put the burden on a Federal lawyer, and there is nothing new about making it a crime against both Federal law and State law for a man to fail to do his duty, or to do something that is contrary to the public interest. We have used that same approach very effectively with regard to illegal gambling devices, and I, personally, am very grateful as a State's righter in most things, Federal interference that has brought an end to the illegal gambling devices in the State of Louisiana. And I am pleased to have voted for a law to help make it that way.

Now, we are getting some action out of U.S. attorneys where the State attorneys, have failed to do a job with regard to welfare fraud and, frankly, it serves a good purpose. It both tends to highlight the fact to the U.S. attorney that the local district attorney is not doing that job, as well as to get the practical and effective results that we are asking for. Now, if we can just withdraw the Government from defending criminals and law violators, and take the law off the side of the criminal and put the law against the lawbreakers, we will make a little progress with some of this.

I think we could save enough money, taking the Government out of the business of defending the lawbreakers, just in your area, to find all of the legal talent we need to put them out there prosecuting some of these people that the State district attorneys will not prosecute. There is a big job to be done, but I think we all ought to work together on it.

Secretary WEINBERGER. Well, that is the gist of our testimony, that we will be glad to work with the committee. I thought it fair to point out candidly the concern we have about enlarging the Federal criminal jurisdiction and the Federal bureaucracy to do this enforcement work that we believe the States can and should do, and can be induced to do. As I say, we will be glad to work with the committee. I think we have precisely the same objective, but we have perhaps different fears or different concerns as to the ways of going about achieving it.

The CHAIRMAN. There is no burden on your Department, Mr. Secretary.

Mr. WEINBERGER. We cannot take any more burdens. We are so big now. We just cannot take any more.

The CHAIRMAN. Well, if I could just prevail upon your people and your Department to quit doing some things that they should not be doing to begin with, that would help us out of the problem with regard to what we are talking about here. We are not asking the Department of HEW to prosecute these law violators. We want the Justice Depart-

ment to prosecute them, just like they prosecute all other law violators, and all we want is just a statute that would give them the power to do it.

Secretary WEINBERGER. It should be clear for the record that we are not in charge of the program for administering legal services. That is not our Department's responsibility. So, if you are referring to that when you say we are directing our efforts improperly in securing representation for all of the departments in these matters, that is correct. That is one of the things that we are not doing.

The CHAIRMAN. Well, now, as you know, Mr. Secretary, we have had a few words of discussion on this and I assume that the American Bar Association must have a poverty law section because, otherwise, I cannot understand how the American Bar Association could have given us a resolution so ridiculous as to say that the Federal Government should ask no question about what it is paying for when it goes and hires a lawyer to sue itself. Nobody in his right mind is going to pay a lawyer to sue himself, and so I would assume that that must be the poverty law section of the American Bar Association that comes up with some resolution embodying that concept. But, I will have to know, Mr. Secretary, that I am an old poverty lawyer from way back before the Government started hiring poverty lawyers, and I have, on occasion, helped people to pay to hire a lawyer to defend themselves if they had a meritorius situation. And I have defended poor people myself, but the most idiotic thing I can think of is for anybody to pay a lawyer to sue himself. Now, when it gets to the further extreme that the Government is both paying to sue and paying to defend, I say the U.S. Government ought to be able to make up its mind on which side it is on. Are you on the side of the plaintiff or are you on the side of the defendant? For the Government to bring a suit and defend it, all at the same time, gets to be the absolute extreme of idiocy, in my judgment. You talk about wasting money—can you think of anything more idiotic than for the Government to pay the man to bring a lawsuit and then pay to defend the case, and pay the judges and pay all of the costs of court on both sides of that thing?

Secretary WEINBERGER. No; that bill is not before us. The bill abolishing the Legal Services activities is an OEO concern.

The CHAIRMAN. Well, I am not talking about abolishing Legal Services. All I am saying is you ought to do what anybody who has any credentials to be outside of an insane asylum would do and, that is, that if he is asked to pay a lawyer, to ask what he is paying him to be sued for, what case, and if you are going to hire a lawyer to sue somebody——

Secretary WEINBERGER. Mr. Chairman, I am not here to defend, nor am I prepared to defend the practices you are describing. They do not concern the bill before us, and they are the responsibility of a different department, so you have me at a certain disadvantage.

The CHAIRMAN. Well, are you a lawyer by profession?

Secretary WEINBERGER. Yes, sir.

The CHAIRMAN. Well, then, both of us are then and while you are here, I would just like for you to testify on one thing that to me makes nothing but commonsense. Do you think anybody in his right mind is going to pay a lawyer to sue himself?

Secretary WEINBERGER. I never heard of that practice until I came to Washington, Mr. Chairman.

The CHAIRMAN. Other than what is happening in this poverty law area, have you ever known of anybody to pay lawyers on both sides, both to defend, both to file the case, and defend against it?

Secretary WEINBERGER. Occasionally, some husbands do that, but it is not a customary practice.

The CHAIRMAN. I do not know of anybody who would do so willingly.

Secretary WEINBERGER. I have had the same experiences you have. I have defended and tried many of these cases without any fee at all. But I never had both sides offer me the fee.

The CHAIRMAN. Well, I have known some husbands to do it but I must say I have never known one who did it without at least some small protest about the matter that he had to pay the expense of his wife's lawyer to sue him for divorce.

Secretary WEINBERGER. Perhaps some legislation should be introduced along that line?

The CHAIRMAN. I am not concerned about that. All I am concerned about is when you take somebody who is a third party to the thing in any event——

Secretary WEINBERGER. You have, however, I might say, presented an argument for keeping enforcement at the State level, because no State that I know of has established the practice in which a lawyer would be paid to be on both sides. So, maybe this is another argument for keeping enforcement at the State level rather than moving it to the Federal level.

The CHAIRMAN. Well, you mean for putting it at the local level. All I am saying, Mr. Secretary, is the Government, I suppose, is paying already, in some cases, to be on the wrong side of the case. All I am asking you to do, is to put the Government on the right side of the case. Instead of being on the side of the errant father, you ought to be on the side of the Government. And if you are going to pay it for the expenses of the case, you ought to pay the right side.

Senator CURTIS. Mr. Carleson, I would like to inquire a little bit about the California experience.

Mr. CARLESON. Yes.

Senator CURTIS. What portion of the AFDC load involves parents that refused to pay?

Mr. CARLESON. Well, Senator, I think——

Senator CURTIS. If you do not have the figures, give me your best estimate.

Mr. CARLESON [continuing]. I think rather than "refused to pay," we would say, "they failed to pay." I think one of the findings that we have made, and we went into practically every area, was that hardly any effort was being made even to ask for payments.

Senator CURTIS. Yes.

Mr. CARLESON. We found, I think, through the task force effort, that in about 80 to 85 percent of the cases, there was nothing received from the father. And what was even worse was that in the 3 or 4 years immediately preceding our effort, this figure had dropped. There previously had been about 30 percent who were paying. This figure had

dropped down to 15 percent before we took over the increased effort.

Senator CURTIS. Now, you are speaking of 80 percent of the cases where there was a father living?

Mr. CARLESON. Yes; basically. In AFDC, at least in California, I believe it was about 80 percent, 75 or 80 percent involved a single-parent family rather than the unemployed father family, and in the single parent family, there was only about 15 percent of the fathers who were contributing.

Senator CURTIS. And in what portion of them had the paternity not been established by a court or by admission of the father?

Mr. CARLESON. Well, Senator, I am not aware of the answer to that particular question. However, that is similar to many of the things we found when we got started there. Generally, we found there was no answer to most of these questions because there had not been that kind of checking done in the first place.

However, California did have a law which is very similar to what is in this bill, to require the cooperation of the mother as a condition of eligibility for welfare. It had been working very effectively until the courts indicated that there was apparently not enough authority in Federal law for the State to have that kind of a law. But the people in the law enforcement community have informed me that, prior to California's law being declared out of order by the courts, it had been working very effectively in getting cooperation from the mother.

Senator CURTIS. Well, what is your practice in California if a mother on welfare knows who the father of her child or children—who the father is—but it has never been established? Do you proceed to collect from him or do you first require a paternity suit or require her to——

Mr. CARLESON. Yes, Senator. As I said, California, for some time, for many years, had a law that required that the mother cooperate. And I might add that even with that law most of the cooperation was voluntary anyway. We do not know how much effect the law had on insuring cooperation. But, the practice then was to refer the case to the district attorney's office in the locality involved. From that point, the paternity would be either established or not established if it were impossible to do so. The significant finding that we made was that this could only work through the law enforcement and court processes.

Senator CURTIS. But your welfare department would find the cases and call them to the attention of the district attorney?

Mr. CARLESON. Yes, Senator. One of the things that we did in our welfare reform program was to require a very early referral by the welfare department of each case where there was an absent father to the local district attorney's office. Then we also provided, in law, that if the district attorney requested, the cases would be immediately referred to him. With some of the other provisions which are very similar to what you have in your bill, that were of advantage to the counties in California, there was incentive for the district attorneys to act. They would receive the fiscal benefit of much of the money collected, and would, also——

Senator CURTIS. Would you spell that out a little bit more? What would you do for a locality, financially, as an inducement?

Mr. CARLESON. All right. It is interesting that the share ratios are not much different, between the State and local government in California, from those in S. 2081, between the Federal Government and the State government. Basically, that one of the reasons there had not been much done in this area was because many district attorney's offices considered support enforcement a very low priority with their big caseloads. First of all, we financed 50 percent of their administrative costs, the cost of hiring additional investigators, additional attorneys, and so forth.

Senator CURTIS. The State of California would do this for the county?

Mr. CARLESON. Yes; for the county. There would be State and Federal money involved, Federal money particularly in the increased effort area. Then we would permit the county to retain most of the State money that they recovered. In other words, when the county recovered money from the absent father, it had the effect of reducing a welfare grant. Half of that was automatically Federal money and would go back to the Federal Government. Another big portion of it was State money and would go to the State government, and the county would be left with very little. So, what we did was permit the county to keep most of the State share of the money that they recovered. This gave them some unrestricted money that they could use to finance, not only their increased enforcement efforts but also, a reduction in their tax burden on their citizens for welfare costs.

Senator CURTIS. Did that involve the payments in arrears that they collected, or you let them keep it on a continuing basis?

Mr. CARLESON. They could keep it on a continuing basis. We also permitted them to keep an additional portion—I think it was about 50 percent of the non-Federal share of arrearage or, in other words, of recoveries that they made that were not based on the current grant. This is to the best of my recollection. There was another interesting incentive, in addition to that. We found in California that the public strongly supported an affirmative support enforcement program. So the statute also required that in each county, annually, the county grand jury to make an assessment and a report on the activities of the district attorney in the child support area. This report would be publicized and would be submitted to the State. And an interesting byproduct was that we not only provided the fiscal incentive, but by publishing the record, you might say, of performance of the various counties, one to the other, a lot of pressure was brought to bear on the counties to take another look at this neglected area and do a better job. And I think that is very effective; so we found in California. And it may be effective nationally.

Senator CURTIS. Did you run into a problem in very many cases where the absent father was outside of California?

Mr. CARLESON. Well, I have to say that California does not have the problem that some of the smaller States do, particularly in the East and South, where there are many States within a short distance. California is a very large State, geographically, and, also, as far as population is concerned. Not an extremely high percentage of the people were outside the State. As a matter of fact, we found most of the fathers were in California and were working, but they would live in

other counties, for instance. So, we had an intercounty relationship, that is not dissimilar to an interstate relationship. We had some of the problems that would exist nationally. And we found that with the combination of the incentive program, and the emphasis on the law enforcement aspect, where there is a history of intercounty and interstate cooperation, backed up by State law in California and Federal law nationally, that the intercounty problem was solved. The law enforcement people report to me in California that they have been having good success in the interstate area, although this is a minor part of the problem in California.

Senator CURTIS. Well, of course, you did have some cases, I am sure, where the father, being pursued, was out of the State?

Mr. CARLESON. Yes, sir. We pursued them under the reciprocal programs with other States. I might add that that organization of law enforcement people involved in the reciprocal agreements between the States for enforcement of child suport laws is a very active and effective organization. I might also add that through agreements with the other States, we, in California, were able to get returns. I believe that California felt, at that time, and maybe still does feel, that there could be some strengthening of the capability of the law in this area.

Senator CURTIS. Now, this associtaion you referred to, is that a result of an interstate compact, or is it the adoption of a uniform law?

Mr. CARLESON. It is through adoption of—I may have forgotten the title—the Uniform Reciprocal Enforcement Act on Child Support. And the resulting organization has, in effect, come about because of the Federal law. It is an effective way for States to communicate and to administer their part of the program.

Senator CURTIS. Who would be able to give us a description of the interstate effort and documents for the record?

Mr. CARLESON. I noticed when I came into the hearing room today, that Michael Barber, the Deputy District Attorney in Sacramento, Calif., was present. I believe he is going to be testifying, and I believe he represents several of these organizations and can, in effect, give you information in this particular area, Senator.

Senator CURTIS. Mr. Barber?

Mr. CARLESON. Mr. Barber.

Senator CURTIS. Thank you.

That is all, Mr. Chairman.

Senator DOLE. Well, Mr. Chairman, I think we have a vote, so I will take only a few minutes.

First of all, Mr. Secretary, you indicated that HEW does support maximum use of so-called locator facilities?

Secretary WEINBERGER. Yes, sir.

Senator DOLE. What does HEW do to assist those who are trying to find the absent parent?

Secretary WEINBERGER. Well, we have a great number of points through the social security system where we can be of some assistance in locating people. However, a lot of these records are, by law, highly confidential. We do have the opportunity through the automated systems that we have in our welfare programs, and we will have an increasing capability when the SSI is in effect after January, to help locate absent parents. And the gist of this testimony is

that we will support maximum use of that, consistent with the protection of the individual's privacy that was the subject of that automated personal data report.

Senator DOLE. It might be helpful there, if you could give us, either now or later, for the record precisely what limitations you feel should be placed on the legislation, so far as making information available that might be helpful in locating absent parents.

Secretary WEINBERGER. Yes; we would be very glad to work with the committee on any specific draft of that provision, and I think, again, that there is a very considerable resource that can be made available to the State and local governments.

The CHAIRMAN. If I might just interrupt, I am going to have to rush to make that vote, and I have some questions that Senator Mondale wanted to leave for the record. And I also would like to ask the Secretary to make available to us some statistical and other information which he will submit.

Secretary WEINBERGER. Yes; we would be glad to help the committee in any way we can, Mr. Chairman.

The CHAIRMAN. And when you have finished asking your questions, Senator, I will be on my way back here, and I will get the hearing going again.

Senator DOLE. When I have finished is Mr. Weinberger excused, then?

The CHAIRMAN. Yes; because I believe he has an appointment.

Secretary WEINBERGER. I do, Mr. Chairman. We will be glad to get this other information in and you have, for the record, our requests on the social security technical amendment bill.

The CHAIRMAN. Right. And then we will call Mr. Ben Heineman, and I will be back as soon as I can vote. Thank you very much, Senator Dole. You are in charge until you take off.

I feel somewhat like that story about that general who sent the bugler boy and said, "go and sound the retreat and being as I am a little lame, I will start now."

Senator DOLE. Well, I am not going to miss the vote, either, and I know you have an appointment. But, I think everybody is aware of the problem. I was a county attorney in a very small county in Kansas for 8 years and the easiest thing to do, when the father left a family and moved to some other State was to send the mother down to the welfare office. I am certain that was done in many other areas, before the Uniform Support Act became law. We have tried to enforce support under this act and through our offices, but never with much success. We never really had any leverage on someone in Florida and California, because I think as has been stated by Mr. Carleson, this issue was not given a very high priority in the larger States as it was in our small States. I understand a 1971 HEW study shows that nationwide in cases where the father was absent from the home, only about 13 percent of the families received any support payments from the absent fathers and less than 10 percent got as much as $50 a month. So, I feel we should recognize that the present law is not working. I am also concerned about the costs of the present program to the Federal Government. Maybe you know in dollars?

Mr. CARLESON. Senator, I do not know, but I think this is something that no one knows. I would say that it is a very high figure, probably in the hundreds of millions of dollars.

Senator DOLE. I am not certain I am for S. 2081, but partially because it authorized Federal takeover of another area, the very thing we are trying to reverse, or, at least, some have indicated they are trying to reverse. At the same time there has certainly been demonstrated a need for at least a stronger Federal role in this area with the current statistics as bad as they are.

Secretary WEINBERGER. Well, I do not have any doubt of that and I think the strengthening of the Federal role, Senator, should be in terms of giving incentives and inducements to the States, helping them in their investigations. And, frankly, I think we should offer, as we have done in our quality control regulations, some penalty provisions in the event that they fail to reduce the amount of incorrect eligibility determinations data in their welfare roles. And I think that kind of combination is something that can produce a very much better result than simply enlarging the Federal jurisdiction and enlarging the Federal role.

I know there is a feeling that the Federal Government can do a lot of these things much better than some of the individual States and in some cases, this may be true. But, this is strictly and completely a local matter. The better course is really to encourage a stronger enforcement approach and to try to insure that there are reasonable efforts made to find the absent father. In many cases, the father really is not absent at all, he is just down the street. The important thing here, I think, is to get some kind of effective inducement to the State. That is what we are trying to do, and I think that would be far more effective. It has proven to be so in California and Washington and New York and other States. It is more effective than simply turning the whole thing over to the Department of Justice and saying, "Here is a big new Federal crime, and we will give you 75,000 new lawyers; do something about it." I do not think very much more would happen in that case than happens now.

Senator DOLE. I have read Mr. Barber's testimony, and it indicates what can be done in certain areas.

Secretary WEINBERGER. Locally.

Senator DOLE. And saving, I think he said $300,000.

Secretary WEINBERGER. They are getting 3½ or 4 to 1 return now on the efforts made. The proposal we make here is to help them share in that administrative overhead cost, and I think that would have an even better result.

Senator DOLE. Another concern I am aware of as a Senator, involves many mothers who write to us concerning those in the military and on Federal payrolls who cannot be reached. It seems to me that there may be some way to be able to give these cases consideration as far as garnishment is concerned.

Secretary WEINBERGER. I do not share some of the concerns of my colleagues about garnishing Federal salaries for this purpose. I understand the arguments and I know that there are administrative burdens on the Federal Government. But I do not believe that the Federal Government employee should be put in a superior or a different position from the ordinary citizen, just because there is a little effort required on the part of the Federal Government. I do know this is a problem that runs beyond the jurisdiction of our Department and gets into Justice and the Civil Service Commission concerns.

Senator DOLE. But I think there is a clear Federal responsibility where the man or woman, whatever the case may be, is employed by the Federal Government.

The second bell has rung and I must vote.

Secretary WEINBERGER. All right, sir.

Senator DOLE. And if you are lucky, you will be gone before anyone gets back.

Secretary WEINBERGER. I take it you are standing in recess?

Senator DOLE. The committee stands in recess and we will call Mrs. Ben Heineman next. We will all be back as soon as we vote.

Secretary WEINBERGER. Thank you, Senator.

[Short recess taken.]

The CHAIRMAN. This committee will come to order.

We will next hear from Mrs. Ben Heineman, president of the board of directors of the Child Welfare League of America, Inc.

STATEMENT OF MRS. BEN W. HEINEMAN, PRESIDENT, BOARD OF DIRECTORS, CHILD WELFARE LEAGUE OF AMERICA, INC.; ACCOMPANIED BY WILLIAM LUNSFORD, DIRECTOR, WASHINGTON OFFICE, AND JEAN RUBIN, CONSULTANT, PUBLIC AFFAIRS

Mrs. HEINEMAN. Good morning, Senator Long.

I am Natalie Heineman, president of the board of directors of the Child Welfare League of America, and am authorized to speak on behalf of our board. I am accompanied by William Lunsford, director of our Washington office, and Jean Rubin, our consultant on public affairs.

Obviously, adequate financial support for children is essential to their well-being. In the normal course of events, most families are able to provide for their children's needs. When this is not possible, however, support for children becomes a public responsibility. Public assistance is provided under certain conditions, by local, State, and Federal agencies to insure that children will have the necessities of life so that they may develop properly. These programs are often inadequate, however, and we recognize the difficulties which the Congress has faced and continues to face in achieving sound legislation in this area.

S. 2081, the child support bill, contains some proposals which would be useful to help protect children who are endangered because of lack of parental support. It would facilitate the collection of support from parents who have the ability to pay, but who have not been contributing. When the parent—usually the father—is absent from the home, courts and other Government agencies can be useful to help families obtain the necessary support.

We believe, therefore, that with proper safeguards under S. 2081, it would be to the advantage of AFDC families to assign their right to support to the Government. The Government could then provide the necessary funds regularly to the family and the family would not be dependent on what might otherwise be highly irregular support payments from the absent parent. A family needing assistance because of the absence and nonsupport from a father, would get a regular pay-

ment from public assistance funds whether or not the Government was successful in collecting from the father. S. 2081, also provides that the collection and distribution of such support funds could continue subsequent to the family's leaving assistance if the family so desired, and was willing to pay the cost of collection by the Government.

We believe that other sections of S. 2081, need to be modified however, if overall, this proposal is to help families, rather than to create additional difficulties for them. We believe that the reasons for out-of-wedlock births and child abandonment, are complex and diverse. The provisions of this bill are not likely to deter either activity, although other preventive measures might be useful.

When fathers are divorced, legally separated, or have deserted their families we, of course, agree that they owe a duty of support to their children, and that this support should be forthcoming if the father is financially able to pay. We agree that when necessary, the Government should assist the family in finding this father and obtaining support from him, preferably when there has been a court judgment as to his liability, and the amount of support. The problem is slightly different, however, when the father does not have adequate resources to make the payments—he may be unemployed or supporting another family. In addition there may be no certainty as to the identity of the father. We believe that the legislation should include some provision for the reasonableness of support payments, and that the standard should be based on the ability to pay. After all, these are working fathers and imposing burdens greater than they can afford may prove a disincentive to work, impose harships, and discourage uutimate family stability.

The provisions with respect to the support obligation—with 6 percent interest—owed to the Federal Government or delegated to the State, also should be modified. If the amount to be collected for support is reasonably in accord with the man's ability to pay and he fails to pay, then there may be reason for this accumulation of debt with interest. But such is not the case. Section 457(c) specifies that the amount shall be either a court specified amount or, if there is not court order, the amount of AFDC assistance paid to the family, or if less, 50 percent of the father's monthly income, but not less than $50 per month. This does not take into account the father's ability to pay based on his income and other payments he may be making to support other persons. Section 452(b)(2) allows possible forgiveness by the attorney general upon the finding of good cause, but there are no criteria for this decision. It would be preferable if section 457(c) was amended to provide that "no liability under this section shall exceed an amount the debtor is genuinely able to repay, taking into account current and forseeable needs."

We are glad to note that there are some provisions in this bill which apply to all families and are not limited to AFDC recipient families. We are concerned, however, about some of the provisions which are limited to AFDC families and which need further consideration.

For example, S. 2081, would mandate that as a condition of eligibility for aid, each applicant or recipient will be required to cooperate with the attorney general (or the delegated State or local agency) in establishing the paternity of the child born out of wedlock, and in

obtaining support payments for herself and her child. The definition "Aid to Families With Dependent Children" would exclude any payment for the family when the parent of a child fails to cooperate with any State or Federal agency in obtaining support payment for herself or such child.

If a mother, for whatever reason, is considered not to be cooperating in this manner (and in some instances she may have good reasons which may be in the child's best interest) she will not be eligible for AFDC and the child will be deprived of assistance. We do not believe this is sound policy.

S. 2081, requires that paternity must be established for AFDC children born out of wedlock. Other children born out of wedlock, however, need not have their paternity established unless their mother considers it to be in her, or the child's best interest. When mothers are notified of their rights to take such action, and when procedures are made as simple and easy as possible, in most cases one may expect that such action will be taken and that the mother will cooperate. We believe that there are cases, however, when it would not be in the best interest of an AFDC child to have his paternity established, and we think that exceptions should be made for such cases.

When the unmarried mother decides to care for her own child, and is capable of doing so, there should be no mandatory requirement to bring a paternity action. It seems to us to be unsound policy to force such action upon her by having some State agency intervene in the matter or threaten her with the loss of welfare assistance for her child. In any case, before a Government agency mandatorily intervenes in such matters, there should, at the very least, be some provision of discretion left to a court to determine whether it would be in the child's best interest to bring a paternity action without the consent of the mother.

The Child Welfare League has grave reservations about the mandatory aspect of paternity actions. The present standards of the Child Welfare League of America oppose mandatory paternity actions, and the newly adopted draft of the Parentage Act of the National Conference of Commissioners on Uniform State Laws, does not call for mandatory paternity actions. In any case, we believe that provision should be made for continued assistance for children regardless of their mothers' cooperation in such matters. When the mother is right or wrong in her determination should have no bearing on the child's receipt of the basic necessities of life.

The criminal penalties for nonsupport, as now written in S. 2081, may or may not deter fathers from deserting and failing to support their children. But strangely, the penalty applies not as a result of the father's behavior, but as a result of the income status of the family. The father is liable only if the children are receiving Federal assistance. As long as the mother works to support the children, or has sufficient income of her own, the father is not subject to any penalty for failure to support.

It seems self-evident that S. 2081, recommends a complex and possibly cumbersome administrative structure involving the Justice Department, Internal Revenue Service, and HEW, as well as States and counties to whom powers might be delegated by the Attorney

General. Whether the costs of such administration for the various services to be performed will be less than the support money collected remains to be seen.

Effective support collection is thought by some to be a deterrent to out-of-wedlock births and also to deter fathers from deserting and breaking up their families. We believe this is not likely to be the case since the motivations for out-of-wedlock births and desertion of families are usually caused by other factors. We do believe, however, that some out-of-wedlock births and some desertion of families could be prevented by other means.

Family planning services, including educational programs for more young women of childbearing age, are likely to decrease out-of-wedlock briths. For this reason family planning services would be a more effective measure than attempting to obtain support from the fathers of these children after they are born. Family planning services not only prevent some of the out-of-wedlock births, but also help families from becoming overburdened with more children than they wish to have or whom they could support. Since New York has increased family planning services and permitted legal abortions, there has been a very dramatic drop in the birth rate of out-of-wedlock children in New York City.

Other services for young girls who may become pregnant would also be helpful in preventing dependency—for example, counseling services with respect to adoption, or supportive services, such as homemaker and day care, which would help mothers to care for their child and at the same time support the child. Unfortunately, the current proposed social services regulations do not mandate—or in some cases permit—these helpful services for such young women.

We also believe that there are alternative ways to prevent the problem of desertion by fathers. There should be services to help keep families together—services which could be provided under the goal of strengthening family life, if that goal were sufficiently broadened to include help in crisis situations, by providing for a variety of services when necessary. This could keep families from coming to a crisis point where the father feels compelled to leave the family. Provision of employment opportunities and employment services for fathers who have not been able to obtain employment would be another way of helping to keep families together and enable families to become self-supporting. Disintegrating families with neglected children, for example, would benefit from protective services to help parents learn how better to care for their children so that the family could stay together. Any service which helps to prevent divorce, separation, or desertion would benefit both the children and the parents. These families might well be kept from becoming dependent on public assistance, if the father were helped to remain in the family and provide support for the children.

We, therefore, hope that the Senate Finance Committee will carefully consider the revised HEW social service regulations at the same time that it considers the matter of child support. In our view, these are not unconnected matters. Some of the problems causing the need for child support could be solved if the September revision of the HEW regulations was amended to provide the necessary social services

to strengthen family life. We would like to submit our full statement for the record.

Senator Long, I want to thank you and the committee for this opportunity to present the views of the Child Welfare League of America.

The CHAIRMAN. You are very welcome.

Senator CURTIS. Would you elaborate a little bit on why you are opposed to requiring fathers to support their own children?

Mrs. HEINEMAN. Well, I really do not believe that is what we are opposed to.

Senator CURTIS. Well, I will state my question another way. Why are you opposed to the principle of legislation that would compel fathers to support their children?

Mrs. HEINEMAN. Well, I think there are times when identifying the father could be physically harmful to the mother or the child.

Senator CURTIS. Would you illustrate that in a hypothetical case?

Mrs. HEINEMAN. Well, there might be a very abusive or alcoholic father and the mother may not want him to have anything to do with her or the child. Also there are instances where the mother has been promiscuous and she cannot identify the father and, in those instances, we would be punishing the child not to allow funds to be given.

The CHAIRMAN. But, now, could I just say something at that point?

Senator CURTIS. Yes.

The CHAIRMAN. Let me just give you the typical situation that so outrages the average citizen that he just wants to refuse to pay anything for welfare. Here there is a family where the father sees his children regularly, perhaps every day. He is not married to the mother but, let us say, he is making $5,000 a year which would average out to a little over $400 a month but, enough to support that family. Now, if he were doing what the ordinary father does; that is, living with the family and sharing his income with them, then fine. But let us just assume, for the sake of argument, that the family is on the welfare rolls at $2,400 a year or $200 a month. Now, in the ordinary family, the father is doing his duty the way he should be doing it, and you would attribute that $5,000 income to that family, and if he would not pay, then you are going to sue him, or you ought to be suing him, to make him pay something for that woman. And the poverty level might be $1,500 for that one man, so he has $3,500 income which you have a right to look to for support for that mother and those three children. Now, if the mother simply says that she does not know who the father is, then society has to pick up the tab for the $2,400 a year, $200 a month, to support that family.

So that here is this family with a combined income of $7,400; then here is another family living right next door, and the father is working and doing the same thing, has the same income of $5,000 and not one penny available, and he is taxed, so that his taxes help to pay money out to the family who has the $7,400 income.

Now, we discussed this kind of problem with the President of the United States, way back when the whole fight on H.R. 1 started. I hate to say it, but it is no credit to the President, and it is no credit to the administration, and no credit to the Congress, that we have not been able to do more for the poor; but it is people bringing up impractical things that will not work, and declining to look at the problems, that have kept us from doing more for the poor people.

And I want to do a lot more to help them, but the President made the point, and it is to his credit and it is true, that the people that you have got to be concerned about are the people who live right next door to the welfare recipients-because when they see this kind of thing going on, the program gets a bad name with people who ought to be strong supporters of a welfare program. It would seem to me that it is fair to at least ask the mother, promiscuous though she may be, that if she wants the public to support those children, then we think we ought to try to get some help from the father, if he is able to make a contribution, and she should tell us who is the father.

And if she does not care to tell us, if she shrugs her shoulders and says, "well, I hate to say it, but I have been friendly with so many men that I would not know which one"—Well, at least, you might ask, "What is your best guess? Give us some indication as to who he might be." What we would really like to know is, if that fellow who shows up every night at that house is the father, because if he is, we would like to call upon him to make a contribution.

Mrs. HEINEMAN. Well, we agree with that, Senator Long. We really do agree with that 100 percent.

I think the only point we are trying to make is that where a mother really feels that it would be harmful to name the father, or she really cannot name the father, then a court ought to be allowed to adjudicate in that situation, so that the child will not be deprived of support.

The CHAIRMAN. I can see, Mrs. Heineman, where 1 percent of this caseload would be cases where the mother cannot really identify the father. But the problem is when the taxpayer is paying his taxes to support a welfare program in the kind of situation which is really the typical thing we are talking about, a situation where the mother very well knows who the father is, where she is seeing him regularly and he is well in a position to make a contribution and, in fact, he is making one. In other words, the public does not want to be deceived or defrauded. The public does want to help the poor who are deserving and that is what we are trying to do here.

Mrs. HEINEMAN. Could I ask Mr. Lunsford to make a point, Senator Long?

The CHAIRMAN. Yes. Would you please state your name for the record?

My name is William Lunsford, and I am the director of the Washington office.

I think there would be total agreement between the league board policy and league staff, that in instances where the father is capable and able to make contributions to the support of his children, that contributions should be made. I think the point that Mrs. Heineman was raising in the testimony was that there should be some kind of standard that would be established within the legislative language that you are talking about. There should be some assurance that there is an ability to pay, first of all, on the father's part and if there is an ability to pay, he certainly has an obligation to do so.

The second thing is, that in a situation where there may not be an ability for the father to pay, or the Government to collect enough money to be able to provide for adequate kinds of care for that child,

that child should not be deprived of whatever services or income benefits could be provided under the public assistance program. If the father cannot pay, then certainly the mother or the child should not be deprived of whatever kinds of services and other income benefits that would be available. Where the father can pay, he definitely should pay.

The CHAIRMAN. Right. Well, it would seem to me that we ought to be able to come to terms on this, because I am sure you people have the interest of the legitimate cases at heart, and you are not trying to put a lot of cheaters on these rolls and I am not, either.

Now, where the mother has two children, one 2 years older than the other, but they look sufficiently alike that they could almost pass for twins, in a situation like that, it is not reasonable for the mother to tell us that she has no idea who the father of those children are.

Mrs. HEINEMAN. Miss Rubin would like to answer.

Ms. RUBIN. I think you are certainly right, Senator Long. It is not that the question should not be asked. We are saying that there have been instances where the father has been abusive, alcoholic, mentally distraught, where it would be dangerous to have the father around, and it is in such cases where there should be some protection left as to whether it is in the best interest of the child to have the father involved. That would be really more along the lines of the mandatory paternity action, because even if the father had all of the problems I mentioned, if the father had money, obviously, money could go from him through the welfare department to the family without having him around.

The CHAIRMAN. We have sought to meet that situation where the father is a brutal, unkind person, or maybe an alcoholic or a dope addict, and is dangerous, but who is earning enough money that he can well make a contribution. And our proposal in that situation would be simply to say that we will pay the mother welfare, but the father has to settle with us, and we want to know who he is. I see your heads nodding so I would assume you agree with us on that, that we still ought to ask her who is the father, and she still ought to cooperate with us because we will obtain what we can from him, and her family will be better off. And if he wants to wage war on somebody, let him wage war on the U.S. Government, not on the child or on the mother. We are willing to defend ourselves from alcoholic or brutal fathers, but we do think that he ought to be made to make a contribution, and that is why we think he ought to deal with the Government and not the mother. She is not going to get any help from him directly—about the most she is likely to get is a good beating out of it, and we do not want that to happen. But, we do think if the mother is not going to tell us who the father is, she ought to be able to offer us a reasonable basis to convince us that it is beyond her capacity.

Now, can you think of any situation where a mother knows who the father is and is justified in not telling us?

Ms. RUBIN. Well, Senator Long, she might feel that there was some reason why it might be of tremendous embarrassment to her or to the children. All we are saying is we think there should be some provision where, instead of immediately cutting this family and the children off of assistance, that there be a court determination that it is in the best interests to do so. In principle, we agree with you.

The CHAIRMAN. Let us take the case where the father is a married man, and she wants to protect him, and where he is not going to get a divorce. It would seem to me even in a case like that, that we have good psychiatrists and good social workers who can keep the confidence of their clients. I do not see why you could not invoke the use of a good psychiatrist or a good social worker, who has the credentials that has enough psychiatric credentials that they can help people and can consult with people; and a lot of your best social workers have every bit of these credentials. I do not see why we could not use the kind of people who are able to work with these unfortunate tragic situations, to inform us that they have consulted with this person, and they are convinced that there is nothing that can be achieved in this regard.

But, though it may not affect many cases, if you have a prominent man, who has a family, but who is able to make a contribution, I think the man ought to make a contribution. Suppose it is a man making $40,000 a year, with a wife and children whom he does not propose to separate from. Why should society be taxed to pay for his child, when he is thoroughly capable of making a contribution?

I see that you are nodding your heads, so I guess you agree with that.

Mr. LUNSFORD. Yes, sir; definitely. If my recollection of the statistics in the HEW 1971 AFDC surveys are correct, it seems to me that the statistical data indicated that there was something like 43 percent of the AFDC caseload where the father was not in the home for some reason or another, and the family had gone onto public assistance. But, by the same token, with the other statistical data, as far as the paternity of the child, who happens to be receiving AFDC payments, I think that is a very, very low percentage figure that we were talking about under that survey, indicating that the mother had not revealed who the father of the child happened to have been. There is definitely a problem, as far as getting collections from those fathers, and I think that is the major point that we are trying to deal with here: where that father has the ability to provide some support for that child, certainly he has a moral and a social obligation and responsibility to provide that support to the best of his ability.

The CHAIRMAN. Now, let us just get it straight with regard to the use of the Justice Department to help collect from a father. I have represented people on both sides when I was a poverty lawyer myself, and as I say, I was not a Government paid poverty lawyer, but I started out as a lot of young lawyers do. I hung a shingle out and just hoped that somebody would walk in to do business with me. I have sued people for divorce, and for support, and I have defended them, too. The typical situation one would find is that if a father just does not want to make payments for the support of his family, he will take the view that if a judgment is levied against him that he finds burdensome, he is just going to leave that community, or leave the State. There may be a crusading district attorney who is going to pursue him to make him make support payments to the wife, whom he has left behind, and the children. But par for the course for that fellow would be simply to inquire around as to whom among the district attorneys in the area or State to which he has moved, would be one of those district attorneys that does not bother a father about

that kind of thing, and it is easy enough to find them, and we will move into a jurisdiction where nothing will happen to him.

Now, what is your attitude toward our suggestion that if he leaves the State to avoid supporting his children, that the long arm of the Federal Government should just reach out and grab him wherever he is, and say, look, you owe us money for the support of the child?

Ms. RUBIN. I think that the Reciprocal Uniform Act that was talked about when Secretary Weinberger was here works well, at least in New York. In New York, if the father has gone to another State, the New York court gets out an order, which then has to be respected by the other State if it is one of the States that belong to that compact.

The CHAIRMAN. Well, now, I just happen to be——

Ms. RUBIN. I am not sure all of the States are part of it, though.

The CHAIRMAN. I just happen to be familiar with some specific cases, where the mother goes down and asks for help, and they send a request down to another State, and the district attorney in that area just does not see fit to do anything about it. He is not interested in that kind of thing. Now, where that is the case, would it seem to you that the Federal Government ought to step in and intervene?

Ms. RUBIN. Yes.

Mrs. HEINEMAN. Yes.

Mr. LUNSFORD. I think that certainly there should be some involvement by the Federal Government. But, to the suggestion, as far as the Justice Department is concerned, I can just share what my immediate reaction is to that particular idea. With many of the things that I read about in the headlines on a day-to-day basis, at the present time, I just wonder whether or not the involvement of that particular kind of mechanism in child support kinds of actions will prove to be cost beneficial enough. If the amount of money that is used for administrative procedures—getting the Justice Department, and the IRS, and HEW involved in this process—would be a net benefit to the Government in terms of payments that are recovered, then it is going to be worthwhile for the expenditure to be made. And, of course, that cannot be answered until you go out and try it and see what is going to happen.

The CHAIRMAN. I know what happens in the upper income families. It is just no problem because when the father leaves, he knows that he is going to be sued, and the mother has enough money to hire lawyers and pay them, and so he is going to be pursued and made to pay, and so he does the decent thing, just like in wartime. A lot of people have been known to volunteer because they are going to be drafted anyway. So, a man might prefer to have a record showing he volunteered, rather than he was drafted into the service. But, in the upper income families, the father knows that he cannot get away without supporting his children and abandoning the children, so he makes arrangements to take care of the mother, and that is all there is to it.

It would seem to me that all we need to do with regard to those situations where the father is well able to pay, is make it clear to them that they cannot escape their obligation, wherever they go; that they are going to be caught and be made to pay, and they will come forward and do their duty, rather than have the record show that somebody had to sue them and had to file criminal proceedings against them, if need be, to make them do their duty. I honestly think that if we pursue

this thing vigorously enough, that you will not have to pursue but 1 percent of them to make the other 99 percent comply. And that is the way it ought to be. If the man has a substantial amount of income, you just cannot get away without making a substantial contribution to the children.

Mrs. HEINEMAN. I think we agree with you absolutely and I think the only thing we are suggesting is that there be a section allowing a judge to make the decision. If it were left that way, it would be a very minute number that would require judicial action. But, at least, we would be protecting the child in a situation, and that is really all we are asking for.

The CHAIRMAN. Thank you very much.

Senator CURTIS. Well, I read in your statement that you are opposed to compelling an applicant for welfare to disclose the father's name or to cooperate in establishing paternity. Is that correct?

Ms. RUBIN. Well, this is something which has been in the course of being argued out with the Commission on Uniform State Laws, because they originally had in a mandatory paternity requirement and they have now taken it out. We think that action is correct because we think that there are some times, under certain circumstances, when, in order to protect the best interest of the child, it would be better that paternity not be established. Also, this would be a small number of cases and we feel that in most instances, the mother will cooperate. But, in those instances, where it would, for whatever reason, be inappropriate where it might be incest or some other problem like that, which has nothing to do with the poor, but with the establishment of paternity then it should not be mandatory and there should be some kind of judicial review for these exceptions so that the child will be protected.

Senator CURTIS. Well, I do not think your arguments are limited to cases where the child might be embarrassed for incest or something. Now, your argument put forth there, is that the action should not be taken because it is not for failure to support, but it is because of the income status of the family if it is on welfare, and, also, in the last paragraph, you argued that other children born out of wedlock, however, need not have their paternity established unless their mother considers it to be in her or the child's best interest. You seem to make the contention that these requirements, both of establishing paternity, as well as compelling them to pay, should not be imposed upon welfare people because they are poor.

Ms. RUBIN. No, we object only in the cases where it would be in the best interest of the child not to have this paternity established. And we do feel that if there is not going to be mandatory paternity establishment for non-AFDC children, then there should not be 100-percent mandatory paternity establishment for AFDC children.

Senator CURTIS. Why not?

Ms. RUBIN. Well, because since it may be harmful to any child to have the paternity of his father established, we say that this should be left to the court to determine.

Senator CURTIS. I do not know that it is hard on the child to have the paternity established, or to have it not established. You might be right in that, but, I do not know of any findings that that is true.

But, certainly when the other fathers on the block are called to pay increased taxes to support somebody else's child, that should give sufficient reason to require both the mother to cooperate and the father to pay.

Ms. RUBIN. I think you are right, absolutely right. If the father has the ability to pay and, also, if there is no compelling reason why this should not be done.

Senator CURTIS. Well, I think we overdo that "ability to pay" business.

Ms. RUBEN. Well, Senator Curtis——

Senator CURTIS. Some of the people that are supporting their own children and paying their taxes, have not had many educational advantages, they have not inherited any money, and they have not anything else, but they have worked hard and they have sacrificed, and they are self-supporting. And the only difference between them and some of these errant fathers is the desire to support their own children. And where the desire is absent, I think society has to impose some compulsion, and I think it is that simple.

Ms. RUBIN. We agree with you.

Senator CURTIS. There are millions of parents supporting children and doing it without getting a dime of welfare, that are not financially well off. They are not actually, by any standard, or guideline, financially able to support children, but they do it.

Ms. RUBIN. We absolutely agree with you that every person who possibly can should support his own child. And the thing is, that if there is a man who is unemployed and has no money, what we are saying is, should all of these debts be built up against him?

Senator CURTIS. Yes.

Ms. RUBIN. That is something else.

Senator CURTIS. If he is able bodied——

Ms. RUBIN. If he is able——

Senator CURTIS. If he is able bodied, sure.

Ms. RUBIN. And if he cannot find a job?

Senator CURTIS. Well, there we get into he cannot find a particular job he wants. The biggest section of most newspapers is the want ads in every city of the United States. I am not so sure that all of our statistics on unemployment are correct.

Now, one other thing: you say in your statement: "We do believe, however, that some out-of-wedlock births and some desertions of families could be prevented by other means. For example, since New York has increased family planning services and permitted legal abortions, there has been a very dramatic drop in the birth rate of out-of-wedlock children in New York City. In 1972, there are 1,500 abortions for every 1,000 live births of unmarried women, compared with 100 abortions per 1,000 live births of married women. Family planning services, including educational programs for more young women of childbearing age, are likely to decrease out-of-wedlock births."

Do I understand that your position is that the use of legalized abortion is preferable to any compulsion in requiring a welfare recipient to identify the father, and requiring the father to pay?

Mr. LUNSFORD. The point is that there are many other kinds of services that could be provided in addition to the kind of compulsory activities that you are speaking of, that could prevent, hopefully, the

problem before you get to the point of worrying about whether you have to compel a father to provide support payments. We are talking also, about——

Senator CURTIS. And you would include in that legalized abortion?

Ms. RUBIN. Well, even if the State has made it legal, and if it is voluntary on the part of the mother, we are not saying that she must have the abortion. But, I personally believe that if this is all right in her State, and that is what she has decided she wants to do, that then you would not have the unwanted child and the problem of support. I am also saying that for people who do not want to do that, there should be adoption services and other services to help them keep their own child and be able to support their own child. So, we do not say——

Senator CURTIS. Do you think that a court should appoint someone to speak up for the unborn child that is about to be the victim of abortion?

Ms. RUBIN. Well, that is something that we have not taken any position on. But, certainly, no person should have one that does not want to have one.

Senator CURTIS. Well, we are just talking about the mother, we are not talking about the child. The child is the person who is really involved.

Ms. RUBIN. Well, I personally believe this should be left to the Supreme Court of the United States.

Senator CURTIS. I do not think they have jurisdiction.

But, what would you do about those fathers who are able bodied and on welfare? If you cannot by persuasion induce them to support their own children, what would you do?

Ms. RUBIN. Well, I think that the bill provides actions which would force that father to pay or else, and I see nothing wrong with that.

Mrs. HEINEMAN. We go along with that.

Ms. RUBIN. We agree with that.

Mrs. HEINEMAN. We go along with it, Senator. We are just asking you to also consider the fact that there are many other programs which would prevent there being so many children in this position, and that there are ways of preventing a nation having so many children in this position. Other services would help, such as the ones that we have outlined.

Senator CURTIS. Well, now, those services have been greatly increased in the last 2 or 3 years. Has that shown up in the welfare rolls?

Mrs. HEINEMAN. Well, it has certainly shown up in the drop in illegitimate births.

Mr. LUNSFORD. Well, I think the impact of more services has also shown up in the welfare rolls. We have had a pretty dramatic drop-off in the caseloads within the last 18 months. In fact, if I remember the latest statistics that I saw, indicated that we have something like 10.7 million people totally, and that was down from 12 or something like that a year and a half ago.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Thank you.

Let me assure you that I share your interest in wanting to help both the children and the mothers to achieve enough income so the family will not live in poverty. I think that we agree on that, and I

think that we simply ought to require, wherever possible, that a father who is capable of making a contribution should do so. I think that is one of the big shortcomings of the program, and I am perfectly willing to spend more money on it. And I would like to spend more money in ways that help the poor, that both provide them opportunities to help themselves and help those who are less able to help themselves. But I do think that we are going to have severe criticism of our welfare program as long as we have a situation where it is within our capability of finding a father and requiring him to make a reasonable contribution toward the support of his children. I see your heads nodding so you tend to agree.

Thank you very much.

Mrs. HEINEMAN. Thank you.

Ms. RUBIN. Thank you.

[The prepared statement of the Child Welfare League of America, Inc., and a subsequent communication to the committee, follows:]

STATEMENT OF MRS. BEN W. HEINEMAN, PRESIDENT OF BOARD OF DIRECTORS, CHILD WELFARE LEAGUE OF AMERICA

INTRODUCTION

I am Natalie Heineman, President of the Board of Directors of the Child Welfare League of America at 67 Irving Place, New York, New York. I am authorized to speak on the proposed child support legislation on behalf of the Board of Directors of the Child Welfare League of America. We are primarily concerned with how these proposals would affect children and their families.

Established in 1920, the League is the national voluntary accrediting organization for child welfare agencies in the United States. It is a privately supported organization devoting its efforts completely to the improvement of care and service for children. There are 370 child welfare agencies affiliated with the League. Represented in this group are voluntary agencies of all religious groups as well as non-sectarian public and private nonprofit agencies.

The League's primary concern has always been the welfare of all children regardless of their race, creed, or economic circumstances. The League's special interest and expertise is in the area of child welfare services and other programs which affect the well-being of the nation's children and their families. The League's prime functions include setting standards for child welfare services, providing consultation services to local agencies and communities, conducting research, issuing child welfare publications, and sponsoring annual regional conferences.

We have appeared before the Congress in the past on behalf of improving public assistance programs and services for children and their families because we believe that an adequate income and a full range of services is necessary for the healthy growth and development of children.

We have examined the Committee's proposals for child support legislation in light of what we believe would best serve the needs and rights of the children concerned. Obviously, adequate financial support for children is essential to their well-being and, in the normal course of events, most families are able to provide for their children's needs. When this is not possible, however, then support for children becomes a public responsibility. Public assistance is provided in these instances, under certain conditions, by local, state and federal agencies to insure that children will have the necessities of life so that they may develop properly. These programs are often inadequate, however, and we recognize the difficulties which the Congress has faced and continues to face in achieving sound legislation in this area.

The present proposal for child support legislation, based on the Senate's previous action on H.R. 1 and now contained in S. 2081, contains some proposals which would be useful to help protect children who are endangered because of lack of parental support. It would facilitate the collection of support from parents who have the ability to pay, but who have not been contributing despite their duty

to support. When the parent—usually the father—is absent from the home, courts and other government agencies can be useful to help families obtain the necessary support.

We believe, therefore, that with proper safeguards under S. 2081, it would be to the advantage of AFDC families to assign their right to support to the government, so that the government could provide the necessary funds regularly to the family and the family would not be dependent on what might otherwise be highly irregular support payments from the absent parent. The government could then endeavor to collect support from the father. In other words, a family needing assistance because of the absence and nonsupport from a father, would get a regular payment from public assistance funds whether or not the government was successful in collecting from the father. S. 2081 also provides that the collection and distribution of such support funds could continue subsequent to the family's leaving assistance if the family so desired, and was willing to pay the cost of collection by the government.

We believe that other sections of S. 2081 need to be modified however, if overall, this proposal is to help families rather than to create additional difficulties for them. We believe that the reasons for out of wedlock births and child abandonment, are complex and diverse, and that the provisions of this bill are not likely to deter either activity, although other preventive measures might be useful. We would, therefore, like to comment on some of the particular provisions of this legislation.

When fathers are divorced, legally separated, or have deserted their families we, of course, agree that they owe a duty of support to the children, and that this support should be forthcoming if the father is financially able to pay. We agree that when necessary, the government should assist the family in finding this father and obtaining support from him, preferably when there has been a court judgment as to his liability, and the amount of support. The problem is slightly different, however, when the father does not have adequate resources to make the payments (i.e., he may be unemployed or supporting another family) or if, in fact, there is no certainty as to the identity of the father. We believe that the legislation should include some provision for the reasonableness of support payments, and that the standard should be based on the ability to pay. After all, these are working fathers and imposing burdens greater than they can afford may prove a disincentive to work, impose hardships, and discourage ultimate family stability.

The provisions with respect to the support obligation (with 6% interest) owed to the federal government or delegated to the state, also need to be modified. If the amount to be collected for support is reasonably in accord with the man's ability to pay and he fails to pay, then there may be reason for this accumulation of debt with interest. But such is not the case. Sec. 457(c) specifies that the amount shall be either a court specified amount or, if there is no court order, the amount of AFDC assistance paid to the family, or if less, 50% of the father's monthly income but not less than $50 per month. This does not take into account the father's ability to pay based on his income and other payments he may be making to support other persons. Sec. 452(b)(2) allows possible forgiveness by the Attorney General upon the finding of good cause, but there are no criteria for this decision.[1]

Although we think it is unlikely that these financial sanctions will serve as deterrents to desertion or births out of wedlock, they may be disincentives to work and lead to further dependency of the father. It is interesting to note the analogy to "relatives' responsibility" laws in the states which do provide limitations based on the ability to pay and do not now require interest payments. States which formerly did have interest requirements have now eliminated them.[2]

We are glad to note that there are some provisions in this bill which apply to all families and are not limited to AFDC recipient families. We are concerned, however, about some of the provisions which are limited to AFDC families and which need further consideration.

For example, new language is to be added to Sec. 402(a) of the Social Security Act which would mandate that as a condition of eligibility for aid, each applicant

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[1] It would be preferable if section 457(c) was amended 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."

[2] "Welfare as a Loan: An Empirical Study of the Recovery of Public Assistance Payments in the United States," by David C. Baldus, professor of law, University of Iowa.

or recipient will be required not only to assign their rights of support to the United States, but will also be required to cooperate with the Attorney General (or the delegated state or local agency) in establishing the paternity of the child born out of wedlock with respect to whom aid is claimed, and in obtaining support payments for herself and her child, or in obtaining any other payments or property due to her or her child. Sec. 406 of the Social Security Act would be amended to eliminate from the term "Aid to Families with Dependent Children" any payment for the family when the parent of a child fails to cooperate with any agency or official of the state or of the United States in obtaining support payment for herself or such child.

If a mother, for whatever reason, is considered not to be cooperating in this manner (and in some instances she may have good reasons which may be in the child's best interest) she will not be eligible for AFDC and the child will be deprived of assistance. This is policy unacceptable to the League. It is interesting to note that Senator Bellmon's bill, S. 1842 does not contain this provision. Instead there is a penalty of $1,000 or a year's imprisonment for any individual who, having a duty to disclose information wilfully fails to do so.

The criminal penalties for non-support, as now written in S. 2081, may or may not deter fathers from deserting and failure to support their children. But strangely, the penalty applies not as a result of the father's behavior, but as a result of the income status of the family. The father is liable only if the children are receiving federal assistance. As long as the mother works to support the children, or has sufficient income of her own, the father is not subject to any penalty for failure to support.

S. 2081 requires that paternity must be established for AFDC children born out of wedlock. Other children born out of wedlock, however, need not have their paternity established unless their mother considers it to be in her, or the child's best interest. When mothers are notified of their rights to take such action, and when procedures are made as simple and easy as possible, in most cases one may expect that such action will be taken and that the mother will cooperate. We believe that there are cases, however, when it would not be in the best interest of an AFDC child to have his paternity established, and we think that exceptions should be made for such cases. The statute should limit this provision to protect the privacy of the mother and the best interest of the child. In these cases it is very likely that the mother has good reason not to want to have the paternity established or, in fact, may not even know who the father of the child may be.

In cases where the unmarried mother decides to care for her own child, and is capable of doing so, there should be no mandatory requirement to bring a paternity action when she does not wish to involve a father who has shown no interest in the child. It seems to us to be unsound policy to force such action upon her by having some state agency intervene in the matter or threaten her with the loss of welfare assistance for her child. It may well be that in many of these cases it would not benefit the child to have a paternity action brought if neither parent were interested in bringing such action. In any case, before a government agency mandatorily intervenes in such matters, there should, at the very least, be some provision of discretion left to a court to determine whether it would be in the child's best interest to bring a paternity action without the consent of the mother.

The Child Welfare League has grave reservations about the mandatory aspect of paternity actions. The present Standards of the Child Welfare League of America [3] oppose mandatory paternity actions, and the newly adopted draft of the Parentage Act of the National Conference of Commissioners on Uniform State Laws, does not call for mandatory paternity actions. In any case, we believe that provision should be made for continued assistance for children regardless of their mothers' cooperation in such matters. Whether the mother is right or wrong in her determination should have no bearing on the child's receipt of the basic necessities of life.

The provisions in S. 2081 permitting the Attorney General to make voluntary arrangements for recovery and collection of support obligations seem to be based on the experience of Washington State as described in a General Accounting Office report noted in the Senate Committee Report on H.R. 1. The Committee Report states, "Emphasis is placed on encouraging absent parents to contribute

[3] *CWLA Standards for Services to Unmarried Parents*, section 8.13.

child support voluntarily; legal actions or threatening legal action is used only as a last resort. Prompt personal contacts are made by Collections Section personnel with parents of newly enrolled AFDC children to obtain voluntary support payments based on the parent's ability to pay (regardless of the existence of any court orders or amounts specified by court orders). Regarding the use of legal action, the State's philosophy is that to obtain child support the State must compete successfully for the limited funds of the absent parent. Washington State believes that legal action or even the threat of legal action might cause the absent parent to relocate to avoid prosecution or discourage him from making voluntary contributions within his means." This sounds like a sensible plan.

S. 2081, however, adds another factor to the provisions for voluntary support payments which in some cases may prove to be as much of a deterrent as the threat of legal action. S. 2081 requires that any father making voluntary support payments must consent to the entry of a judgment by a court that he is the father of the child for whom payments are being made. If a man is not sure that he is in fact the father, but there is a possibility that he might be, he may be willing to make a voluntary support payment but unwilling to consent to a paternity judgment.

S. 2081 specifies that OEO lawyers shall be called upon to handle legal actions on these matters for the Attorney General. We believe this would be a misuse of the OEO lawyers and would cause a conflict of interest. OEO lawyers will be needed to represent and defend the parents and children involved in such cases and should not also be representing the plaintiffs, i.e., the government.

It seems self-evident that S. 2081 recommends a complex and possibly cumbersome administrative structure involving the Justice Department, Internal Revenue Service and HEW, as well as states and counties to whom powers might be delegated by the Attorney General. Whether the costs of such administration for the various services to be performed will be less than the support money collected remains to be seen.

Effective support collection is thought by some to be a deterrent to out of wedlock births and to deter fathers from deserting and breaking up their families. We believe this is not likely to be the case since the motivations for out of wedlock births and desertion of families are usually caused by other factors. We do believe, however, that some out of wedlock births and some desertion of families could be prevented by other means.

Family planning services, including educational programs for more young women of child-bearing age, are likely to decrease out of wedlock births. For this reason, family planning services would be a better preventive measure than attempting to obtain support from the fathers of these children after they are born. Family planning services not only prevent some of the out of wedlock births, but also help families from becoming overburdened with more children than they wish to have or whom they could support.

Other services for young girls who may become pregnant would also be helpful in preventing dependency—for example, counseling services with respect to adoption, or supportive services, such as homemaker and day care, which would help mothers to care for their child and at the same time support the child. Unfortunately, the current proposed Social Service Regulations do not mandate—or in some cases permit—these helpful services for these young women. For example, since New York has increased family planning services and permitted legal abortions, there has been a very dramatic drop in the birth rate of out of wedlock children in New York City.

We also believe that there are alternative ways to prevent the problems of desertion by fathers. There should be services to help keep families together—services which could be provided under the goal of strengthening family life if it were sufficiently broadened to include help in crisis situations, with provision for a variety of services when necessary. This could keep families from coming to a crisis point where the father feels compelled to leave the family. Provision of employment opportunities and employment services for fathers who have not been able to obtain employment, would be another way of helping to keep families together, and to become self-supporting. Disintergrating families with neglected children, for example, would benefit from protective services to help parents learn how better to care for their children so that the family could stay together. Any service which helps to prevent divorce, separation or desertion, would benefit both—the children and the parents. These families might well be

kept from becoming dependent on public assistance, if the father was able to remain in the family and provide support for the children.

We, therefore, hope that the Senate Finance Committee will carefully consider the revised HEW Social Service Regulations at the same time that it considers the matter of child support. In our view, these are not unconnected matters. Some of the problems causing the need for child support could be solved if the September revision of the HEW Regulations was amended to provide the necessary social services to strengthen family life.

We are grateful to the Committee for this opportunity to present the views of the Child Welfare League of America.

CHILD WELFARE LEAGUE OF AMERICA, INC.,
New York, N.Y., September 25, 1973.

Hon. RUSSELL B. LONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: In the course of our testimony today, we mentioned the newly approved draft of the Uniform Parentage Act of the National Conference of Commissioners on Uniform State Laws. We were discussing our reservations about the mandatory aspect of paternity actions in S. 2081 and noted that this draft does not mandate paternity actions. In our testimony we stated that before a Government agency intervened in such a mater without the consent of the mother of the child there should be some provision of discretion left to a court to determine whether it would be in the child's best interest to bring such an action.

Although the Child Welfare League of America has taken no position on the Uniform Parentage Act, I am enclosing a copy of the Act in order to call your particular attention to Section 13 which has language which may be useful to the Committee. It gives a court discretion to decide whether a judicial declaration of the child-father relationship would be in the best interest of the child.

JEAN RUBIN,
Consultant on Public Affairs.

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS,
Chicago, Ill.

[Approved Draft]

UNIFORM PARENTAGE ACT

SPECIAL COMMITTEE ON UNIFORM LEGITIMACY ACT

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Harry D. Krause College of Law, University of Illinois, Champaign, Ill. 61820, Reporter.

[Approved Draft]

UNIFORM PARENTAGE ACT

SECTION 1. (PARENT AND CHILD RELATIONSHIP DEFINED.)

As used in this Act, "parent and child relationship." means the legal relationship existing between a child and has natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

SECTION 2. (RELATIONSHIP NOT DEPENDENT ON MARRIAGE.)

The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

SECTION 3. (HOW PARENT AND CHILD RELATIONSHIP ESTABLISHED.)

The parent and child relationship between a child and: (1) The natural mother may be established by proof of her having given birth to the child or under this Act; (2) the natural father may be established under this Act; (3) an adoptive parent may be established by proof of adoption or under the [Revised Uniform Adoption Act].

SECTION 4. (PRESUMPTION OF PATERNITY.)

(a) A man is presumed to be the natural father of a child if:

(1) he and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;

(2) before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and,

(i) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) if the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation;

(3) after the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) he has acknowledged his paternity of the child in writing filed with the [appropriate court or Vital Statistics Bureau].

(ii) with his consent, he is named as the child's father on the child's birth certificate, or

(iii) he is obligated to support the child under a written voluntary promise or by court order;

(4) while the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or

(5) he acknowldeges his paternity of the child in a writing filed with the [appropriate court or Vital Statistics Bureau], which shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the [appropriate court or Vital Statistics Bureau]. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

(b) A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

SECTION 5. [ARTIFICIAL INSEMINATION]

(a) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the [State Department of Health], where it shall be kept confidential and in a sealed file. However, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

SECTION 6. [DETERMINATION OF FATHER AND CHILD RELATIONSHIP; WHO MAY BRING ACTION; WHEN ACTION MAY BE BROUGHT.]

(a) A child, his natural mother, or a man presumed to be his father under Paragraph (1), (2), or (3) of Section 4(a), may bring an action—

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under Paragraph (1), (2), or (3) of Section 4(a); or

(2) for the purpose of declaring the non-existence of the father and child relationship presumed under Paragraph (1), (2), or (3) of Section 4(a) only if the action is brought within a reasonable time after obtaining knowledge of relevant facts, but in no event later than [five] years after the child's birth. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or non-existence of the father and child relationship presumed under Paragraph (4) or (5) of Section 4(a).

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 4 may be brought by the child, the mother or personal representative of the child, the [appropriate state agency], the personal representative or a parent of the mother if the mother has died, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with Section 13(b), between an alleged or presumed father and the mother or child, does not bar an action under this section.

(e) If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

SECTION 7

[*Statute of Limitations.*]

An action to determine the existence of the father and child relationship as to a child who has no presumed father under Section 4 may not be brought later than [three] years after the birth of the child, or later than [three] years after the effective date of this Act, whichever is later. However, an action brought by or on behalf of a child whose paternity has not been determined is not barred until [three] years after the child reaches the age of majority. Sections 6 and 7 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

SECTION 8

[*Jurisdiction; Venue.*]

(a) [Without limiting the jurisdiction of any other court,] [The] [appropriate] court has jurisdiction of an action brought under this Act. [The action may be joined with an action for divorce, annulment, separate maintenance, or support.]

(b) A person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this Act with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by [rule or] statute, including [cross reference to "long arm statute"], personal jurisdiction may be required by [personal service of summons outside this State or by registered mail with proof of actual receipt] [service in accordance with (citation to "long arm statute")].

(c) The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

SECTION 9

[*Parties.*]

The child shall be made a party to the action. If he is a minor he shall be represented by his general guardian or a guardian ad litem appointed by the court. The child's mother or father may not represent the child as guardian or otherwise. The court may appoint the [appropriate state agency] as guardian ad litem for the child. The natural mother, each man presumed to be the father under Section 4, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

SECTION 10.

[*Pre-Trial Proceedings.*]

(a) As soon as practicable after an action to declare the existence or non-existence of the father and child relationship has been brought, an informal hearing shall be held. [The court may order that the hearing be held before a referee.] The public shall be barred from the hearing. A record of the proceeding or any portion thereof shall be kept if any party requests, or the court orders. Rules of evidence need not by observed.

(b) Upon refusal of any witness, including a party, to testify under oath or produce evidence, the court may order him to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the ground that his testimony or evidence might tend to incriminate him, the court may grant him immunity from all criminal liability on account of the testimony or evidence he is required to produce. An order granting immunity bars prosecution of the witness for any offense shown in whole or in part by testimony or evidence he is required to produce, except for perjury committed in his testimony. The refusal of a witness, who has been granted immunity, to obey an order to testify or produce evidence is a civil contempt of the court.

(c) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

SECTION 11. [BLOOD TESTS.]

(a) The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests. The tests shall be performed by an expert qualified as an examiner of blood types, appointed by the court.

(b) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiner of blood types.

(c) In all cases, the court shall determine the number and qualifications of the experts.

SECTION 12. [EVIDENCE RELATING TO PATERNITY.]

Evidence relating to paternity may include:

(1) evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) an expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) blood test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;

(4) medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, the man to submit to appropriate tests; and

(5) all other evidence relevant to the issue of paternity of the child.

SECTION 13. [PRE-TRIAL RECOMMENDATIONS.]

(a) On the basis of the information produced at the pre-trial hearing, the judge [or referee] conducting the hearing shall evaluate the probability of determining the existence or non-existence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommenda-

tion for settlement shall be made to the parties, which may include any of the following:

(1) that the action be dismissed with or without prejudice;

(2) that the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge [or referee] conducting the hearing. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the judge [or referee] conducting the hearing shall consider the best interest of the child, in the light of the factors enumerated in Section 15(e), discounted by the improbability, as it appears to him, of establishing the alleged father's paternity or non-paternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him; and

(3) that the alleged father voluntarily acknowledge his paternity of the child.

(b) If the parties accept a recommendation made in accordance with Subsection (a), judgment shall be entered accordingly.

(c) If a party refuses to accept a recommendation made under Subsection (a) and blood tests have not been taken, the court shall require the parties to submit to blood tests, if practicable. Thereafter the judge [or referee] shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

(d) The guardian ad litem may accept or refuse to accept a recommendation under this Section.

(e) The informal hearing may be terminated and the action set for trial if the judge [or referee] conducting the hearing finds unlikely that all parties would accept a recommendation he might make under Subsection (a) or (c).

SECTION 14. [CIVI ACTION; JURY]

(a) An action under this Act is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Subsections (b) and (c) of Section 10 and Sections 11 and 12 apply.

(b) Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

(c) In an action against an alleged father, evidence offered by him with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if he has undergone and made available to the court blood tests the results of which do not exclude the possibility of his paternity of the child. A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.

[(d) The trial shall be by the court without a jury.]

SECTION 15. [JUDGMENT OR ORDER.]

(a) The judgment or order of the court determining the existence or non-existence of the parent and child relationship is determinative for all purposes.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that [an amended birth registration be made] [a new birth certificate be issued] under Section 23.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(d) Support judgments or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum pay-

ment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

(1) the needs of the child;
(2) the standard of living and circumstances of the parents;
(3) the relative financial means of the parents;
(4) the earning ability of the parents;
(5) the need and capacity of the child for education, including higher education;
(6) the age of the child;
(7) the financial resources and the earning ability of the child;
(8) the responsibility of the parents for the support of others; and
(9) the value of services contributed by the custodial parent.

SECTION 16. [*Costs.*]

The court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pre-trial proceedings, including blood tests, to be paid by the parties in proportions and at times determined by the court. The court may order the proportion of any indigent party to be paid by [appropriate public authority].

SECTION 17. [*Enforcement of Judgment or Order.*[

(a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this Act or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply.

SECTION 18. [*Modification of Judgment or Order.*]

The court has continuing jurisdiction to modify or revoke a judgment or order:

(1) for future education and support, and
(2) with respect to matters listed in Subsections (c) and (d) of Section 15 and Section 17(b), except that a court entering a judgment or order for the payment of a lumpsum or the purchase of an annuity under Section 15(d) may specify that the judgment or order may not be modified or revoked.

SECTION 19. [*Right to Counsel; Free Transcript on Appeal.*]

(a) At the pre-trial hearing and in further proceedings, any party may be represented by counsel. The court shall appoint counsel for a party who is financially unable to obtain counsel.

(b) If a party is financially unable to pay the cost of a transcript, the court shall furnish on request a transcript for purposes of appeal.

SECTION 20. [*Hearings and Records; Confidentiality.*]

Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this Act shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the [appropriate state agency] or elsewhere, are subject to inspection only

upon consent of the court and all interested persons, or in exceptional cases only upon as order of the court for good cause shown.

SECTION 21. [ACTION TO DECLARE MOTHER AND CHILD RELATIONSHIP.]

Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this Act applicable to the father and child relationship apply.

SECTION 22. [PROMISE TO RENDER SUPPORT.]

(a) Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to Section 6(d).

(b) In the best interest of the child or the mother, the court may, and upon the provision's request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

SECTION 23. [BIRTH RECORDS.]

(a) Upon order of a court of this State or upon request of a court of another state, the [registrar of births] shall prepare [an amended birth registration] [a new certificate of birth] consistent with the findings of the court [and shall substitute the new certificate for the original certificate of birth].

(b) The fact that the father and child relationship was declared after the child's birth shall not be ascertainable from the [amended birth registration] [new certificate] but the actual place and date of birth shall be shown.

(c) The evidence upon which the [amended birth registration] [new certificate] was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

SECTION 24. [CUSTODIAL PROCEEDINGS.]

(a) If a mother relinquishes or proposes to relinquish for adoption a child who has (1) a presumed father under Section 4(a), (2) a father whose relationship to the child has been determined by a court, or (3) a father as to whom the child is a legitimate child under prior law of this State or under this law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under [the appropriate State statute] [the Revised Uniformed Adoption Act], unless the father's relationship to the child has been previously terminated or determined by a court not to exist.

(b) If a mother relinquishes or proposes to relinquish for adoption a child who does not have (1) a presumed father under Section 4(a), (2) a father whose relationship to the child has been determined by a court, or (3) a father as to whom the child is a legitimate child under prior law of this State or under the law of another jurisdiction, if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the [space] court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

(c) In an effort to identify the natural father, the court shall cause inquiry to be made of the mother and any other appropriate person. The inquiry shall include the following: whether the mother was married at the time of conception of the child at any time thereafter; whether the mother was cohabitating with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child.

(d) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with Subsection (f). If any of them fails to appear or, if appearing, fails to claim custodial rights, his parental rights with reference to the child shall be terminated. If the natural

father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

(e) If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child. Subject to the disposition of an appeal, upon the expiration of [6 months] after an order terminating parental rights is issued under this subsection, the order cannot be questioned by any person, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter.

(f) Notice of the proceeding shall be given to every person identified as the natural father or a possible natural father [in the manner appropriate under rules of civil procedure for the service of process in a civil action in this state, or] in any manner the court directs. Proof of giving the notice shall be filed with the court before the petition is heard. [If no person has been identified as the natural father or a possible father, the court, on the basis of all information available, shall determine whether publication or public posting of notice of the proceeding is likely to lead to identification and, if so, shall order publication or public posting at times and in places and manner it deems appropriate.]

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

SECTION 26. [SHORT TITLE.]

This Act may be cited as the Uniform Parentage Act.

SECTION 27. [SEVERABILITY.]

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 28. [REPEAL.]

The following acts and parts of acts are repealed:

(1) [Paternity Act]

(2)

(3)

SECTION 29. [TIME OF TAKING EFFECT.]

This Act shall take effect on [ ].

The CHAIRMAN. The next witness will be Mr. Michael Barber, office of the district attorney, in Sacramento County, Sacramento, Calif. You may proceed, Mr. Barber.

STATEMENT OF MICHAEL BARBER, DEPUTY DISTRICT ATTORNEY, SACRAMENTO COUNTY, CALIF., REPRESENTING SACRAMENTO COUNTY DISTRICT ATTORNEYS, CALIFORNIA DEPARTMENT OF SOCIAL WELFARE, AND CALIFORNIA DISTRICT ATTORNEYS' FAMILY SUPPORT COUNCIL, NATIONAL URESA CONFERENCE

Mr. BARBER. Thank you, Mr. Chairman. My name is Michael E. Barber, supervising deputy district attorney, Sacramento County, and I am here today representing the Sacramento County district attorney, and the California District Attorney Support Council, California Department of Social Welfare, so far as their interest in this bill, and the Uniform Reciprocal Enforcement Support Conference, again in relation to its interest in this bill.

In my summary statement, I have cited several resolutions of the various interested groups, including the National Association of Attorneys General, the Western Regional URESA Conference, and the California District Attorneys' Family Support Council, which is a subsidiary organization of the District Attorneys Association of California.

These three resolutions, respectively, were passed in May of 1973, in relation to the attorneys general resolution; June of 1973, in relation to URESA Conference resolution, and the resolution of the family support council grew out of the northern zone meeting of that organization in Santa Rosa, in April of 1973.

This presentation results from my activity in child support for the past 5 years and the continuous review of the subject for many years by the National, State, and local organization which I represent. Let me begin by stating that we endorse the bill as a whole enthusiastically, reserving our criticism for only a limited portion of the bill. Attached hereto you will find resolutions from the National Association of Attorneys General, URESA Conference, and District Attorneys Association Family Support Council stating in detail the positions of these organizations and their reasoning.

Rather than go into detail now, as to the resolution, I wish to state our opinion and supporting reasoning for the major provisions of this bill.

1. The bill as a whole is needed. California in 1970 found 86 percent of its AFDC absent fathers to be contributing nothing for the support of their children. This grew out of a study conducted by a task force of the State social welfare board, of which I was privileged to be a member. While legal remedies needed some updating, the true problem was staff organization in the collection units, and not a lack of legal tools. This was amply shown by the results obtained in the effectively organized counties which included about four major and half a dozen rural counties.

The solution to the problems lay in effective staff organization in the rest of the State and the financing to pay for it. California developed financing and supervisory tools similar to those included in S. 2081 and as a result child support for AFDC cases is up 38 percent and the number of paying fathers is up 66 percent. Last year the taxpayer gained $14 million over prior collections and the systems improvements had barely gotten started. We are now up to $50 million, Senator, in California, in terms of child support collected statewide.

In nonwelfare cases the need for properly funded public support collection efforts is well documented in the Winston and Forsher study for Rand Corp. referred to in prior Senate finance publications.

In 1973, my office collected $6.2 million, a gain of $1.3 million over the prior year, $2.7 million of this being attributable to AFDC cases. My county, as a county, has 18,000 AFDC cases, 10,000 of which fall under our office's supervision and payments were received or we had a payment criteria set on 5,500 of those cases. The remaining 8,000 cases, for the information of the committee, include such cases as the unemployed father program, cases that are simply in a turnaround status, and then being referred to us, cases where we could not prove paternity, or cases which were closed for some other good

reason where we declined to collect support further or stated that we could not take action; these being cases involving widows, cases where there was insanity in the family and the like.

2. Reimbursement based on collection effort, the 25 percent refund to local agencies.

This level of reimbursement plus the 75 percent funding should be more than adequate to cover the cost of collection and will provide a strong fiscal incentive for all interested parties to upgrade their systems. Further, reimbursement based on performance will provide a powerful incentive for cost control and efficient utilization of staff. In our county, our historic cost has been 11.9 cents on the dollar. Based on a contract with the State to prove how effective we could be in collecting child support in Sacramento, we added 26 new employees. They are referred to in the appendix of my statement. Our costs then went up slightly, increasing to about 17 cents on the dollar for fiscal 1973. Percentage reimbursement coupled with sanctions for nonperformance work well on the local level with minimum supervision. Our SEIF program coupled with a serious cost control program is credited with generating interest in the problem at the local level and in keeping down creation of an unnecessary bureaucracy. I might add to that point, coupled with the carrot for the support incentive program, the State also added a grand jury audit, which has previously been referred to before in this committee. A systems audit made public has been a powerful incentive to all of the local elected officials to take all child support cases and treat them diligently. I wonder, Senator, if your New Orleans situation might not be similarly cured if, in fact, a local agency took a very careful look at the problem, the way our California grand juries have taken a look at them. I know of one of the local districts attorneys in California who resigned after severe criticism from the grand jury because of the chaos in his child support program.

3. Access to Federal agencies: Direct local access to Internal Revenue records and the availability of its services where necessary will do much to expand our interstate enforcement programs. The limitation on the use of this agency should prevent the abuse of it and any undue interference in the life of the absent father.

4. Ability to execute against Federal wages: In child support work not every account is collectible. However, when an account is rendered uncollectible because of Federal immunity or a State line, the problem is aggravated greatly. The irritated individual, that you referred to, in his view the welfare family has his irritation compounded when he is told by the abandoned mother, when she is truly abandoned, that she knows where he is, he works for the Federal Government, he makes $15,000 a year, but the district attorney says he cannot touch him. And that often is the case, except with the sanction of criminal incarceration. The dollar loss is large and the respect of both mother and child for the law is immeasurably reduced.

5. Ability of the responsible Federal agency to modify or forgive a welfare debt related to child suppport:

I have added to my statement here the criteria used by California courts to establish its child support order. They are related in part to the man's ability to pay, in terms of prospective activities on the part

of the man. Of course, his prospective earning capacity is also taken into consideration. In terms of prospective personal life or reestablishing a personal life in the event of a divorce, the California courts have taken the position that his primary responsibility is to his children and that he must plan his future accordingly as, of course, must the mother, who is most usually given custody of the children.

In California the support order is the primary source of authority to collect support. In the absence of a locally enforceable order the pay criteria is based upon the father's ability to pay.

6. Blood testing laboratories for questioned paternity cases:

At present public laboratories in this county do not provide a sufficient basis for this activity due to technical inadequacies according to Prof. Harry Krause in his work "Illegitimacy, Law and Social Policy." European practice in this area is far more advanced than our own, thus permitting resolutions of paternity scientifically with a much higher degree of certainty. The right of a child to know its father, the right of the father to have a high degree of confidence in any court decision naming him as a parent, and the right of the public to expect prompt resolution of these contests without crowding court dockets would all be furthered by this section. It is time blood testing reflecting the current state of the art became popularly available.

And I think this is a very important provision of the bill in terms of a social service, to not only the poor, but to society as a whole.

7. Required cooperation of the AFDC mother:

This concept will be helpful in simplifying proof of percentage and identifying the absent father. Since this requires action at the time of application for welfare this sanction is appropriate and timely. When such a measure was in effect in California, no cooperation problem resulted. We have now a problem in our office. Depending upon how you interpret the word "significant" I do not know whether you call it significant or not, but we do find in about 10 percent of our AFDC referrals we have a noncooperation problem. These cases fall into two categories. One is the case of the patently ineligible applicant, and she is, or course, reluctant to come into the district attorney's office and start talking because then she starts off making all kinds of admissions, which may be later used against her. We find they primarily grow out of the situation where there is a bona fide marriage and no issue of paternity. We had some 100 of these cases come through our office shortly after the citation that Mr. Carleson referred to, and in all 100 cases, we closed the welfare case. We were surprised ourselves that investigation could be that effective, and go in that single direction. A great many of those cases produced evidence of welfare fraud.

A second classification of a case that falls into this category is in the paternity area, primarily involving young girl applicants. We have no problem with cooperation with the mature mothers of illegitimate children, or at least, I have seen little or no problem in terms of her cooperation. We tend to feel, perhaps unfairly, that this noncooperation is a result of wide press coverage or perhaps comments in the press by poverty law groups about the fact that now the recipients don't have to cooperate in terms of collection of child support. I ran into this, speaking at a continuation high school in the Sacramento area recently where one of the young ladies stated,

"but we do not have to cooperate, is that not right?" She did not state the source of her authority. I told her that she was misinformed.

To enforce cooperation we have adopted a procedure in California whereby we file on behalf of the county against both parents for support naming the father, where we have absolutely no identification as to him as a John Doe. We then cite the young lady for a deposition and then prepare to use civil contempt if she, in fact, fails to appear for the deposition or fails to cooperate.

The CHAIRMAN. Now, if I may interrupt at that point, do you not get into a problem?

Mr. BARBER. Yes.

The CHAIRMAN. A mother, if she is able to obtain welfare assistance can be benefited by noncooperation, where the father is secretely providing assistance to that family.

If at a future date, he decides that he is more interested in someone else, and he goes his own separate way, and is no longer interested in seeing that mother, then she has reserved unto herself the right to come in and sue him at a later date for her own advantage. If you assume this this is a case that does not belong on the welfare rolls to begin with, that the man was at all times well able to support his family, is that not a situation where society loses, and as far as the taxpayer is concerned, it is heads, the other guy wins, and tails, he loses? You are giving that mother the opportunity to chisel on welfare, in the first instance, and draw payments where she had a completely adequate legal recourse on the one hand, and on the other hand, you are letting her reserve her rights to cheat the Government and to collect at a later date when she finds it to her advantage, to assert her legal rights?

Mr. BARBER. I think, in practice, Senator, you stated the case very clearly and the great problem with noncooperation, particularly in the case of the mother who has, in fact, all of her rights, vis-a-vis the father, which are established through a divorce order, or through a potential for a divorce order.

The CHAIRMAN. In other words, assuming for the sake of argument, that she is seeing the man regularly, that he is making payments, that she is keeping company with him, and that, subsequently, he goes his way, she still has the advantage of winning in either event. She can sue him at some subsequent point if she wants to, as the father, and meanwhile, she is privileged to tell society: "No; I am not going to tell you who this man is, I am not required to cooperate." Do you think that you could see that approach to the average group of professional women or any civic club anywhere in this United States?

Mr. BARBER. No, sir. In fact, I think this is one of the biggest single complaints against the present welfare system, where you have lax enforcement, where it is compounded by noncooperation.

The CHAIRMAN. The most difficult thing in trying to do more for a deserving case, is the embittered outrage of people about the waste of their resources in paying money to people who have no rightful claim whatsoever to be on those rolls. Do you not find that that is the big problem?

Mr. BARBER. I think that that is the No. 1 problem; yes, sir.

The CHAIRMAN. Well, thank you.

Mr. BARBER. I might point out, in terms of sanctions that we are now using that, this contempt action has been sanctioned by the U.S. district court, the district of Connecticut, by a three-judge panel, in the case of Donna Doe against Norton, civil action 15,579, and I am prepared at the end of my testmony to submit this case and place this as a part of the record.

The CHAIRMAN. Well, thank you very much. We will look at that and see whether we may simply want to keep it in the Committee files. It might too greatly burden the record. We will see.

Mr. BARGER. Yes, sir.

Two additional points on some terms in the bill that do not have our support. First, the cash incentive for welfare mothers cooperation. It should be noted that all of the resolutions attached to my testimony are directed at this point.

This provision has aroused perhaps the greatest opposition of all interested groups. These objections may be summarized as follows:

A. The dollars involved will not act as an incentive. The payment is too remote in the collection process to be an incentive. Further, the possibility of receipt is still highly speculative at the time the mother is required to cooperate at the time of intake. At the time of application it cannot be determined whether or not the mother will ever receive child support or the incentive, yet at that point cooperation is essential. Finally, where there is an emotional reason for lack of cooperation by the mother, the money involved will not stimulate cooperation.

B. The payment of an incentive is discriminatory and not reasonably related to the cooperation of the mother. A totally noncooperative mother who happened to have named as father a man on a fixed and available income, will fare far better than an interested and supportive mother whose paternal opposite happened to be sick, crippled or a ne'er-do-well, and deliberately conceals his income. Further the payment of this sum cannot help but create friction with and frustation of the nonwelfare working mother who is marginally eligible.

C. Insofar as this fund is considered an incentive:

The availability of this disregarded sum sets up an unfair defense for fathers where paternity may be in issue. If the fund is an incentive, it creates an argument that the mother has selected the man best able to pay rather than naming the actual father. Rather, in this committee room, it seems that such an argument would be, indeed, far-fetched for $20 a month but, indeed, in trials I have heard even more far-fetched arguments actually raised.

9. Charging a fee for child support services to the nonwelfare mother:

This provision as now written may encourage welfare cases. The cash available as part of the incentive program should more than cover the cost of nonwelfare case supervision. It does, in our county, based on California law, similar to that which is written into the bill. For the most part the private bar has found it uneconomical to enforce child support once an order is entered. Thus, without a local agency's assistance the low-income mother is left without a remedy when the father is in default. In Sacramento County we have been able to cover

the cost of protecting nonwelfare mothers without charging a fee. If you wish to protect this system from abuse, you might permit the local collecting agency to impose a fee if this fee is authorized by the responsible regional assistant U.S. attorney. Thus, keeping the fees consistent with local practice and getting a standard that might be consistent with what the local bar would be imposing for like services if, in fact, the total income circumstances are such that the custodial parent should not be taking advantage of this service.

Thank you. That completes my testimony, Senator.

The CHAIRMAN. Let me just discuss this last problem with you. I am concerned with the problem that exists with regard to any of our secretaries who work in this building, or just any good working mother. She is working diligently, the family is not on welfare and she is reconciled to the fact that she is going to be working her entire productive years in order to provide her children with their chance in life. She has a right to expect the father to make a contribution. Let us think in terms of a man making $15,000 or $20,000 a year. He departs, he forms a new family, he remarries again, and simply disregards her. Now, in the jurisdiction to which he moves, it is to the political advantage of that district attorney not to do the first thing about that, unless somebody brings a lot of pressure to bear on him to do something about it.

Mr. BARBER. Well, I have to contradict that, in part, from our experience, in Sacramento. I happened to work for the now past president of the National District Attorneys' Association who has been elected to three 2-year terms without opposition and he enforces, in our office, enforces the reciprocal laws generally without regard to which end we are on. Last year we shipped out $400,000 and we only brought in $300,000. We have twice as many cases on which that $300,000 was coming in then we were enforcing for non-California jurisdictions. Certainly, if my political superior, Mr. Price's job, depended upon his activity in the URESA cases, we might assume that the electorate would not greet him with the favorable attitude as they have. But, I think firm, fair law enforcement in this area, including interstate enforcement of support is part of that firm and fair law enforcement picture, and that picture has gotten across to the electorate, your local district attorney is not going to be under quite the pressure to look the other way, in terms of out-of-State cases that you may assume, Senator.

The CHAIRMAN. Well, thinking in terms now of a case that is not a welfare case at all, does that mother have the right to call upon you?

Mr. BARBER. Yes, sir. Under California law, we have to initiate, where it is proven, where the mother has, in fact, stated a willingness to sign the appropriate documents and file a complaint, we are required by the law to initiate an action. I think that there is one glaring deficiency in the URESA program, and I think you have stated it. That is the spotty enforcement in some jurisdictions—such as our own, and I think California jurisdictions now, generally, particularly with the grand jury, do take a good hard look at out-of-State cases as they come in. In other States, I have been told that in some cases, the local district attorney may indeed turn his head completely and ignore them without regard to their merit. In some cases, the local jurisdiction, through the courts, has, in effect, taken the burden off the attorney by allowing modifications of the local divorce that may still

be in effect in that jurisdiction, the mother having moved to California and the father having remained, in the price of support because she is not allowed say, visitation, not a concurrent right at least, under California law.

I think access to the Federal court is the only way finally to resolve this problem. I think this should be limited to cases where there is clear evidence there has been or there is no other remedy reasonable available.

Extradition is used in some cases. We have used it very successful in selected cases in our county. This includes a case where the fellow paid nothing and left his family on welfare with six children in Sacramento and is earning $33,000 a year in a neighboring State. We have been able to convince him to pay $400 a month, because he is convinced that it is a lot better to pay $400 a month than spending a year in jail.

The CHAIRMAN. What I hope to do is to make it so difficult for a father to escape his support obligation toward his children, that you would not have to sue more than about 1 percent of the fathers, and that the other 99 percent will comply. Could you accept that approach?

Mr. BARBER. Yes, sir, I very much could. I think of a case in which we suspended our normal collection remedies by executing against the fellow's truck. Well, the fellow walked out of the court house and found his truck gone and was rather amazed, and it also hit the front page of the paper. An attorney friend of mine said, "you did a heck of a job getting that guy's truck," I said what did you have to do with that case. He said nothing but one of his clients walked in and asked: "do you mean they really can do that to me?" And the attorney responded: "They sure can, unless you start paying up," the client promptly pulled $2,000 out of his pocket right there in the office.

The CHAIRMAN. Well, thank you very much.

Now, I see that the Senate is now voting on the Hartke amendment to the military procurement bill and I will have to go to make that vote, so that I would suggest that we resume these hearings at 2:30 this afternoon.

Thank you very much, Mr. Barber, for a very fine statement.

Mr. BARBER. Thank you, sir.

[Mr. Barber's prepared statement, with attachments and the legal decision previously referred to, follows:]

SUMMARY OF CONTENTS

A. Resolution National Association of Attorneys General.
B. Resolution of Western Regional URESA Conference.
C. Resolution of Family Support Council.
D. Press clippings regarding exemption of federal wages.
E. Results of Sacramento County Child Support Demonstration Project.
F. California Civil Code 246.

SEPTEMBER 21, 1973.

Re: S2081, Child Support Reform Act of 1973.

To: Members of the U.S. Senate Finance Committee.

STATEMENT OF MICHAEL E. BARBER, REPRESENTATIVE OF THE FOLLOWING: SACRAMENTO COUNTY, CALIF., DISTRICT ATTORNEY; CALIFORNIA DISTRICT ATTORNEY'S FAMILY SUPPORT COUNCIL; CALIFORNIA STATE DEPARTMENT OF SOCIAL WELFARE; UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT CONFERENCE

This presentation results from my activity in child support for the past five years and the continuous review of the subject for many years by the national, state and local organizations which I represent. Let me begin by stating that we endorse the bill as a whole enthusiastically, reserving our criticism for only a limited portion of the bill. Attached hereto you will find resolutions from the National Association of Attorneys General, URESA Conference, and District Attorneys Association Family Support Council stating in detail the positions of these organizations and their reasoning.

I now wish to state our opinion and supporting reasoning for the major provisions of this bill.

1. The bill as a whole is needed. California, in 1970 found 86% of its AFDC absent fathers to be contributing nothing for the support of their children. While legal remedies needed some updating, the true problem was staff organization in the collection units, and not a lack of legal tools. This was amply shown by the results obtained in the effectively organized counties which included about four major and a half dozen rural counties. The solution to the problem lay in effective staff organization in the rest of the state and the financing to pay for it. California developed financing and supervisory tools similar to those included in S2081 and as a result child support for AFDC cases is up 28% and the number of paying fathers is up 66%. Last year the taxpayer gained $14,000,000 over prior collections and the systems improvements had barely gotten started.

In nonwelfare cases the need for properly funded public support collection efforts is well documented in the Winston and Forsher study for Rand Corporation referred to in prior Senate Finance publications. Also note the attached summary of Sacramento's efforts since 1965.

2. Reimbursement based on collection effort, the 25% refund to local agencies:

This level of reimbursement should be more than adequate to cover the cost of collection and will provide a strong fiscal incentive for all interested parties to upgrade their systems. Further, reimbursement based on performance will provide a powerful incentive for cost control and efficient utilization of staff. Percentage reimbursement coupled with sanctions for nonperformance works well on the local level with minimum supervision. Our SEIF program coupled with a serious cost control program is credited with generating interest in the problem at the local level and in keeping down creation of an unnecessary bureaucracy.

3. Access to federal agencies: Direct local access to Internal Revenue Records and the availability of its services where necessary will do much to expand our interstate enforcement programs. The limitation on the use of this agency should prevent the abuse of it and any undue interference in the life of the absent father.

4. Ability to execute against federal wages: In child support work not every account is collectable. However when an account is rendered uncollectable because of federal immunity or a state line the problem is aggravated greatly. The dollar loss is large and the respect of both mother and child for the law is immeasurably reduced. (See attached clippings).

5. Ability of the responsible federal agency to modify or forgive a welfare debt related to child support:

In California the support order is the primary source of authority to collect support. In the absence of a locally enforceable order the order is based upon the father's ability to pay.*

*A copy of the governing statute stating criteria for a support order is attached.

6. Blood testing laboratories for questioned paternity cases:

At present public laboratories in this country do not provide a sufficient basis for this activity due to technical inadequacies according to Professor Harry Krouse in his work "Illegitimacy, Law and Social Policy". European practice in this area is far more advanced than our own, thus permitting resolutions of paternity scientifically with a much higher degree of certainty. The right of a child to know its father, the right of the father to have a high degree of confidence in any court decision naming him as a parent, and the right of the public to expect prompt resolution of these contests without crowding court dockets would all be furthered by this section. It is time blood testing reflecting the current state of the art became popularly available.

7. Required cooperation of the AFDC mother:

This concept will be helpful in simplifying proof of parentage and identifying the absent father. Since this requires action at the time of application for welfare this sanction is appropriate and timely. When such a measure was in effect in California, no cooperation problem resulted.

The following provisions do not have our support.

8. Cash incentive for welfare mother's cooperation:

This provision has aroused perhaps the greatest opposition of all interested groups. These objections may be summarized as follows:

A. The dollars involved will not act as an incentive. The payment is too remote in the collection process to be an incentive. Further the possibility of receipt is still highly speculative at the time the mother is required to cooperate. At the time of application it cannot be determined whether or not the mother will ever receive child support or the incentive, yet at that point cooperation is essential. Finally, where there is an emotional reason for lack of cooperation by the mother, the money involved will not stimulate cooperation.

B. The payment of an incentive is discriminatory and not reasonably related to the cooperation of the mother. A totally non-cooperative mother who happened to have named as father a man on a fixed and available income, will fare far better than an interested and supportive mother whose paternal opposite happened to be sick, crippled or a neer-do-well. Further the payment of this sum cannot help but create friction with and frustration of the non-welfare working mother who is marginally eligible.

C. The availability of this disregarded sum sets up an unfair defense for fathers where paternity may be in issue. If the fund is an incentive, it creates an argument that the mother has selected the man best able to pay rather than naming the actual father.

9. Charging a fee for child support services to the non-welfare mother:

This provision as now written may encourage welfare cases. The cash available as part of the incentive program should more than cover the cost of non-welfare case supervision. For the most part the private bar has found it uneconomical to enforce child support once an order is entered. Thus, without a local agency's assistance the low-income mother is left without a remedy when the father is in default. In Sacramento County we have been able to cover the cost of protecting non-welfare mothers without charging a fee. If you wish to protect this system from abuse, you might permit the local collecting agency to impose a fee if this fee is authorized by the regional assistant U.S. Attorney responsible therefore.

STATE OF CALIFORNIA,
DEPARTMENT OF SOCIAL WELFARE,
Sacramento, September 21, 1973.

To: Members of the U.S. Senate Finance Committee

STATEMENT OF WILLIAM R. KNUDSON, COUNSEL FOR CHILD SUPPORT FOR CALIFORNIA, STATE DEPARTMENT OF SOCIAL WELFARE

S. 2081 embodies many of the child support reforms initiated in California Welfare Reform Act of 1971. The use of a law enforcement approach to the problem, the civil debt concept, 75% administrative expense sharing, and the Support Incentive Fund have been in effect in California for at least two years. During

that period child support collections rose 37% and the percent of contributing parents increased by 64%. I think it is safe to say that this approach has been successful.

S. 2081 removes two obstcales to efficient enforcement of responsibility.

(1) Cooperation is made a condition of eligibility for public assistance under S2081. Up to the time the Supreme Court of the United States ruled that the cooperation requirement was inconsistent with the Social Security Act, we in California had a similar law. Cooperation of the custodial parent under that law was never a problem. Even without such a law, the problem has proved to be of minimal significance.

(2) Federal wages and benefits are reachable for child support under S2081. This provision will go a long way towards solving the problems encountered with military employees and persons living on a federal allotment or pension.

S2081 contains two provisions which are incompatible with a fiscally responsible child support program. No person, to my knowledge, who has first-hand experience in child support matters endorses these measures.

(1) First is the disregard provision of S2081—Cooperation of the custodial parent is necessary only at the outset of the support action, that is in supplying the information on identity and perhaps the absent parent's last known address. The custodial parent often plays a minor role in the actual court proceeding and subsequent collection activity. This role is closely defined by rules of court. The disregard provision offers a remote and uncertain incentive at best as the need for cooperation has long since passed by the time support payments are received. Conditioning eligibility on cooperation, however, supplied a timely impetus to cooperate—that is cooperation during the application process. Cooperation in California never became a problem until it ceased to be a condition of eligibility. In our opinion the disregard is a reward coming long after the fact of cooperation and is in fact unrelated to the cooperation. The conditioning of eligibility on cooperation solves the problem fully as shown by the California experience.

The disregard provision is also discriminatory as it relates to child support payments actually received, not cooperation in attempting to obtain them. Thus, the marginally cooperative mother receives a reward which would be denied the fully cooperative, but unsuccessful, mother.

In summary, we strongly oppose the disregard provision as it is not related to, nor productive of, cooperation and it is discriminatory in effect. Our fiscal estimates reveal it would cost nearly $6.5 million per year to fund in California alone. This is far too high a price to pay for cooperation which can be readily obtained by conditioning eligibility upon cooperation. We are joined in this opinion by the National Association of Attorneys General, the National Conference on URESA, and the California District Attorney's Family Support Council.

(2) We also oppose the charging of child support fees to non-welfare mothers. Such a provision causes the welfare cycle. That is, as soon as a family goes off aid due to receipt of child support payments, monitoring on these payments ceases, the payments often cease, and the family is forced to return to the welfare rolls. We submit that the 75% administrative cost matching and the 25% Support Incentive Fund provide adequate resources to enable a child support unit to handle both welfare and non-welfare cases. The California experience bears this out as we have several counties which more than break even on their entire child support programs. These counties collect child support for $.15—$.20 on the dollar, and receive enough reimbursement for welfare related child support activity to fully fund the equally important non-welfare function.

WILLIAM R. KNUDSON,
Executive Secretary, Social Welfare Board, Counsel for Child Support.

X. RESOLUTION ON FEDERAL CHILD SUPPORT LEGISLATION

Whereas, the Senate Finance Committee is considering legislation to assist the states and local communities in collecting child support obligations in both public assistance and other cases; and

Whereas, prior proposals of the Senate Finance Committee concerning the enforcement of child support obligations have evidenced understanding and concern for the problems of the states in this area ;and recognition of the primary responsibility of parents for the support of their children.

Whereas, the provisions of any such legislation would have an important impact on the states in financial return, in the administration of the public assistance program and in local law enforcement responsibilities; be it

Resolved, That, the National Association of Attorneys General expresses its appreciation for the interest of the committee and its recognition of state concerns in the problems of public assistance and the enforcement of child support obligations.

The Association strongly approves inclusion in such legislation of provisions which:

1. Permit the garnishment attachment and assignment of federal pay and allowances including military.
2. Increase the utilization of federal sources for location services.
3. Provide for retention by the states of a portion of the federal share collected as an incentive to effective enforcement.
4. Condition eligibility of the family for aid on the cooperation of the caretaker parent in identifying and obtaining support from the absent parent.

The Association does not approve a provision which would permit a portion of the child support collected to be disregarded in determining the amount of assistance to be paid. It is considered that such an incentive is in appropriate because cooperation in developing potential parental income sources is to be a legal obligation of the recipient and the use of a disregard greatly increases the cost of providing public assistance.

RESOLUTIONS: WESTERN REGIONAL CONFERENCE, DENVER, COLORADO

RESOLUTION I

Whereas, the Senate Finance Committee is considering legislation in SB 2081, to be incorporated in HR 3153, to assist the states and local communities in collecting child support obligations in both public assistance and other cases; and

Whereas, these proposals of the Senate Finance Committee concerning the enforcement of child support obligations evidence understanding and concern for the problems of the states in this area; and recognition of the primary responsibility of parents for the support of their children; and

Whereas, the provisions of this legislation will have an important impact on the states in financial return, in the administration of the public assistance program and in local law enforcement responsibilities; be it

Resolved, That, the National URESA Conference be requested to express appreciation for the interest of the committee and its recognition of state concerns in the problems of public assistance and the enforcement of child support obligations; be it further

Resolved, That, the Conference express its strong approval of the inclusion in such legislation of provisions which:

(1) Permit the garnishment attachment and assignment of federal pay and allowances including military;

(2) Increase the utilization of federal sources for location services;

(3) Provide for retention by the states of a portion of the federal share collected as an incentive to effective enforcement;

(4) Condition eligibility of the family for aid on the cooperation of the caretaker parent in identifying and obtaining support from the absent parent;

(5) Establish regional blood laboratories to assist in the determination of paternity.

Be it further resolved that, the Conference express its disapproval of provisions which:

(1) Would permit a portion of the child support collected to be disregarded in determining the amount of assistance to be paid. It is considered that such an incentive is inappropriate because cooperation in developing potential parental income sources is to be a legal obligation of the recipient and the use of a disregard greatly increases the cost of providing public assistance.

(2) Require more than a nominal fee for collection of support in non-welfare cases, and establish a time limit on such services.

RESOLUTION OF DISTRICT ATTORNEY'S ASSOCIATION, FAMILY SUPPORT COUNCIL

Whereas, the Senate Finance Committee has before it legislation concerning a Federal Child Support program parallel to the system currently in use in California; and

Whereas, the California system which utilizes immediate referral and the law enforcement approach has clearly demonstrated its effectiveness; be it

Resolved, That the Family Support Council expresses its support for this federal child support legislation with the exception of certain provisions; and be it further

Resolved, That the Family Support Council express its opposition to the provisions of the legislation which require fees of the nonwelfare parents for child support collection activity as they promote welfare dependency; and be it further

Resolved, That the Family Support Council express its strong opposition to the disregard provision of the legislation as it is an expensive solution to a problem which will cease to exist if eligibility for assistance is conditioned on eligibility.

[From the Sacramento Union Day Weekender, Mar. 27, 1971]

FAMILY ON WELFARE—UNITED STATES PROTECTING NONSUPPORT AIR BASE DAD

(By Mike Otten)

The federal government takes better care of its employes than it does the taxpayer, a Sacramento County Superior Court contempt hearing showed Friday.

The hearing revealed how one federal regulation helped a McClellan Air Force Base employe avoid paying more than $10,000 in child support payments.

But another regulation requires federal, state and county governments to pick up the tab for the welfare support of the employe's four children.

Deputy Dist. Atty. Michael Barber, who brought the contempt action against the employe, charged that the federal government is "working at cross purposes" with the taxpayer being the loser.

He said regulations help the absent father avoid making child support payments while allowing his family to go on welfare. This happens because the U.S. won't permit wage assignments to collect child support.

Divorcee Doris Andrews, 32, testified that while she and her four children get by on $131.50 in welfare every two weeks, her ex-husband drives "a big Cadillac" and earns $9,000 to $10,000 a year.

Barber asked if her ex-husband had a "gambling problem."

"Yes, gambling, drinking, women, you name it. That was the cause of the divorce," she replied.

In 1966, Mrs. Andrews obtained a divorce on the grounds of extreme cruelty, ending a marriage of more than 10 years.

Superior Court Judge Mamoru Sakuma then ordered that Andrews pay $1 a month alimony and $50 for each of his four children.

Since, then, domestic relations investigator John Lai said, Andrews has paid a total of $170. As of the end of February, he was $10,230 behind in his support payments.

On Feb. 3, 1970, Superior Court Judge Joseph A. DeCristoforo found Andrews guilty of six counts of contempt for nonpayment of his child support.

Sentence was suspended, and Andrews was placed on probation for a year with the condition he start making child support payments.

"Andrews knew he had a problem with dissipating his salary so he agreed to a wage assignment of $85 a month from his salary at McClellan," said Barber.

C. H. Sjolund, chief of the civilian pay section at McClellan, was called during the hearing before Superior Court Judge Oscar A. Kistle Friday morning.

His records showed that Andrews, 38, of 3928 Haywood St. earned a total of $9,542.30 last year and contributed $318.75 to buy government bonds.

Sjolund testified that even if Andrews wanted to a federal regulation forbids assigning any of his wages to support his children.

Andrews didn't show up for the hearing, though an assistant public defender appeared in his behalf.

Kistle found Andrews guilty of nine counts of contempt and continued the proceedings until Monday, asking that Andrews be there.

Barber and Lai said they have no problem working out wage assignment agreements with private employers, the city, county or state—just with the federal government.

"It's kind of a sad situation where our hands are tied," Barber said.

Barber said he is now compiling figures on how much money the federal government is helping absent-fathers avoid paying in child support.

[From the Sacramento Union, Apr. 29, 1971]

FIVE DAYS FOR NONSUPPORT—EX-MAJOR'S KIDS ON AFDC

(By Mike Otten)

Retired Air Force Maj. William C. Tiernan told a court Wednesday morning he allowed most of his seven children to go on the welfare rolls at taxpayers' expense because he had too many bills to pay to support them.

He got no sympathy from the judge: just five days in jail.

He told Sacramento County Superior Court Judge Oscar A. Kistle:

He received more than $700 a month retirement pay.

He picks up a $65-a-week unemployment check.

He earned about $200 doing a painting job.

In January and February, he took two ski trips to the Tahoe area.

In December, with an assist from Uncle Sam, he took a plane trip to Milwaukee, Wis., to visit his mother, then flew to Miami, Fla., to visit a sister and back home to Sacramento.

To top it all off, Deputy Dist. Atty. Michael Barber said, "he testified he has been living rent-free since February at 3377 Barberry Lane with a Phyllis Baker and his 17-year-old daughter.

Additionally, said Barber, Tiernan can buy his groceries and other items at the Air Force base commissary and exchange at substantially reduced prices.

Barber said Tiernan's wife and his six other children went on welfare last August when the couple split up after 21 years of marriage.

Judge Kistle took a dim view of the whole situation and sentenced Tiernan after finding him guilty of five counts of contempt for failing to make his court-ordered child support payments.

Kistle suspended an additional 20-day sentence for a three year probationary period with conditions that Tiernan make the $200-a-month payments, plus $25 a month on the $1,200 he has failed to pay in the past. At that rate it will take at least four years to catch up on the interest-free debt.

Barber cited the case as just another example of how federal regulations make things miserable for the taxpayer by refusing to allow the attachment of federal wages and retirement pay for the support of children. He also noted that the unemployment pay cannot be attached either.

Eighty per cent of the fathers of children on welfare do not pay a penny toward their support, according to studies. And the federal government is one of the biggest employers of these absent daddies as well as the biggest contributor to the AFDC (Aid to Families with Dependent Children) program.

To determine how monumental the problem is, Barber began keeping score. He said from March 11 to April 11, seven federal employes were brought into court for civil contempt proceedings.

He said the total delinquency in child support payments was $20,342, yet federal regulations prohibit the attaching of any portion of these employes' paychecks.

Barber said just giving these absent daddies jail terms does not help the taxpayer and, in some cases, increases the burden because the absent daddy loses his job if he spends too much time in jail, and then has to go on the relief rolls himself.

He said wage attachments agreements have been worked out with just about every other type of employer.

Report on first 6 months of Sacramento County demonstration project—cost break down

	Thousands
Staff costs of 26 additional employees	$101,000
Child support collected	456,089
Reimbursement:	
State—(21.25 percent SEIF)	96,912
Federal—(50 percent matching)	50,500
Return to governmental levels:	
County (SEIF + Federal + county share of AFDC 16.25 percent cost)	120,526
State (State share of AFDC 33.75 percent—SEIF)	57,018
Federal (Federal share of AFDC 50 percent—Federal fund)	177,545
Total taxpayer savings	$355,089

CIVIL CODE SECTION 246

FACTS TO BE CONSIDERED IN DETERMINING AMOUNT DUE FOR SUPPORT

When determining the amount due for support the court shall consider all relevant factors including but not limited to:
(a) The standard of living and situation of the parties;
(b) The relative wealth and income of the parties;
(c) The ability of the obligor to earn;
(d) The ability of the Obligee to earn;
(e) The need of the obligee;
(f) The age of the parties;
(g) The responsibility of the obligor for the support of others.

UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

CIVIL NO. 15,579

DONNA DOE, LINDA LOE, RENA ROE, SALLY SMITH AND ALL OTHERS SIMILARLY SITUATED

v.

NICHOLAS NORTON, INDIVIDUALLY AND AS COMMISSIONER OF WELFARE OF THE STATE OF CONNECTICUT

CIVIL NO. 15,589

SHARON ROE AND DOROTHY POE, INDIVIDUALLY AND ON BEHALF OF OTHERS SIMILARLY SITUATED

v.

NICHOLAS NORTON, INDIVIDUALLY AND AS COMMISSIONER OF WELFARE OF THE STATE OF CONNECTICUT

Before: Timbers, Circuit Judge, Blumenfeld and Newman, District Judges

MEMORANDUM OF DECISION FINDINGS OF FACT AND CONCLUSIONS OF LAW

BLUMENFELD, District Judge:

By this action, the plaintiffs[1] challenge the constitutionality of Public Act 439 § 4 (1971), Conn. Gen. Stats. § 52–440b.[2] The challenged statute is part of a comprehensive legislative scheme whereby the mother of any illegitimate child is legally obligated to disclose the name of her child's biological father and to prosecute a paternity action against the named putative father.[3] The plaintiffs rely upon the Civil Rights Act, 42 U.S.C. § 1983, for a cause of action and upon 28 U.S.C. § 1343(3) for this court's jurisdiction. In addition to injunctive and declaratory relief, 28 U.S.C. §§ 2201 et seq., they seek to maintain their suit as a class action. Fed.R.Civ.P. 23.

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[1] Because of the special circumstances of this case, plaintiffs sue under fictitious names. They are all unwed mothers of children who sue on their own behalf as well as on behalf of their minor children.

[2] Conn. Gen. Stats. § 52–440b provides:

"(a) If the mother of any child born out of wedlock, or the mother of any child born to any married woman during marriage which child shall be found not to be issue of the marriage terminated by a divorce decree or by decree of any court of competent jurisdiction, fails or refuses to disclose the name of the putative father of such child under oath to the welfare commissioner, if such child is a recipient of public assistance, or to a selectman of a town in which such child resides, if such child is a recipient of general assistance, or otherwise to a guardian or a guardian ad litem of such child, such mother may be cited to appear before any judge of the circuit court and compelled to disclose the name of the putative father under oath and to institute an action to establish the paternity of said child.

"(b) Any woman who, having been cited to appear before a judge of the circuit court pursuant to subsection (a), fails to appear or fails to disclose or fails to prosecute a paternity action may be found to be in contempt of said court and may be fined not more than two hundred dollars or imprisoned not more than one year or both."

[3] Failure to comply with this duty may result in the mother being held in contempt of court, and fined not more than $200 and/or imprisoned for not more than one year. Conn. Gen. Stats. § 52–442(a) as amended by Public Act 439 § 3(b) (1971) provides for a judgment

"for support of the child by payment of a weekly sum until the child attains the age of eighteen years, together with reimbursement for the lying-in expense, accrued maintenance. . . ."

Because they sought to enjoin the operation of a state statute, this three-judge district court was convened. 28 U.S.C. §§ 2281, 2284.[4]

I.

The Parties

The plaintiffs in this suit are all unwed mothers of illegitimate children, allegedly eligible to receive welfare benefits under the Aid to Families with Dependent Children (AFDC) program of the Social Security Act of 1935, Sections 401 et seq., 42 U.S.C. §§ 601 et seq. (hereinafter the Act). They seek to represent the class of indivinduals similarly situated as well as their children.

The defendant is the Commissioner of Welfare, Nicholas Norton, sued in his individual and representative capacity, and charged with the responsibility of implementing the provisions of this statute with regard to individuals presently receiving welfare benefits.

II.

Class Action

The plaintiff mothers who instituted this action in their own behalf and in behalf of their children moved for certification of this case as a class action under Fed.R.Civ. P. 23(a) and (b)(2). Of course, the plaintiff mothers, as guardians of their respective children, may sue on their behalf. Thus, the children are not only proper, but necessary parties. However, some of the interests which the mothers urge relating to the subject matter of this action are neither typical of nor congruent with the interests of their children, but actually conflict with them in several respects. In light of this conflict of interests between the mothers and their children, the court, on its own motion, appointed counsel to represent the interests of the children.

It is clear that the plaintiffs, if regarded as members of a class which includes their children as well as themselves, do not meet the condition of Rule 23(a)(4) that "the representative parties will fairly and adequately protect the interests of the class." Since this is in all other respects properly a class under Rule 23, the obstacle presented by this claim to represent an overly broad class may easily be obviated by dividing the mothers and their children into appropriate separate subclasses. See 3B Moore's Federal Practice, § 23.07 (3). The classes consist of:

(1) those mothers receiving AFDC assistance who refuse to comply with § 52-440b; and

(2) the illegitimate children of those mothers.

See *Doe* v. *Shapiro*, 302 F.Supp. 761, 762 n.3 (D. Conn. 1969), *appeal dismissed*, 396 U.S. 488, *rehearing denied*, 397 U.S. 970 (1970).

III.

Claims

The plaintiffs allege that as applied to them Conn. Gen. Stats. § 52-440b violates several constitutional rights and safeguards, including due process, equal protection, and the right of privacy. In addition, they contend that the Connecticut statute is inconsistent with the underlying policies of he Act and is therefore invalid under the supremacy clause.

As will appear, their arguments in support of these contentions overlap and are variations of a single theme, namely that in the opinion of the plaintiff mothers the adverse consequences which mother and child may suffer by reason of the procedures employed by the state to enforce the uncontested obligation of a man to support his child born of an unwed mother far outweigh any resultant benefit to them or to society. Without questioning the sincerity with which the plaintiff mothers hold their views, it appears to the court that the legal semantics in which they have dressed their particular views about morality, propriety, and psychology do not furnish any constitutional or statutory basis for striking down Connecticut's statute. While some of their arguments are clearly non-starters which do not merit extended discussion, the court will consider all of them seriatim.

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[4] The decision granting the plaintiffs' motion to convene a three-judge district court and denying the plaintiffs' motion for preliminary injunctive relief is reported at 356 F. Supp. 202 (D. Conn. 1973). Issues adequately discussed in that decision will not be restated here and familiarity with that opinion is assumed.

IV.

STATUTORY CONFLICT

We proceed first to examine the merits of the plaintiffs' claim that Conn. Gen. Stats. § 52-440b is so in conflict with the AFDC Act that it must fall under the supremacy clause.[5] The plaintiffs' principal argument is that this statute is "inconsistent with the basic purpose and objective of the Social Security Act." A brief analysis of relevant portions of that Act is needed to place their argument in proper context.

SOCIAL SECURITY ACT—AFDC

Under the AFDC program, in which Connecticut participates, financial assistance is provided for dependent children and their families. The program is financed with matching funds and administered by the states. As the Supreme Court has noted in *King v. Smith, supra*, 392 U.S. at 316-17:

See also, *King* v. *Smith*, 392 U.S. 309 (1968); *Harmon* v. *Brucker*, 355 U.S. 579, 581 (1958).

> "The AFDC program is based on a scheme of cooperative federalism. See generally Advisory Commission Report, supra, at 1-59. It is financed largely by the Federal Government, on a matching fund basis, and is administered by the States. States are not required to participate in the program, but those which desire to take advantage of the substantial federal funds available for distribution to needy children are required to submit an AFDC plan for the approval of the Secretary of Health, Education and Welfare (HEW). 49 Stat. 627, 42 U.S.C. §§ 601, 602, 603, and 604. See Advisory Commission Report, supra, at 21-23. This plan must conform with several requirements of the Social Security Act and with rules and regulations promulgated by HEW. 49 Stat. 627, as amended. 42 U.S.C. § 602 (1964 ed. Supp. II). See also HEW, Handbook of Public Assistance Administration, pt. IV, §§ 2200, 2300. . . ." (Footnote omitted).

Within this broad statutory framework, the states are empowered to enact legislation intended to further the policies of the Act, with the caveat that in so doing they may not impinge on the constitutional rights of the recipients or contravene the supremacy clause by promulgating legislation squarely in conflict with the federal law. See, e.g., *King v. Smith, supra*, 392 U.S. at 318. In testing whether the Connecticut statute contravenes the Act, we follow the instructions in *New York State Dept. of Social Services v. Dublino*, —U.S.—, 41 U.S.L.W. 5047, 5052 n.29 (June 21, 1973) quoted in the margin.[6]

The AFDC program, as with many pieces of social welfare legislation, evidences disparate values and competing policies which often appear to be in conflict. We take as our touchstone the settled proposition that with regard to dependent children ". . . protection of such children is the paramount goal of AFDC." *King v. Smith, supra*, 392 U.S. at 325 (footnote omitted). Since the implementation of Connecticut's statute may lead to the incarceration of the mother of a dependent child, the plaintiffs contend that it is implacably inconsistent with that goal. For reasons which will appear, we cannot accept that assessment.

The AFDC statute contains a frank recognition of the importance of determining the paternity of those needy children born out of wedlock. Title 42 U.S.C. §§ 602(a)(17)(A)(i) and (ii) provide:

> "(A) for the development and implementation of a program under which the State agency will undertake—
>
> "(i) in the case of a child born out of wedlock who is receiving aid to families with dependent children, to establish the paternity of such child and secure support for him, and

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[5] "That the three-judge court itself not only had jurisdiction but would have been obliged to adjudicate this statutory claim in preference to deciding the original constitutional claim in this case follows from King v. Smith, 392 U.S. 309 (1968), where, on an appeal from a three-judge court, we decided the statutory question in order to avoid a constitutional ruling. 392 U.S. at 312 n. 3." *Rosado v. Wyman*, 397 U.S. 397, 402 (1970).

[6] "In considering the question of possible conflict between the state and federal work programs, the court below will take into account our prior decisions. Congress 'has given the States broad discretion,' as to the AFDC program. Jefferson v. Hackney, supra, at 545; see also Dandridge v. Williams, supra, at 478; King v. Smith, supra, at 318-319, and 'so long as the State's actions are not in violation of any specific provision of the Constitution or the Social Security Act,' the courts may not void them. Jefferson, supra, at 541. Conflicts, to merit judicial rather than cooperative federal-state resolution, should be of substance and not merely trivial or insubstantial. But if there is a conflict of substance as to eligibility provisions, the federal law of course must control. . . ."

"(ii) in the case of any child receiving such aid who has been deserted or abandoned by his parent, to secure support for such child from such parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, . . ."[7]

The question presented is thus not whether Connecticut may act to establish the paternity of and insure the paternal support for children who qualify for AFDC benefits, a proposition we find firmly established, but rather whether the procedure which it has selected to achieve this end is in such "direct and positive" conflict with the Act that "the two acts cannot be reconciled or consistently stand together." *Kelly v. Washington*, 302 U.S. 1, 10 (1937). See *Snell v. Wyman*, 281 F. Supp. 853, 869 (S.D. N.Y. 1968) (three-judge district court), *aff'd*, 393 U.S. 323 (1969).

B. THE CONNECTICUT STATUTE AND ITS HISTORY

In order to put the present case in perspective it is important to recall earlier attempts by Connecticut to solve this problem.

Prior to enacting the challenged statute, Connecticut attempted by departmental regulations to establish the paternity of those children of unwed mothers who refused to assist in the establishment of their children's paternity by denying AFDC benefits first to the children and later to their mothers themselves. Although the state's laws were challenged on not insubstantial constitutional grounds, the three-judge district court which heard that case enjoined their continued operation on the ground that they imposed an additional and impermissible ground of eligibility in conflict with the criteria established by Congress under the AFDC program. *Doe v. Chapiro, supra*, 302 F. Supp. 761; *Doe v. Harder*, 310 F. Supp. 302 (D. Conn.), *appeal dismissed for want of jurisdiction*, 399 U.S. 902 (1970).[8]

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[7] The Senate Finance Committee noted with regard to the above cited 1967 amendment to the Social Security Act:

"A substantial proportion of the persons receiving aid under the AFDC program are eligible because of the desertion by a parent of the child. Several provisions are already in the law and more are proposed under the bill to provide additional tools to States and to impose further obligations on them to assure the determination of legal responsibility for support and to make efforts to make these collections. The committee believes it is essential to make certain that all legally responsible parents of sufficient means make their appropriate contribution to the support of their children." S. Rep. No. 744, 1967 U.S. Code Cong. & Admin. News at 2834, 2997.

[8] Several district courts have followed the analysis of and reached the same result as these two Connecticut cases. See, e.g., *Story v. Roberts*, 352 F. Supp. 473 (M.D. Fla. 1972); *Doe v. Ellis*, 350 F. Supp. 375 (D. S.C. 1972); *Doe v. Gillman*, 347 F. Supp. 483 (N.D. Iowa 1972); *Doe v. Levine*, 347 F. Supp. 357 (S.D. N.Y. 1972); *Saiz v. Hernandez*, 340 F. Supp. 165 (D. N. Mex. 1972); *Saddler v. Winstead*, 332 F. Supp. 130 (N.D. Miss. 1971); *Doe v. Swank*, 332 F. Supp. 61 (N.D. Ill.), *aff'd summarily sub nom. Weaver v. Doe*, 404 U.S. 987 (1971); *Taylor v. Martin*, 330 F. Supp. 85 (N.D. Cal. 1971), *aff'd summarily sub nom. Carleson v. Taylor*, 404 U.S. 980 (1972); *Meyers v. Juras*, 327 F. Supp. 579 (D. Ore.), *aff'd summarily*, 404 U.S. 803, *rehearing denied*, 404 U.S. 961 (1971). In light of these decisions, three of which have been affirmed summarily by the Supreme Court, it was seemingly settled until recently that AFDC benefits could not be denied an otherwise qualified mother or child in an effort to coerce the mother to cooperate with local authorities in establishing her child's paternity. However, on April 30, 1973, HEW adopted a new regulation, 45 C.F.R. § 233.90(b)(4), effective July 2, 1973, which, while reaffirming the position that a child may not be denied benefits for the refusal of his parent, squarely provides:

"(4) A child may not be denied AFDC either initially or subsequently because a parent or caretaker relative fails to assist:

"(i) in the establishment of paternity of a child born out of wedlock; or

"(ii) in seeking support from a person having a legal duty to support the child;

"but neither this nor any other provision of these regulations should be construed to require that provision be made by a State in its AFDC program for the maintenance of a parent or caretaker who fails to provide such assistance and AFDC may be denied with respect to such parent or caretaker." (Emphasis added).

Here we have a regulation formally adopted by the agency entrusted with the enforcement of the Act which specifically bears on the particular problem presented in *Doe v. Shapiro* and *Doe v. Harder, supra*. To the extent that it is based on factors emanating from the agency's peculiar competence rather than considerations extracted from judicial decisions, it is entitled to great weight. Cf. *Great Northern Ry. v. United States*, 315 U.S. 262 (1942). Nor is the weight to be accorded to the regulation in construing the statute dependent on strict contemporaneity of the statute and the promulgated regulation. *Id.* at 275 (regulation 13 years after enactment held to merit judicial esteem). See also, *CBS v. Democratic Nat'l Committee*, 36 L. Ed. 2d 772 (1973); *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969); *Udall v. Tallman*, 380 U.S. 1, 16 (1965). The weight to be given this most recent regulation as evidence that refusal of aid to the parent is consistent with the federal statute in view of judicial constructions of the Act which antedated it presents an interesting question about which we might appropriately reflect. But since we distinguish *Doe v. Shapiro* and its progeny from the present case on other bases, we leave that exercise for another time.

The plaintiffs advance the same arguments now that were used then. Yet if we look back we observe that the present Connecticut statute differs from its predecessor regulation in at least two significant particulars. While the operation of this new statute may have the undesirable effect of diminishing the amount of time that a recalcitrant mother will be able to spend with her child,[9] it does not deny to either the mother or the child the benefits of food, clothing or shelter in accordance with their needs. Thus, the particular conflict with the AFDC statute relied upon by all the courts cited in footnote 8, *supra*, namely that the state cannot condition the enjoyment of benefits upon conditions not provided for by Congress, is simply not in this case. In addition, the statute applies across the board to all mothers of illegitimate children without regard to their or their children's status as AFDC recipients.[10]

Thus, Connecticut's statute furthers a significant purpose of the AFDC program. And unlike the *Doe v. Shapiro* line of cases outlined above, it does not per se add an additional eligibility requirement to those provided for by the Act.[11] No otherwise qualified recipients will be denied benefits to which they are lawfully entitled by reason of the operation of the statute. While the incarceration of a contemptuous mother may not always be in her child's best interest, this does not establish any irreconcilable conflict between the two acts.

The fact that the federal statute delegates to the states the responsibility of establishing a specific program to accomplish the goal precisely defined by Congress indicates that different programs might be established by the different states to deal with their own local problems.[12] Cf. *Askew v. American Waterways Operations*, —U.S.—, 36 L. Ed.2d 280 (1973). That Connecticut may not meet its obligation under 42 U.S.C. § 602(a)(17) by denying benefits to an otherwise qualified child does not mean that it may not impose other sanctions upon the mother appropriate toward that end.

The plaintiffs apparently take the position that no method of compulsion upon them is permissible. Surely the fact that the Act stopped short of spelling out the particular method to be used by the states in carrying out the required "program" does not mean that every solution to the problem of obtaining the cooperation of the mothers irreconcilably conflicts with the statute. Unlike the situation in *Doe v. Shapiro*, *supra*, where the operation of the state law was found to directly impinge upon a specific provision of the Act, this statute presents no such "direct and positive" conflict. The specific statutory language hardly provides support for the plaintiffs' argument that the challenged statute is contrary to the underlying theory of the Social Security Act. Their separate contention that the challenged statute is in irreconcilable conflict with these federal provisions is obviously devoid of merit, and we reject it. Connecticut's statute does not violate any specific provision of the Social Security Act. *New York State Dept. of Social Services v. Dublino*, *supra*, 41 U.S.L.W. 5047. Having analyzed Connecticut's statute in relation to the federal statute, we turn next to the plaintiffs' contention that it operates to violate their rights under the Constitution.

V.

Constitutional Privacy

A right to privacy, especially marital privacy, recently found to merit constitutional protection, emanates from the "penumbras" of the first, third, fourth, fifth and ninth amendments. *Griswold v. Connecticut*, 381 U.S. 749 (1965). This was reiterated in *Roe v. Wade*, 35 L. Ed. 2d 147, 176–77 (1973), where the Court concisely explained that

> "(although) (t)he Constitution does not explicitly mention any right of privacy . . . (there is) a line of decisions . . . (wherein) the Court has

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[9] Under Connecticut's regulatory scheme responsible public officials must provide various essential services, including the service of a housekeeper or homemaker, where such services are needed. See Conn. State Welfare Dept. Social Service Policies—Public Assistance (Manual Vol. 1, § 5030 at 8 et seq., effective 8/1/72). And in order to relieve pressure on the family unit resulting from the absence of a parent from the home, 42 U.S.C. § 606(b)(1) provides that aid payments should include an amount "to meet the needs of the relative (or essential person) with whom any dependent child is living." Cf. *Dandridge v. Williams*, 397 U.S. 471, 496 (1970) (Mr. Justice Douglas dissenting).

[10] In the absence of any legislative history, the court inquired and was informed that the scope of this statute was intended not only to protect the state's coffers, but also to establish the paternity of all illegitimate children so that they might enjoy the long term psychological and economic advantages to be gained thereby. See *Doe v. Norton*, *supra*, 356 F. Supp. at 207.

[11] Cf. *New York State Dept. of Social Services v. Dublino*, *supra*, 41 U.S.L.W. 5047.

[12] Statistics provided by the Connecticut State Department of Health indicate that in recent years about 10% of the children born in Connecticut were born out of wedlock.

> recognized that a right of personal privacy, or a guarantee of certain areas or zones of privacy, does exist under the Constitution. . . . These decisions make it clear that only personal rights that can be deemed 'fundamental' or 'implicit in the concept of ordered liberty,' are included in this guarantee of personal privacy. They also make it clear that the right has some extension to activities relating to marriage, procreation, contraception, family relationships, and child rearing and education." (Citations omitted).

Thus, the question presented is whether an unwed mother's desire to keep secret the name of her child's father is so "fundamental" or "implicit in the concept of ordered liberty" as to require constitutional protection.[13] See *Doe v. Norton*, *supra*, 356 F. Supp. at 205. The argument of each plaintiff mother is that because a side effect of her participation in legal action to establish the paternity of her child may result in additional strains in family relationships within the home or may unwisely force the permanent severance of relationships with his father,[14] her wish to decide for herself whether a paternity action should be brought is so closely related to the concept of privacy that it merits being included within the constitutional guarantee of personal privacy. This contention calls for analysis of the two separate aspects which conjoin to define that right. One has to do with the power to make inquiry and the other with the extent of the particular inquiry sought to be made.

A. *The Scope of the Power*

The broad scope of the government's power to compel testimony and the rationale on which it is based are fully delineated in *Kastigar v. United States*, 406 U.S. 441, 443–44 (1972):

> The broad scope of the government's power to compel testimony and the grand juries and other governmental agencies is firmly established in Anglo-American jurisprudence. The power with respect to courts was established by statute in England as early as 1562, and Lord Bacon observed in

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[13] Even if her desire falls within the boundary of the right of privacy, its regulation may be justified by a compelling state interest through a statute narrowly drawn "to express only the legitimate interest at stake." *Roe* v. *Wade*, *supra*, 35 L.Ed.2d at 178.

[14] The plaintiffs contend that the statute denies due process for failure to provide for a hearing to determine in each case whether the disclosure of the name of the father will have such adverse effects upon the plaintiffs as to outweigh its benefits. When an analogous argument was made in a similar context, *Wyatt* v. *United States*, 362 U.S. 525, 530 (1960), Mr. Justice Harlan responded:

> "To make matters turn upon ad hoc inquiries into the actual state of mind of particular women, (who did not want to testify against their husbands), thereby encumbering Mann Act trials with an issue of the greatest subtlety, is hardly an acceptable solution."

Accordingly, we reject that argument in this case.

Although we hold that the Constitution does not require such an analysis to be made in order to sustain the validity of the statute, this does not mean that the sanctions permitted by the statute are likely to be woodenly imposed without regard for impact upon the family.

We are unwilling to assume such an unthinking automatic exercise of judicial power by the State judiciary. In the event of a mother's failure to disclose the father's name, the statute provides that she "may" be found in contempt and "may" be fined or imprisoned. This authorizes the exercise of sound judicial discretion to determine whether in a particular case nondisclosure warrants a finding of contempt or the imposition of penalties. In this regard, the statute is in marked contrast to other Connecticut disclosure statutes, which provide that in the event a person obligated to furnish information refuses to do so, a State judge "shall commit such person to jail until he testifies . . ." *E.g.*, Conn. Gen. Stats. § 17–2a (witnesses at welfare department fair hearings); Conn. Gen. Stats. § 12–2 (witnesses at tax department hearings); Conn. Gen. Stats. § 30–8 (witnesses at liquor control commission hearings). We need not anticipate at this point the variety of situations that will confront the State circuit court judges before whom contempt citations will be sought. It is sufficient in this litigation, which attacks the statute on its face, to note that the statute, in its application, does not preclude and, indeed, appears to specify the exercise of sound judicial discretion.

In a related argument the plaintiffs contend that in requiring disclosure of the father's name in all cases, and prohibiting the mother from contesting the desirability of that disclosure in any particular case, the statute imposes an unconstitutional irrebutable presumption that disclosure is in the best interest of the child. This contention, if accepted, would stretch the concept of an irrebutable presumption out of recognition. The irrebutable presumptions struck down in *Bell* v. *Burson*, 402 U.S. 535 (1971), and *Stanley* v. *Illinois*, 405 U.S. 645 (1972), all concerned issues of fact: the fault of a driver involved in an accident, and the fitness as a father of a man who sired an illegitimate child to be its guardian. The present case presents no presumption of fact in any sense. Connecticut's avowed goal is getting fathers to support their children, illegitimate or otherwise. This is simply on a different plane from the question of whether, in a given child's case, it is better that his father's identity remain undisclosed. It is a legislative value judgment about the responsibility—financial and perhaps moral—of all fathers. The theory of *Bell* and *Stanley* cannot avail the plaintiffs here. See also, *Vlandis* v. *Klein*, 41 U.S.L.W. 4796 (June 11, 1973).

1612 that all subjects owed the King their 'knowledge and discovery.' While it is not clear when grand juries first resorted to compulsory process to secure the attendance and testimony of witnesses, the general common law principle that 'the public has a right to every man's evidence' was considered an 'indubitable certainty' which 'cannot be denied' by 1742. The power to compel testimony, and the corresponding duty to testify, are recognized in the sixth Amendment requirements that an accused be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his favor. The first Congress recognized the testimonial duty in the Judiciary Act of 1789, which provided for compulsory attendance of witnesses in the federal courts. Mr. Justice White noted the importance of this essential power of government in his concurring opinion in Murphy v. Waterfront Comm'n, 378 US 52, 93–94, 12 L Ed 2 678, 704, 84 S Ct 1594 (1964):

> 'Among the necessary and most important of the powers of the States as well as the Federal Government to assure the effective functioning of government in an ordered society is the broad power to compel residents to testify in court or before grand juries or agencies. See Blair v. United States, 250 US 273 (63 L Ed 979, 39 S Ct 468). Such testimony constitutes one of the Government's primary sources of information.'" (Footnotes omitted).

As a broad proposition, this power extends to and includes with particular pertinence, those situations in which the testimony sought to be elicited may prove embarrassing, or otherwise impinges upon the sensitivities of the witness whose testimony is sought. As a noted commentator has stated:

> "(T)he sacrifice may be of his privacy (or) of the knowledge which he would preferably keep to himself because of the disagreeable consequences of disclosure. This inconvenience which he may suffer, in consequence of his testimony, by way of enmity or disgrace or ridicule or other disfavorable action of fellow members of the community, is also a contribution which he makes in payment of his duties to society in its function of executing justice. . . . When the course of justice requires the investigation of the truth, no man has any knowledge that is rightly private." 8 Wigmore, Evidence § 2192 at 72 (McNaughton rev. 1961) (footnote omitted).

See also, *Branzburg v. Hayes*, 408 U.S. 665 (1972).

The only limitation on that power found in the Constitution is the fifth amendment's privilege against self-incrimination, which is that "no person shall be compelled in any criminal case to be a witness against himself." This is in no way implicated here. We are not confronted with the problem of balancing the benefit to the state of the required information against the burden to the plaintiffs from the risks of self-incrimination as in *California v. Byers*, 402 U.S. 424 (1971). The competing interests at this level have been resolved in favor of the plaintiffs.

In related sections of the challenged statute, the state furnishes an immunity bath embracing "transactional" as well as "use" restrictions held sufficient in *Kastigar v. United States*, *supra*, 406 U.S. 441.[15] Indeed, the immunity granted extends to the putative father as well.[16] With the privilege not to be compelled to incriminate themselves completely safeguarded, all that could arguably support the plaintiffs' willingness to answer the particular inquiry authorized by the state would be simply a rule of evidence classified as an evidentiary privilege.[17]

The privilege asserted by the unwed mothers has its closet analogy to the marital privilege sometimes afforded to husband and wife.[18] But that privilege has no roots in the Constitution. In *Wyatt v. United States*, 362 U.S. 525 (1960), the Court held that an objecting wife could be compelled to testify against her

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[15] Public Act 439 § 2 (1971) amending Conn. Gen. Stats. § 52–435(b). This section tracks the one set forth below in footnote 16 except that "mother" is substituted for "putative father."

[16] Public Act 439 § 1 (1971), Conn. Gen. Stats. § 52–435c provides:

> "The putative father of any child for whom adjudication of paternity is sought in paternity proceedings shall not be excused from testifying because his evidence may tend to disgrace him or incriminate him; nor shall he thereafter be prosecuted for any criminal act about which (1) he testifies in connection with such proceedings or (2) he makes any statement prior to such proceedings with respect to the issue of paternity."

[17] We do not call the plaintiffs' alleged right not to testify a privilege in order to fit it into the now rejected "concept that constitutional rights turn upon whether a governmental benefit is characterized as a 'right' or as a 'privilege.'" *Graham v. Richardson*, 403 U.S. 365, 374 (1971), but only to signify the mere negative of the duty to testify.

[18] For the history and policy of this somewhat questionable privilege see 8 Wigmore, Evidence §§ 2227, 2228 (McNaughton rev. 1961). See also, H.R. Rep. No. 92–359, 92d Cong., 2d Sess., reported in 1972 U.S. Code Cong. & Admin. News at 836.

husband in a Mann Act prosecution notwithstanding her claim of marital privilege. The rationale for the denial of the privilege in that case was anchored in the legislative judgment underlying the Mann Act and not in the Constitution.

> "Applying the legislative judgment underlying the Act, we are led to hold it not an allowable choice for a prostituted witness-wife 'voluntarily' to decide to protect her husband by declining to testify against him." *Id.* at 530 (Mr. Justice Harlan for the majority.)

All of the Justices agreed upon the controlling principle:

> "That this decision is uniquely legislative and not judicial is demonstrated by the fact that, both in England and in this country, changes in the common-law privilege have been wrought primarily by legislatures." *Id.* at 535 (dissenting opinion of Mr. Chief Justice Warren) (footnote omitted).

The real divergence of views which emerged concerned not the authority of the legislature to compel the testimony, but only over whether "prior congressional action provide(d) no support for the Court's decision," *id.* at 535; there was no disagreement over the basis of the authority on which the decision should rest. In both opinions, there was a complete absence of any indication of a link between a husband-wife privilege and a right which is "fundamental" in the sense that it is among the rights and liberties protected by the Constitution. Testimonial privileges arising out of confidential relationships are based on a legislative judgment that the need for preserving from exposure disclosures made in confidence outweighs the search for truth, but none of these has ever been considered as falling under the umbrella of constitutional protection. Cf. *Branzburg v. Hayes*, *supra*, 408 U.S. 665.

Furthermore, the privilege to withhold information asserted here concerns a relationship at least one step removed from that of husband and wife. Whatever merit there may be in the argument that a privilege in the wife not to testify against her husband preserves a marital relationship, the "policy of the privilege applies only to those who profess to maintain toward each other the legal relationship of husband and wife." 8 Wigmore, Evidence § 2230 (McNaughton rev. 1961).

The relationship which these unwed mothers seek to protect from disclosure is emphatically different. There is no privilege to withhold the testimony of a mere paramour or witness. *Id.* In the absence of any legal relationship the alleged "right" of these plaintiffs to refuse to answer the inquiries directed by the statute is devoid of any elements that comprise a jural interest.

B. THE EXTENT OF THE INVASION

But even if we ignored the character of the relationship urged to merit such protection and equated it with the more durable one of legal husband and wife, the disclosure required of these plaintiffs would not invade any "zone of privacy." Viewed from the perspective of the class denied the privilege of remaining silent the "embarrassing" information has in large part been widely disclosed before any inquiries are made.[19] Furthermore, the inquiry focuses on identity of the father, not on the mother's misconduct. The question asked of the unwed mother is, "Who is the father of your child?" The object of the inquiry is to enforce a familial monetary obligation, not to interfere with personal privacy. There is no intrusion into the home nor any participation in interpersonal decisions among its occupants, even to the extent held permissible in *Wyman v. James*, 400 U.S. 309 (1971.) [20] The statute does not forbid an unwed mother to have a man in the house or even in her bedroom. Compare *King v. Smith*, *supra*, 392 U.S. 309. The only restriction it imposes upon either the

[19] See *Roe* v. *Wade*, *supra*, 35 L.Ed.2d at 180:

> "The pregnant woman cannot be isolated in her privacy. She carries an embryo and, later, a fetus. . . . The situation is therefore inherently different from marital intimacy, or bedroom possession of obscene material, or marriage, or procreation, or education, with which Eisenstadt, Griswold, Stanley, Locing, Skinner, Pierce, and Meyer were respectively concerned. . . . The woman's privacy is no longer sole and any right of privacy she possesses must be measured accordingly."

[20] In *Wyman* v. *James*, a regulation mandating visits to the home of AFDC families by a caseworker at least once in every three months was upheld as reasonable to (1) serve the paramount needs of the dependent child; (2) to determine that state funds were being properly used; (3) as not unnecessarily intruding on the beneficiary's rights in her home; (4) as providing essential information not obtainable from secondary sources; and (5) as not being oriented toward a criminal investigation.

unwed mother or the biological father to do as they please or make any decisions they wish in whatever relationship they desire to maintain is that the father satisfy his legal obligation to support his own child and that the mother provide what information she possesses useful toward that end.[21]

We conclude that the compulsion on the plaintiffs authorized by the statute does not impinge on any "fundamental" rights of the plaintiffs related to privacy.

We turn next to the contention of the plaintiffs that the statute violates their rights to equal protection of the laws.

EQUAL PROTECTION

The Supreme Court has emphasized two distinct standards for testing claims of denial of equal protection. To determine which test applies, our initial inquiry is whether the statute:

> (*1*) "operates to the disadvantage of some suspect claims or impinges upon a fundamental right explicitly or implicitly protected by the Constitution, thereby requiring strict judicial scrutiny. . . . If not, (*2*) the (Connecticut) scheme must still be examined to determine whether it rationally furthers some legitimate, articulated state purpose and therefore does not constitute an invidious discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment." *San Antonio Independent School Dist. v. Rodriguez*, 36 L.Ed. 2d 16, 33 (1973) [22]

Since the nature of the "rights" asserted by the plaintiffs are not in any sense "fundamental," the plaintiffs offer an alternative argument for subjecting the statute to "strict judicial scrutiny." This we also hold to be inapplicable.

We do not quarrel with the view that a discriminatory classification based upon illegitimacy of children ought to be inherently suspect.[23] But the plaintiffs' contention that the statute must be subjected to strict judicial scrutiny on the ground that it adversely affects a suspect class amounts to no less than standing the doctrine on its head. Instead of operating to the disadvantage of children born

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[21] Our attention was called to the case of one mother of a child born out of wedlock who, although qualified to receive AFDC welfare benefits, refused to apply for them rather than disclose the name of her child's father. An argument against the home visitation regulation in *Wyman* v. *James*, *supra*, 400 U.S. at 324, based on hypothetically similar circumstances was rejected:

> "So here Mrs. James has the 'right' to refuse the home visit, but a consequence in the form of cessation of aid flows from that refusal. The choice is entirely hers, and nothing of constitutional magnitude is involved."

[22] Until fairly recently, few would take any exception to this capsule summary of what has come to be referred to as the two-tiered standard of equal protection; the first requiring "strict judicial scrutiny," and the second requiring only some rational relationship to a legitimate state purpose. There is little doubt that this once-settled differentiation is currently being critically re-examined, particularly in this circuit, for symptoms of what Chief Judge Kaufman described in *City of New York* v. *Richardson*, 473 F.2d 923, 931 (2d Cir.), *cert. denied sub nom. Wyman* v. *Lindsay*, 41 U.S.L.W. 3655 (June 18, 1973), as the giving way of the two-tiered equal protection standards "to a more graduated sliding-scale test." See generally, Gunther, The Supreme Court, 1971 Term, Forward, In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection, 86 Harv. L. Rev. 1 (1972). See also, *Boraas* v. *Village of Belle Terre*, 476 F. 2d 806 (2d Cir. 1973); *Aguayo* v. *Richardson*, 473 F. 2d 1090 (2d Cir. 1973). It may be still unclear whether any set of new standards has been adopted, a situation which Judge Timbers believes is unsatisfactory. See *Boraas* v. *Village of Belle Terre*, *supra*, 476 F. 2d at 826 (dissenting from 4–4 denial of an en banc reconsideration). Judge Newman in *Henry* v. *White*, Civil 15, 322 (D. Conn. May 2, 1973), citing to *San Antonio Independent School Dist.* v. *Rodriguez*, *supra*, 36 L. Ed. 2d 16, and *McGinnis* v. *Royster*, 35 L. Ed. 2d 282, 288–89 (1973), observed that "more recent cases suggest that the rational relationship test is alive and well."

The factual situation presented in this case warrants no grand exegesis of where the law of equal protection is headed. It will suffice to note that to the extent that the "legitimate articulated state purpose" referred to by Mr. Justice Powell in *Rodriguez*, *supra*, 36 L. Ed. 2d at 33, and in *McGinnis*, *supra*, 35 L. Ed 2d at 289, may be construed to establish a degree of rationality more akin to that in *Boraas*, *supra*, 476 F. 2d 806, than to the "minimum rationality" of the older standard we adopt it for use in this case.

[23] "Status of birth, like the color of one's skin is something which the individual cannot control, and should generally be irrelevant in legislative considerations. Yet illegitimacy has long been stigmatized by our society. Hence discrimination on the basis of birth—particularly when it affects innocent children—warrants special consideration." *San Antonio Independent School Dist. v. Rodriguez*, *supra*, 36 L. Ed. 2d at 87 (dissent of Marshall, J.).

See also, *Weber v. Aetna Cas. & Sur. Co.*, 406 U.S. 175 (1972).

out of wedlock the statute operates to their benefit.[24] The statute imposes no additional burden upon them. To the contrary, the statute under consideration operates prophylactically against the adverse differential treatment which the unwed mothers would impose on their children. Indeed, if the legislature were to enact a law protecting the "right" of unwed mothers to exclude their children from the benefit of paternal support, it would be struck down. In *Gomez v. Perez*, 35 L.Ed. 2d 56, 60 (1973), the Court declared:

> "We therefore hold that once a State posits a judicially enforceable right on behalf of children to needed support from their natural fathers there is no constitutionally sufficient justification for denying such an essential right to a child simply because her natural father has not married her mother. For a State to do so is 'illogical and unjust.' Weber v. Aetna Casualty & Surety Co., supra, at 175." [25]

The effect of the statute is consistent with the trend of the law to separate the label "illegitimate" from the word "child" to prevent the exclusion of children of unwed mothers from benefits available to other children. One of the reasons for denying the plaintiffs' application for a temporary injunction against enforcement of the statute was that hardships would fall more heavily on the children than on their mothers.[26] See *Doe v. Norton, supra*, 356 F.Supp 202.

The statute at issue involves neither discrimination against a "suspect" classification nor impinges upon a "fundamental" interest so as to require the application of the "strict scrutiny" test. We turn, therefore, to the less stringent test of equal protection which is whether the statute "rationally furthers some legitimate articulated state purposes."

A. GOVERNMENTAL INTEREST

The plaintiffs urge upon as the test of equal protection adopted in *Boraas v. Village of Belle Terre, supra*, 476 F.2d 806, and formluated in *Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 (1920):

> "The classification must be reasonable, not arbitrary, and must rest on some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."

Since the reasonableness of the classification should be considered in relation to the object of the statute, we begin by first identifying the purpose of the statute.[27] Although one of the important by-products of the operation of the statute is the long term benefit it secures to the children by the early establishment of their paternity, see *Doe v. Norton, supra*, 356 F. Supp. 202, its primary

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[24] At this point, the interests of the unwed mothers and those of their children part company. In *Wyman* v. *James, supra*, 400 U.S. at 318, this discrimination between the interests of the unwed mother and her child was emphasized by Mr. Justice Blackmum:

> "There are a number of factors that compel us to conclude that the home visit proposed for Mrs. James is not unreasonable:
>
> "1. The public's interest in this particular segment of the area of assistance to the unfortunate is protection and aid for the dependent child whose family requires such aid for that child. The focus is on the *child* and, further, it is on the child who is *dependent*. There is no more worthy object of the public's concern. The dependent child's needs are paramount, and only with hesitancy would we relegate those needs, in the scale of comparative values, to a position secondary to what the mother claims as her rights."

[25] It has long been the policy of Connecticut to require a father to support his illegitimate child. *State* v. *Wolfe*, 152 Conn. 199, 203 (1964); see also, *Franklin* v. *Congelosi*, 6 Conn. Cir. Ct. 357 (1970). And if there is any universal moral law it is that parents must nurture and support their young children; this is a duty that belongs to a man as a man, and not simply as a member of a civil society.

[26] Insofar as the operation of the statute strikes down a discrimination against the plaintiff children as illegitimates it should receive favorable judicial consideration rather than "strict scrutiny." *Weber* v. *Aetna Cas. & Sur. Co., supra*, 406 U.S. at 176. During the course of recent intensive analysis of equal protection standards the Supreme Court has consistently held that legislative discrimination to the *disadvantage* of children because of their out-of-wedlock birth could be justified only by a showing that the state interest furthered by the statute was "substantial." *Id.* at 170; *Gomez* v. *Perez, supra*, 35 L. Ed. 2d 56; *Levy* v. *Louisiana*, 391 U.S. 68 (1968); *Glona* v. *American Guarantee & Liab. Ins. Co.*, 391 U.S. 73 (1968); *Labine* v. *Vincent*, 401 U.S. 532 (1971); and see *Davis* v. *Richardson*, 342 F. Supp. 588 (D. Conn.), *aff'd*, 409 U.S. 1069 (1972).

[27] The purpose need not have been a main objective of the statute or even one the legislature had in mind. *Fleming* v. *Nestor*, 363 U.S. 603, 612 (1960).

> "(O)ur decisions do not authorize courts to pick and choose among legitimate aims to determine which is primary and which subordinate. . . . So long as the state purpose upholding a statutory class is legitimate and nonillusory, its lack of primacy is not disqualifying." *McGinnis* v. *Royster, supra*, 35 L. Ed. 2d at 292.

purpose is to enforce the obligation of a father to support his own child. There is no need to theorize. The face of the statute furnishes sufficient reliable guidance to its purpose, especially when read together with the complementary sections of the Social Security Act, as elaborated above in Part IV. Cf. *Richardson v. Belcher*, 404 U.S. 78 (1971). Consequently, we have no occasion to resort to that more embrasive standard of equal protection which permits a purpose to be found from "any state of facts which may be reasonably conceived to justify it." *McGowan v. Maryland*, 366 U.S. 420, 426 (1961), *quoted with approval in Dandridge v. Williams*, 397 U.S. 471, 485 (1970). The defendant public official, who administers the laws under which welfare assistance is given to these plaintiffs, is not only authorized, but required, to proceed under the statute in order to establish the primary obligation of the father to support his child as one of the "resources" which the state is entitled to consider in ascertaining the plaintiffs' eligibility for AFDC benefits. See 42 U.S.C. § 602(a)(7). Indeed, welfare beneficiaries may be required to assign any property they may have, or which they might in the future obtain, as security for repayment of the benefits they receive from the state under its welfare laws. See *Snell v. Wyman, supra*, 281 F. Supp. 853 (S.D. N.Y. 1968); *Charleston v. Wohlgemuth*, 332 F. Supp. 1175 (E.D. Pa. 1971), *aff'd without opinion*, 405 U.S. 970 (1972).

B. THE CLASSIFICATION

The plaintiff mothers assert a right to be free from a discriminatory classification based on the fact that they are unwed mothers who receive public assistance. While shaping their claim in that form may appear to present some abstract inequality to complain about, that is accomplished only at the cost of leaving something out. This statute which imposes a duty upon an unwed mother to disclose the name of the putative father of her child does *not* distinguish between unwed mothers who receive public assistance and those who do not. The statute permits the compelled disclosure of the name of the father from any mother of an illegitimate child, viz: "to the welfare commissioner, if such child is a recipient of public assistance, or to a selectman of a town in which such child is a recipient of general assistance, or *otherwise* to a guardian or a guardian ad litem of such child, . . ."[28] (Emphasis added).

In an attempt to bolster their argument, the plaintiffs suggest that it is unrealistic to expect any guardian appointed by the probate court to resort to the statute and that such a guardian would normally support the child himself. They also suggest that it is questionable if one whose parental rights are terminated pursuant to such an appointment would still have a legal duty to support the child. No support is offered for either argument and we reject both. That displacing a natural father as the guardian of the person or of the estate of his minor child does not eliminate his obligation to continue to provide for its support is too settled to merit discussion. There are thousands of valid child support decrees against fathers who do not have custody of either the person or estate of their children.

If we were to accept the assumption of the plaintiffs that because of the division of authority among different persons to initiate proceedings under the statute proportionately fewer such proceedings would be brought by guardians or guardians ad litem than by the commissioner, this would not render the classification offensive to the equal protection clauses.[29] As Judge Frankel stated in

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[28] The statute also applies to "the mother of any child born to a married woman during marriage which child shall be found not to be the issue of the marriage terminated by a divorce decree or by decree of any court of competent jurisdiction."

[29] Perhaps the benefits which the statute authorizes for all illegitimate children and their mothers may not be sought after as assiduously by others legally responsible for the estates of the children. But there is no basis for assuming that the legislature intended arbitrarily to leave one class of illegitimate children without meaningful protection. The statute makes available in their behalf the same remedies that are enforceabl by a welfare commissioner or a town selectman who has provided general assistance for needy families containing illigitimate children. Because the state may not be able to bring the benefits of the statute to all, it is not precluded from benefiting some.

> "The law does all that is needed when it does all that it can, indicates a policy, applies it to all within the law and seeks to bring within the lines all similarly situated so far and so fast as it means will allow." *Buck* v. *Bell*, 274 U.S. 200, 208 (1927) (Holmes, J.).

It is not a basis for any complaint by the plaintiffs that the benefits extended to them are not extended to others similarly situated. See *Katzenbach* v. *Morgan*, 384 U.S. 641, 656-57 (1966).

Snell v. Wyman, supra, 281 F. Supp. at 865:

> "Like the life of the law generally, the Fourteenth Amendment was not designed as an exercise in logic. It is ancient learning by now that a classification meets the equal protection test 'if it is practical, and is not reviewable unless palpably arbitrary.' Orient Insurance Co. v. Daggs, 172 U.S. 557, 562, 19 S.Ct. 281, 282, 43 L.Ed. 552 (1869). If the classificaton has 'some reasonable basis,' it cannot be held offensive to the Equal Protection Clause 'because it is not made with mathematical nicety or because in practice it results in some inequality.' Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78, 31 S.Ct. 337, 340, 55 L.Ed. 369 (1911). 'The problems of government are practical ones and may justify, if they do not require, rough accommodations,—illogical, it may be, and unscientific.' Metropolis Theatre Co. v. City of Chicago, 228 U.S. 61, 69–70, 33 S.Ct. 441, 443, 57 L.Ed. 730 (1913)."

C. THE RATIONAL RELATIONSHIP

Even if, as the plaintiffs argue, the statute ought logically to be construed to create a separate clasification affecting only unwed mothers of illegitimate children who receive some form of public assistance,[30] that particular classification is directly linked to the public interest the statute is designed to secure. In the case of these plaintiffs, it is the state, not a private party, which furnishes to the plaintiffs and their children welfare assistance in accordance with their needs. Because the state provides those benefits, it is "rational" that it should take steps to enforce the prior obligation of their fathers to provide that support. It is not disputed that the only source of information about the identity of the fathers of these children is the knowledge possessed by their unwed mothers. The classification is reasonable rather than "arbitrary or capricious" because it bears a rational relationship to a legitimate state purpose. *Weber v. Aetna Cas. & Sur. Co., supra*, 406 U.S. at 172.

D. THE INTERESTS ADVERSELY AFFECTED

Since there is no basis for objection to the principle that parental responsibility should be enforceable, the argument shifts to one about means rather than ends. The plaintiff mothers contend that the sanctions which Connecticut permits its courts to impose upon uncooperative unwed mothers are impermissible under the Act. The plaintiffs argue that less important than the detection of the father to enforce his obligation are the consequences to the mother and child of the detection process. There is undoubted power of the government "to compel persons to testify in court or before grand juries and other governmental agencies . . ." *Kastigar v. United States, supra*, 406 U.S. at 443. While any imprisonment, of course, has punitive and deterrent effects it is clear that the character and purpose of any imprisonment meted out under this statute would be for refusal to testify.

The proceeding under the statute is a civil, rather than a criminal one.[31] As the Court held in *Shillitani v. United States*, 384 U.S. 364, 368 (1966), the sentence must be viewed not as punishment for violation of state criminal laws but as " 'essentially a civil remedy designed for the benefit of other parties and (one which) has quite properly been exercised for centuries to secure compliance with judicial decrees.' Green v. United States, 356, U.S. 165, 197 (1958) (Black, J., dissenting)."

> "(I)t is beyond dispute that there is in fact a public obligation to provide evidence, see United States v. Bryan, 339 U.S. 323, 331; Blackmer v. United States, 284 U.S. 421, 438, and that this obligation persists no matter how financially burdensome it may be." *Hurtado v. United States*, 35 L.Ed. 2d 508, 518 (1973) (footnote omitted).

Furthermore unlike the plaintiff class in *Hurtado*, who were held to be kept justifiably incarcerated as material witnesses until the commencement of the

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[30] "There is hardly a law on the books that does not affect some people differently from others. But the basic concern of the Equal Protection Clause is with state legislation whose purpose or effect is to create discrete and objectively identifiable classes. And with respect to such legislation, it has long been settled that the Equal Protection Clause is offended only by laws that are invidiously discriminatory—only by classifications that are wholly arbitrary or capricious. See, e.g., Rinaldi v. Yeager, 384 U.S. 305, . . ." *San Antonio School Dist. v. Rodriguez, supra*, 36 L. Ed. 2d at 58 (footnote omitted).

[31] The parties agreed to this by stipulation.

trial at which they were to testify, these plaintiffs "carry 'the keys of their prison in their own pockets.' In re Nevitt, 117 F. 448, 461 (C.A. 8th Cir. 1902).... In short if the petitioners had chosen to obey the order they would not have faced jail." *Shillitani v. United States, supra*, 384 U.S. at 368. Cf. *Linda R. S. v. Richard D.*, 35 L.Ed.2d 536, 541 (1973).

The choice of means may be regarded by some as harsh, but "(i)t is not for us to evaluate the state's choice of means. If these means are rationally related to a proper end, as they are in this case, we have no power to go further." *Hagans v. Wyman*, 471 F.2d 347, 350 (2d Cir. 1973).

The incarceration of an unwed mother for contempt, or for any other unlawful behavior, may work to the disadvantage of her child. Yet no one would be heard to argue that motherhood per se provides an absolute defense to the imposition of undesired but otherwise lawful sanctions simply because that mother's child might suffer from the separation resulting from her incarceration.

That the method adopted by Connecticut's legislature is entirely permissible has been suggested in *Cooper v. Laupheimer*, 316 F.Supp. 264, 270 (E.D. Pa. 1970) where the court in reasoned dictum stated:

> "Pennsylvania has at its disposal methods, consistent with the Social Security Act, by which it can recover excess payments. It may institute criminal prosecution against a recipient who has fraudulently obtained a duplicate payment, and upon conviction, obtain restitutions, a fine and/or imprisonment. It may also file a civil action, obtain a judgment, and satisfy the judgment when the recipient is able to pay. The state may not, however, seek to protect its interests by a method which violates the Act when it has available other legitimate means." [22]

Throughout this case, the plaintiffs have argued as if the touchstone of our inquiry was whether the expected advantages to the state from the statute were outweighed by the harmful effects to the families affected by its enforcement. But even if the task of balancing these competing values was for the judiciary, rather than for the legislature, we would not find any basis for depriving the state of this traditional method of compelling witnesses to give answers to the inquiries under the statute. In holding that the policy favoring the right of the state to have every person's testimony may be enforced by imprisoning the witness who refuses to answer, the Court has recently held that there is no exception for one who is reluctant to testify, either for his own behalf or to shield another because of the adverse effect which such testimony might have on his future relationship with the person who is the object of the inquiry. See *Branzburg v. Hayes, supra*, 408 U.S. 665. The exposure of the plaintiffs in this case to imprisonment for contempt does not constitute an unacceptable sacrifice of competing policy interests nor contravene the Act.

To sum up our analysis of the plaintiffs' equal protection claim—we decide that the challenged statute does not suffer any constitutional infirmity under the equal protection clause because after consideration "of the nature of the unequal classification under attack, the nature of the rights adversely affected and the governmental interests urged in support of it," the statute has "a substantial relationship to a lawful objective." *Boraas v. Village of Belle Terre, supra*, 476 F. 2d at 814. What the Court said in *Dandridge v. Williams, supra*, 397 U.S. at 487, and requoted for emphasis in *Jefferson v. Hackney*, 406 U.S. 535, 551 (1972), is pertinent here:

> "We do not decide today that the (state law) is wise, that it best fulfills the relevant social and economic objectives that (the state) might ideally espouse, or that a more just and humane system could not be devised. Conflicting claims of morality and intelligence are raised by opponents and proponents of almost every measure, certainly including the one before us. But the intractable economic, social, and even philosophical problems presented by public welfare programs are not the business of this Court. . . . (T)he Constitution does not empower this Court to second-guess state officials charged with the difficult responsibility of allocating limited welfare funds among the myriad of potential recipients."

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[22] In *Cooper* v. *Laupheimer*, the court ruled that Pennsylvania's attempt to adjust past overpayments of AFDC assistance by recoupment from subsequent grants was inconsistent with the statutory requirement that AFDC benefits be furnished to all eligible individuals with reasonable promptness. For a later case in this circuit holding that a rent payment, advanced to avoid eviction of AFDC recipients who had spent recouped out of later grants without denying equal protection nor conflicting with the the portiton of their grant designated for shelter for some other purpose, could be Act. See *Hagans* v. *Wyman, supra*, 471 F. 2d 347.

CONCLUSION

We, therefore, conclude that the statute in issue does not conflict with any provision of the Social Security Act; that it rationally furthers a legitimate articulated state purpose in establishing the paternity of children born out of wedlock and securing support for them; that it does not invidiously discriminate against any of the plaintiffs in violation of the equal protection clause of the fourteenth amendment; that its operation does not constitute an unwarranted invasion of privacy; and that it violates no rights guaranteed by the Constitution.

The application for a permanent injunction is denied, and the case is dismissed.

So ordered.

Dated: September 5, 1973.

WILLIAM H. TIMBERS,
United States Circuit Judge.
M. JOSEPH BLUMENFELD,
Chief United States District Judge.
JON O. NEWMAN,
United States District Judge.
Concurring in the result with opinion.

Newman, District Judge (concurring):

I agree with the Court that Conn. Gen. Stat. § 52-440b is not unconstitutional on its face, but I believe there is an additional constitutional question that will have to be considered when the statute is applied to specific individuals. This concerns the extent of protection afforded by the constitutional right of privacy.

The Court's opinion considers and rejects primarily the Fifth Amendment and testimonial privileges as possible barriers to a mother's enforced disclosure of the identity of an illegitimate child's father. I agree with those conclusions and with the Court's further observation that the statute on its face does not invade any constitutionally protected zone of privacy. The statute's facial validity in this regard is properly upheld in the precise sense that not every application of the statute would achieve an unconstitutional result. But without anticipating all of the situations that will arise in the implementation of this statute, I think it is important to point out that a constitutionally protected right of privacy will be implicated and may well prevail against the statute's enforcement in some situations.

There can be no question that liberty, within the meaning of the Fourteenth Amendment, includes privacy with respect to some aspects of family life and sexual intimacy. *Roe* v. *Wade*, 410 U.S. 113, 153 (1973); *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972); *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). The Chief Justice has only recently observed that the "Constitution . . . protects . . . special privacy rights such as those of marriage, procreation, motherhood, child rearing, and education." *United States* v. *Orito*, —— U.S. ——, —— (June 21, 1973). In its application, this statute will involve privacy rights concerning both procreation and child rearing. The latter is evident. It is certainly an important aspect of child rearing for a mother to decide whether to secure legally some actual or potential financial benefit for her child at the expense of fracturing an amicable father-child relationship or even of harming the child by inflicting upon it distressing knowledge such as incestuous parentage. Decisions on such matters would plainly seem to enjoy no less constitutional protection than the decision whether to educate the child at a public or private school. *Cf. Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925). The relationship between non-disclosure of the father's name and privacy concerning procreation requires brief elaboration.

Unlike *Roe*, where the plaintiff wanted to have an abortion, and *Griswold*, where the plaintiff wanted to use a contraceptive, these plaintiffs do not claim a right to do something but to maintain secrecy concerning what they have done. More precisely, each plaintiff asserts the right to maintain secrecy concerning the identity of the man with whom she was intimate.[1] In the First

[1] The Court properly observes that, wholly apart from the state-compelled inquiry, the fact of the mother's pregnancy has no doubt been disclosed to some extent. But simply because the fact of pregnancy and subsequent birth is known, either widely or narrowly, in the case of mothers who not infrequently give birth to illegitimate children far removed from their communities, all rights to privacy concerning the identity of the paramour do not automatically disappear.

Amendment context, the Supreme Court has recognized that some aspects of constitutionally protected conduct may be shielded from state-compelled disclosure concerning such conduct. Thus the right of N.A.A.C.P. members to join together to advance their purposes carried with it a right to maintain secrecy concerning the identity of the members as against Alabama's interest in enforcing its corporate regulations. *N.A.A.C.P.* v. *Alabama*, 357 U.S. 449 (1958). See also *Bates* v. *Little Rock*, 361 U.S. 516 (1960). Since privacy is the central concept underlying constitutionally protected rights pertaining to sexual matters, *Griswold* v. *Connecticut*, *supra*, it seems obvious that such rights carry with them concomitant rights to maintain secrecy concerning sexual intimacies. It is true, as the Court observes, that the inquiry of the challenged statute focuses on the father's identity, but the mother cannot respond to the inquiry without disclosing a very private fact—the name of the person with whom she had sexual relations.

Whether related to privacy concerning child rearing or procreation, recognition of some constitutional protection surrounding the identity of one's sexual partner does not end, but only begins the pertinent inquiry, namely—whether the state has shown sufficient justification to override the protected interest. Unlike the constitutional privilege against self-incrimination, the privacy protection of the Fourteenth Amendment is subject to the legitimate and substantial concerns of the state. See *N.A.A.C.P.* v. *Alabama*, *supra*. The Court identifies as the primary purpose of § 52–440b the enforcement of a father's obligation to support his child.[2] In some circumstances achieving that purpose may well be sufficent to justify impairment of the mother's right to privacy. A strong case would be presented if the father's identity is ascertainable and the three-year statute of limitations for paternity actions, § 52–435a, has not run. On the other hand, there may well be situations where the prospect of enforcing the father's support obligation is so insubstantial that the statutory purpose cannot constitutionally override the mother's privacy right. If, for example, the statute of limitations for paternity actions has run, it is difficult to see what legitimate interest is served by enforced disclosure. There may also be situations where the mother has disclosed the father's identity but is reluctant to strain family relationships by bringing a paternity action. Since the welfare commissioner has authority to prosecute the paternity suit, the state's interest in compelling the mother to sue might well be insufficient to justify impairment of the constitutionally protected interest she has in making decisions to maintain the harmony of her family unit. See *Haley* v. *Troy*, 338 F. Supp. 794, 804 (D. Mass. 1972).

We need not decide how the constitutional balance should be struck in the variety of factual situations that will come before the state circuit court judges charged with the responsibility for adjudicating contempt citations under this statute. The Court recognizes in footnote 14 of Chief Judge Blumenfeld's opinion that the statute accords the state judges ample discretion to determine the appropriateness of contempt remedies in specific cases. I simply wish to make clear that in exercising their discretion the state judges will have to adjudicate the Fourteenth Amendment question of whether the state interest sought to be advanced outweighs the mother's constitutionally protected interest in privacy in sexual and child rearing matters.[3] and they may well be obligated

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[2] In this connection, I agree with the Court that in considering plaintiffs' equal protection claim, i.e., whether this legislative purpose is rationally advanced by the legislative classification, the statute should be viewed as creating a classification of mothers of illegitimate children who receive welfare. Though the statute purports to require disclosure of the father's identity not only to the welfare commissioner in the case of welfare beneficiaries, but also to guardians and guardians *ad litem*, I disagree with the Court's alternative contention that the statute thereby applies to all mothers of illegitimate children. Plainly the statute does not in terms specify that all mothers of illegitimate children must disclose the father's identity. Instead it specifies three officials empowered to compel disclosure. The statute would be comprehensive only if all illegitimate children whose mothers are not receiving welfare had guardians or guardians *ad litem* appointed for them. Guardians *ad litem* appear on the scene only with respect to certain kinds of litigation, and guardians are designated by the probate court principally in the event of a finding of the mother's abandonment or neglect. Conn. Gen. Stat. § 45–43. Sec. 45–43 also provides for appointment of a guardian where the probate court finds that removal of the parent as guardian is "for the best interests of the child," but the state had not called our attention to any instance where a probate court has construed the statute as permitting the mother's failure to bring a paternity action to be sufficient justification for removing her as guardian.

[3] In some instances privacy rights of the child might be implicated that are not identical with the mother's, in which case a guardian *ad litem* might be needed to be sure the constitutional issue is properly developed for decision.

to conclude that application of the statute in some circumstances would be unconstitutional.[4]

[Whereupon, at 12:45 p.m., the hearing was recessed to reconvene at 2:30 p.m., this same day.]

AFTERNOON SESSION

The CHAIRMAN. I wish to beg the pardon of all those who have been waiting. The Senate is in secret session on national security items, and I was delayed.

We will next call Mr. William Meyer, deputy inspector general, Michigan Department of Social Services.

STATEMENT OF WILLIAM MEYER, DEPUTY INSPECTOR GENERAL, MICHIGAN DEPARTMENT OF SOCIAL SERVICES

Mr. MEYER. Mr. Chairman, my name is William Meyer and I am the deputy inspector general for the Department of Social Services for Michigan and am representing the State of Michigan here today.

I would like to, in the interest of time, confine my remarks to a brief discussion of the Michigan program to secure support and establish paternity and then address myself to Senate bill S. 2081 and S. 1842.

Michigan has two principal programs to secure support and establish paternity the first of which we call the cooperative reimbursement program. That program was first implemented on a pilot scale in 1970. The results of this pilot were very encouraging and it was expanded significantly the next year on a statewide basis.

The program itself consists of funding arrangements between the State of Michigan and local units of government to improve services to ADC recipients in securing support and establishing paternity. In this regard we utilize a statutory setup wherein local prosecuting attorneys—analogous to other States district attorneys—are responsible for initiating the legal actions to secure support, and the friend of the court—which is an arm of the circuit court—is responsible for maintaining surveillance of orders so entered and taking enforcement action of those orders.

The funding arrangement allows these public officials to review their needs in these areas and to hire additional staff, increase their equipment, increase their space, and other needs. Of course, we review these needs with them; we help them in reorganizing their offices, and in many cases we place greater emphasis on more sophisticated equipment for their offices so that high costs of personnel have been somewhat reduced.

We have our own computer programs and aid the local units of government to identify those cases which are right for some kinds of enforcement action.

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[4] Procedural problems may well be encountered in developing a record to determine whether in a particular case the substantiality of the state's interest in enforcing the father's obligation outweighs the mother's privacy interest. In some cases it may be difficult to assess the state interest unless the identity of the father is known. Perhaps *in camera* proceedings can be employed in such instances. Sometimes it may be possible to persuade the trier of fact that the paternity suit statute of limitations has run without any disclosure of the father's name, as where third party testimony demonstrates that the father (or any male) has contributed no support for more than three years.

We conduct statewide training programs and training seminars in conjunction with the various associations such as the Prosecuting Attorneys Association.

We have had three such training programs for the prosecuting attorneys. We prepare forms for their use, print them, and distribute them free of charge. We also perform other technical services for local officials.

Now the cost of this program over the last 3 years have not been that significant in view of collections that have been generated through these expenditures. In 1971, we spent a total of $295,710; collections during that year were $17,029,741 which was an increase of approximately $6 million over the prior year.

In 1972, the expenditures on the reimbursement program totaled almost $1.2 million. The total support collections received by the department were in excess of $28 million. That is a substantial increase of about $11 million.

This year for the first 6 months of calendar year 1973, we have spent just over $2 million in the program and project support collections during calendar year 1973 in the amount of $36 million. I think it is significant to note that the program has just gotten underway in our largest county, Wayne County, which encompasses the city of Detroit and other large cities. We have accumulated some rather large expenditures in that program but have no significant results from that county at this time.

I think it is also important to note that there is a lag from the time that one begins making expenditures in these programs to the time that one actually sees some significant results. We do expect great things from the county of Wayne. Approximately 45 percent of our ADC caseload resides in Wayne County and is serviced by the county. However, less than 30 percent of our support collections comes from that county at the present time.

Our second major program is called the support certification program. That was recently implemented on June 1, 1973. This is a computer based program wherein support payments are collected by the friend of the court, sent to us, and are allocated to the recipient of the grant. In other words, there are various facets of this program. A recipient of ADC in Michigan, regardless of the status of his support account, will receive the same grant every month; that is, if a man is behind in his support payments, for a period of time, the amount of the grant the mother receives will not change. If he suddenly starts making payments, the payments would be allocated automatically to her account through a bookkeeping process. There would be no change in the amount of the grant.

Through the support certification system each parent of each child receiving ADC will be categorized according to his potential for support.

Of course, we have problems with multiple-father families. These cases will be dealt with by placing each father in a separate category.

An ADC case cannot be opened administratively without reference to the support certification process. Although this process in and of itself will not stop a case from being opened, there is a mechanism that will cause one computer file to bounce off the other and we will im-

mediately be able to catch it and therefore not hinder eligibility of an ADC case.

Once all of these cases have been reviewed and each case put in a separate subgroup we will have, for the first time, a definite handle on the potentiality for support of each ADC case and ADC cases in Michigan as a group.

Each father type will be categorized and placed into county subgroups. For example, we will separate the divorce cases from the paternity cases, and the civil support cases from the criminal cases and so on.

Along with this subgrouping an accurate, up-to-date payment status account will be kept on each case.

Cumulative totals will be kept so that we will know when the last payment was made, how much that payment was and how much arrearage has accrued in the support payment account. Since the first program——

The CHAIRMAN. I am going to have to ask you——

Mr. MEYER. Am I taking too long?

The CHAIRMAN. Please don't elaborate on the prepared statement. We are asking people to summarize it.

Mr. MEYER. All right. How much time have I taken, Senator?

The CHAIRMAN. Well——

Mr. MEYER. I am very sorry to have taken your time. Have I taken too much time?

The CHAIRMAN. You have got a good statement here and I will ask that the statement be printed in the record. Because it is a good statement and is helpful to us, we appreciate having it, but we have asked people to summarize their statements and you have elaborated on it.

Mr. MEYER. I'm terribly sorry. I know we are pressed for time, all of us are. I will summarize it by saying we, I think for the first time of any State in the Nation, really are getting a handle on the potentiality of support in every ADC case.

And along with that we feel we have a very effective program in the State of Michigan to deal with the problem of securing support and establishing paternity.

I will now go, with the chairman's permission, to some of our concerns about the two bills. Specifically we are concerned with financial inducements. We feel that it is very important that the Federal financial participation be increased from the present 50 percent to 75 percent. We believe that this will induce many States that are not now participating in such a plan (as California, Michigan, and others) to choose to become involved. This is included in both bills, I think, and we strongly support that. Also, I think it is very clear to everyone involved in this process that the Federal Government has to become more involved in locating absent parents. Certainly there are many investigative and tracking resources available to the Federal Government that are not available to State and local governments. We feel it is very important that these resources be utilized.

We think that one glaring defect in Senate bill 2081, is that most of the services provided to ADC recipients in the area of support are only provided to them once they become ADC recipients. In effect, from almost every viewpoint, you are closing the barn door after the horses get out.

From a humanitarian standpoint it is much better to help the person when they are first in need rather than forcing them to ask and receive public assistance. Also it is important promptly to get on a case if you really want effective enforcement.

Many persons will try to find means of support other than public assistance. One of these means is paternal support. If a person does not have the means available to hire an attorney without public assistance, they are virtually helpless.

Such a person should be given assistance in finding the absent father and obtaining support from him then, not forced first to go on full public assistance in order subsequently to receive assistance in winning support from the father.

Obtaining support early is easier because normally the man is still around at this time. It is easier to find him; it is easier to serve him with process. Also, this reduces somewhat the feeling of a client that this is just another means of harassing her for applying for ADC. If these services are provided for her regardless of whether or not she applies for ADC, then she doesn't feel it to be a harassment.

And, perhaps more importantly we are finding that through the provision of services to secure support, many families are reunited that may not have been otherwise.

Senator, I think that is the crux of my statement.

The CHAIRMAN. Thank you very much for your statement. We certainly hope that we will be continuing to work with you, and we will try to help provide some national answers for this question. Many thanks for appearing here today.

[Material submitted by Mr. William Meyer follows:]

STATEMENT OF R. BERNARD HOUSTON, DIRECTOR OF SOCIAL SERVICES, STATE OF MICHIGAN

Attached hereto is an explanation of the plan we use in Michigan to establish paternity and secure support in ADC related cases.

Our program, entitled the "Cooperative Reimbursement Program" is operated within the purview and under the authority of the Social Security Act, Title IV, Section 402(a), and the State Welfare Act.

Results of the Michigan effort are contained in the attached report. In order to perpetuate success in the program, in addition to avail other states of the opportunity to establish a similar program, the following suggestions are made as recommendations in the federal legislation field:

RECOMMENDATIONS

1. Increasing federal participation from 50% funding to 75% funding will enable states to implement a program of sufficient magnitude to reduce existing back-logs as well as to handle the ever increasing current caseload.

It has been our experience that underfunding foments as many inefficiencies as overfunding; hence adequate funds, made available through federal participation, would obviate this situation.

2. Passage of federal legislation making it mandatory that the postal authorities provide, upon request, the address or change thereof, to a state agency having responsibility for locating absent parents of dependent minor children, without cost for same.

Presently it is discretionary with the postmaster whether or not such information shall be furnished, and carries with it a charge of $1.00 per request.

3. Passage of federal legislation making it mandatory that employers engaged in interstate commerce furnish the address or verification of employment, of an absent parent of a dependent minor child, to a state agency having responsibility for locating said absent parent. Again on a cost-free basis.

4. Passage of federal legislation amending the Bankruptcy Act:

Presently Section 17(a)(7) of the Bankruptcy Act states that support payments due by a bankrupt to or for his ex-wife or children are not dischargeable.

However, two New York cases have held that debts owed to a state are dischargeable: *Hilland vs Decincesis* 115 N. Y. S. 2d5, 202 Misc. 197 (1952) and *Lasher vs McIntyre* 305 N.Y.S. 2d 960, (1969).

Presently we have advocates in Michigan taking the position that inasmuch as our legislation requires that support payments collected during the obligees' receipt of public assistance, be transmitted to the State of Michigan, that the debt is really due to the State of Michigan, and hence dsichargeable, citing the New York decisions.

This is an area of great concern and potential loss of revenue. Consequently, legislation to the effect that not only are support payments due an ex-wife or children not dischargeable, but also wording to the effect that the same obtains whether or not public assistance has been granted, and whether or not there is a requirement that such sums due under judgment or order are to be transmitted to a department of social services or welfare rendering such assistance.

I hope the foregoing as well as the attached report will serve in clarifying the efforts being made in child support and its recovery.

MICHIGAN: COOPERATIVE REIMBURSEMENT PROGRAM

The Department of Social Services through its continuing effort to efficiently and fairly administer the ADC program placed increased emphasis during 1971 on a comprehensive plan to shift the burden of supporting children back to those persons who are legally responsible and financially able. A new era of governmental agency partnership was initiated in the statewide cooperative effort to establish paternity and secure support for children receiving ADC benefits. Included in this collective effort were agencies at the local, state and federal levels.

The primary aim of the program was to reduce public assistance expenditures through increased child support payment collections. Basically, a three pronged attack was utilized through the procedure as outlined below:

1. *Locating Absent Parents.*—Locating services are performed locally by social services staff and investigators from offices of the Friend of the Court and the Prosecuting Attorney. State and Federal levels of locating services are performed by the Office of Central Registry, Michigan Department of Social Services.

2. *Establishing Legal Obligations.*—Orders of Filiation and Child Support are obtained through the office of the prosecuting attorney.

3. *Maintaining complaining with legal obligations.*—Review and enforcement services are provided by the friend of the court office.

The secondary aim of the program was to increase efforts in the areas of investigating welfare fraud cases, obtain counsel for Department at Administrative and court hearings and generally to obtain full cooperation in areas of common concern between state and local agencies.

Cooperation Among Agencies

The Michigan Department of Social Services was delegated responsibility under the Social Security Act and State Welfare Act to develop and implement a plan to shift the burden of supporting children back to those persons who are legally responsible and financially able to do so.

This resulted in the Cooperative Reimbursement Program—a program to establish paternity and secure support in ADC cases. It is cooperative in that it embraces a written agreement between the Michigan Department of Social Services and the various counties; and reimbursable in that the county must first incur the expense for which the state makes reimbursement.

By statute the prosecuting attorney has the duty to establish paternity and/or secure support orders; and the friend of the court has the duty to maintain compliance with the support orders. Hence, funding is provided for both.

Under the program, the offices of the prosecuting attorney and friends of the court are funded to provide the necessary additional staff, equipment, and materials to secure and enforce collection of support orders in ADC cases. Said funds are provided for the expansion of services in the ADC area and are not given in lieu of the current fiscal effort of that county.

One county (Berrien) was funded in 1970; 32 counties were added in 1971; and 27 counties were added in 1972. It is contemplated that 7 more counties will be added this year. These 66 counties embrace more than 95% of the ADC caseload.

In 1970, $1 million was appropriated by the legislature. In 1971, $2.5 million was made available and in 1972 this was increased to $4.5 million. And in 1973 $5.3 million was appropriated. Funding is provided by matching federal-state funds pursuant to the Federal Rules, as contained in the Federal Register, Volume 34, Number 18, January 28, 1969, HEW.

The funded programs in 1970 and 1971 come into our Support Authorization Program: a program wherein moneys collected by the friend of the court on support authorization orders involving an ADC recipient are transmitted directly to the State of Michigan. Prior to the December 2, 1971, particpation in this program was discretionary with the friend of the court.

However, on that date, legislation was passed making it mandatory that said funds be transmitted directly to the State of Michigan. Other legislation empowered the Department of Social Services to initiate support and paternity actions in behalf of minor children receiving assistance.

The effect of the Cooperative Reimbursement Program in conjunction with the Support Authorization Program produced significant results as follows:

Year	Support collections	Increase
1966	$4,461,827.95	
1967	4,795,106.24	$333,278.29
1968	6,429,860.01	1,634,753.77
1969	8,203,697.18	1,773,837.17
1970	10,928,446.00	2,724,748.82
1971	16,969,641.09	6,041,195.99
1972	28,100,000.00	11,000,000.00
1973		

During 1971 there were no significant additions to the process of collecting support except the Cooperative Reimbursement Program. The increase in support collections during the period 1967 thru 1970 were directly proportional to the increase in ADC caseload.

Projections for 1971 based on ADC caseload indicated an expected increase of $2.75 million. Yet this more than doubled even though the caseload projection was substantially accurate. Further, this phenomenon occurred during a period of high unemployment.

Results for 1972 were even more dramatic. More counties were participating in the Cooperative Reimbursement Program, and those who began it last year were gaining more expertise. This resulted in a significant increase of $11 million.

On a statewide basis, and using an extremely conservative approach, it appears that the operation of the Cooperative Reimbursement Program is resulting in a savings in public assistance costs of $3.30 per $1.00 invested.

The benefits have not been merely monetary. One of the side effects of the program is the number of family reconciliations. The program has also resulted in creating a rapport among the various departments involved and the general public. And the shifting of the burden of support to those legally responsible and able is receiving the high priority to which the program is dedicated.

Locating absent parents

The Office of Central Registry within the Michigan Department of Social Services serves as the central state agency for locating absent parents, acts as the Michigan URESA Information Agency, administers the Cooperative Reimbursement Program and establishes work responsibilities for "father finders" throughout the state.

Locating an absent parent is normally the first step in securing child support or establishing paternity. Field workers utilize local resources, including referrals to department "father finders" and special friend of the court and prosecutor investigators, as the initial step in the locating procedure. Back up assistance is provided field workers by Office of Central Registry through technical assistance and the monthly distribution of computer printouts which indicate the current support payment status of all cases. Upon exhausting local resources, referrals are processed to the Office of Central Registry which utilizes the resources of other state agencies and the locating agencies of other states in a coordinated statewide effort to locate the absent parent. Upon these efforts

proving futile, referrals are sent to the Internal Revenue Service for a search of IRS records. If the absent parent has not been located after the above measures are taken, the search is temporarily abandoned. At redetermination (six months subsequent to the above) the locating process is started again at the local level. This procedure assures that a locating search will be conducted twice a year for each and every absent parent whose whereabouts are unknown, and moreover, this process assures that all available local, state, and federal locating resources are utilized. At any point in the process, if a current address is ascertained, a referral with request for enforcement action is processed to the appropriate court agency.

The entire process is being enhanced by the addition of a cadre of "father finders" to Social Services staff. These positions are being allocated throughout the state and will be specialists in the areas of liaison with law enforcement and court officials, securing support and establishing paternity, and locating absent parents. These specialists will be solely responsible within their assigned geographical area for the local administration of the state plan to secure support. They will carry no caseload nor have additional duties, will report to the Office of Central Registry on the progress of the state plan for securing support in their area, develop plans and procedures for operations at the local level consistent with the state plan and local court and law enforcement idiosyncrasies and moreover, be directly answerable for the success or failure of the program in their area.

The CHAIRMAN. The next witnesses are Ms. Elizabeth C. Spalding of Greenwich, Conn. and Ms. Betty Berry of New York City, on behalf of the National Organization for Women.

STATEMENT OF MS. ELIZABETH C. SPALDING OF GREENWICH, CONN., AND BETTY BERRY OF NEW YORK CITY IN BEHALF OF THE NATIONAL ORGANIZATION FOR WOMEN

Ms. SPALDING. Mr. Chairman, My name is Elizabeth Spalding. I am from Greenwich, Conn., and am a commissioner on the status of women commission there and speak to you today as the coordinator of the National Task Force on Marriage and Family Relations and Divorce for the National Organization for Women.

Our task force commends S. 2081 for proposing that enforcement of child support orders be made a Federal matter. The bill recognizes that the orders of the State courts cannot be enforced beyond the borders of the State. Therefore, a State enforcement mechanism is an anachronism in our modern, mobile society.

S. 2081 also recognizes that data collection is essential in order to define accurately the problems of divorce. The bill provides for the collection of refined data at both the State and Federal levels. And every speaker here today, when questioned on this matter, has mentioned either directly or indirectly that certain data are not available.

Our testimony gives examples of data that NOW has pioneered in collecting and some related data collected by other States or Government agencies in the hope that this compilation can be of service. Included in the testimony is the first survey of the workload of the marital courts of any State, there are eight tables in addition, each showing a different facet of the divorce problem; and by omission, show that necessary data is not available. Some of these ommissions are listed at the bottom of the worksheets. Also included is a copy of our latest task force newsletter. Under the heading "Outline of Direction"

you will see our task force goals, both short and long term and a list of ancillary problems of divorce that when we researched and compiled will document a climate in divorce and enforcement that results in the oppression of women.

These data were compiled in Connecticut by NOW for use in the last session of the Connecticut General Assembly. Both the ERA and a new divorce bill were on the calendar. Some opponents of the ERA argued that ratification of that amendment would deprive women of alimony and child support. NOW's survey showed that contrary to the myth that women make money on divorce, in fact divorced women seldom get alimony and that child support orders are inadequate in amounts and almost impossible to collect 70 percent of divorced women work and 62 percent of these have children under 6 years old.

Our conclusion was that divorced, guardian mothers have nowhere to go but up and that passage of the ERA might, in fact, give NOW, a basis for charging the material courts with practising a pattern of sex discrimination.

Based on our experience in collecting data in this area, we respectfully suggest that a commission, or study, or control group be constituted to establish an integrated program structured to collect precisely the data the Government will need and collect it in as short a time as possible. Half of the membership of this group should be women and half of the staff should be composed of women and it should include members from Social Security, HEW, Judiciary, the Justice Department, and other Government groups involved in this problem.

The group must have some means of implementing its program at the State level—as an example in Connecticut, each data base is the exclusive property of the department that sets it up. No department is permitted access to the data base of another department. NOW's proposed program to extract refined data from Connecticut's State welfare base and from the Judiciary Department base will not be possible without an order from the Governor's office—or legislation permitting cross-pollination of certain bases. We plan to ask the Permanent Commission on the Status of Women in Connecticut for assistance in implementing the data collection.

Our testimony attempts to indicate to you those other departments of state and local governments with which divorce intersects so that the data base can be complete:

(1) With AFDC as the bill states.

(2) With the food stamp program.

(3) With child-care programs including day care centers, foster home and child care institutions.

(4) With the Federal Income Tax Code as this code could provide an escape mechanism for avoiding child support orders.

(5) With State laws that have alimony cease with remarriage of the recipient spouse.

(6) With the lack of a Federal law—such as URSA—to make alimony orders enforceable out of State—in theory at least.

(7) With the cost-of-living indexes which could be used as guidelines in setting fairer child support amounts. These indexes can be based on regional as well as national statistics.

(8) With mental health research programs—counseling for men and women of divorce; and especially for children of divorce.

(9) With education * * * on both school and college level * * * are courses given in family living, defining marriage roles, parental roles, elementary child psychology—sex education, et cetera?

With the decline of the extended family, very few young people have a chance to see or study these roles in a clan situation with its mix of generations.

(10) With public health nursing—and this is in addition to the testimony—to the homemaker and public health nurse programs because they provide a network of intelligence to us and we really can't get them from anywhere else.

Also of course with other successful States programs that have been mentioned here today, California, and Michigan.

Finally, we draw attention to the increasing number of "absent mothers." Having surveyed the climate of oppression of women in the marital courts and compounding this with similar discrimination against women in the labor market, wherein women earn from 49 to 59 percent of what men earn, it is astounding this behavioral symtom has not appeared sooner. A divorced mother, a guardian mother with children, knows the children will be better provided for financially by their father. He has a wider choice of jobs, more pay for the same work, and more chances for quicker promotion than she has. Given these two discriminations, in the courts and in the labor market, custody of the children to the mother is not an "award," it is a "sentence."

It is a fact that today's children of divorce live with a parent who works full time, whether they live with their mother or their father. Men are just as good at caring for children as women are and they can better provide for them financially than the mother can. These facts plus the roles' reversal jar the older generations but the younger generations accept them.

It seems however, to us, that this pattern must be checked because it could conceivably put the Government in the position of not only having AFDC payments but also it could increase the number of children to be placed in child care institutions and foster homes.

This summary has been confined almost solely to data collection, because we feel it is the area wherein NOW can offer the most guidance and help. All the other provisions of the bill were commented on in the testimony.

The CHAIRMAN. Thank you very much.

You have made a very fine presentation here and we will study these charts as well as the statement that you have made before us. We appreciate very much your thoughtful statement here today.

Ms. SPALDING. May I point out one omission? In my prepared testimony in paragraph 38 there are the capitalized letters LDEF. That

stands for the Legal Defense and Education Fund of the National Organization for Women. That is a tax-exempt branch of NOW. That is LDEF.

The CHAIRMAN. Right. Thank you very much for your statement.

[The statement of Elizabeth C. Spalding, with attachments, follows:]

STATEMENT OF ELIZABETH C. SPALDING, NATIONAL ORGANIZATION FOR WOMEN, CO-ORDINATOR, NATIONAL TASK FORCE FOR MARRIAGE, FAMILY RELATIONS, AND DIVORCE

1. Mr. Chairman, Gentlemen of the Senate Finance Committee, my name is Elizabeth Spalding. I'm from Greenwich, Connecticut; a commissioner on that state's Permanent Commission on the Status of Women but I speak here today as a member of the National Organization for Women and the Co-ordinator of their National Task Force on Marriage, Family Relations and Divorce.

2. I would speak to S. 2081 to amend Title IV of the Social Security Act.

3. To N.O.W., the most important function of this bill is making the enforcement of child support orders a Federal matter. The bill singles out and deals with the salient fact that the state is powerless to enforce its courts' orders beyond its own borders and its enforcement mechanisms are, therefore, an anachronism in our modern, mobile society.

DATA COLLECTION

4. Of second importance, the bill provides that data will be collected by the state and by the Attorney General's office. If this charge is carried out, the collection of accurate, refined data could dispell much of the mythology of divorce (see newsletter) and identify the scope of this multi-faceted, nationwide, ever increasing problem.

5. The attached worksheet and tables are from a survey N.O.W. recently completed on enforcement in the marital courts in Connecticut. As you can see, the data is gross, not refined, so the survey can serve only as a framework. If the data collected through implementing S. 2081 could be refined to cover the same areas but in greater detail, the Federal and state governments could have a foundation from which to build a program for effectively solving at least the legal and financial problems of enforcement or divorce orders. (see newsletter)

6. The work sheet of this survey is 3 pages that should be taped, end to end, as the numbered columns indicate.

7. Table I is a summary of the work sheet. The ratio of enforcement-matters to divorces-granted shows that enforcement—at least those matters totaled—outweigh divorces by 7 to 1 even with the total of Circuit Court continuing cases unavailable.

8. Table II is a summary of success in collections made thru the 3 marital courts in Connecticut. The average of the 3 percentages is 48%—or 1 chance in 2 of making one collection.

9. Table III indicates that "no-fault" divorce increases the incidence of divorce from 4 to 30% above the 1971 national averages. States are passing no-fault divorce laws, without guaranteeing accompanying property for the guardian spouse. Easy divorce, no financial protection and no enforcement increase the AFDC rolls from three sources.

10. Table IV shows the result of the no-fault divorce in California and proliferation of AFDC rolls. This state has the best data collection that N.O.W. has found to date and I'm certain you are all familiar with it.

11. As you know, the HEW circulated a questionnaire to all AFDC offices in June 1973. Pages 12 and 13 of their survey had questions related to child support orders. Consequently, the number of guardian parents presently receiving AFDC and not receiving court orders of child support will be known by December 1973.

12. In June 1974, a similar survey will have questions on alimony orders added. By 1974 December we will know the number of AFDC parents in the U.S. who have alimony and/or child support orders in non-compliance. This data will document Senator Nunnes' complaints of "indifferent administration" and "insufficient mechanisms for enforcement of obligations to support." The lamentable fact is that the marital courts of this country are forcing women (the guardian parent in 98% of divorces at present) onto AFDC and the forthcoming HEW data will prove it.

13. Information being gathered by our Task Force indicates to N.O.W. that lack of enforcement is increasing in every state. One result of this inequity is a behavioral trait being seen by N.O.W. all over the U.S. The younger mothers leave the children with the father and get a divorce. The so-called "absent mother" syndrome. These young women take no alimony, no child support and no children. They know they can support themselves but not the children too. (I'll not go into inequities against women in the labor market, as inappropriate to this testimony.) Suffice it to say, viewing the inequities in the labor market together with inadequacies of enforcement in marital courts, a young mother rightly concludes that her children will be better provided for financially by the father and she can have some life of her own free from the threat of AFDC if she resolves the custody in this manner.

14. Data on this behavioral symptom is important to the long-range planning by State or Federal government for the protection of children of the nation. For that reason, Table V is attached—the Public Health Statistics form of the Connecticut State Health Deparment. It is a Connecticut State law that no decree of divorce or annulment can be final until this form has been filed. N.O.W. believes that an expanded form, such as this, guided by Public Health Publication #794 could be used most easily to collect some data—as all but four states now use some similar Public Health Statistics form with varyinug degrees of consistency, to be sure. Already existing procedures just need to be expanded and enforced.

15. N.O.W. suggests that some of the additional information requested on this form be:

16. a. Listing of the Social Security number of the wife, husband and any of children who have one. This would faciiltate cross-reference with other data bases.

17. b. The question: "Custody contested—yes or no (specify')' be added in order to isolate the new behavior trait of younger mothers leaving their children with the father rather than fighting for custody of them.

18. c. The date, after the separation of the parents, of the first application for Public Assistance or Food Stamps. This could document the correlation between public assistance rolls and separation; it could reveal how frequently non-support of the dependent spouse and children is used as a weapon in marital problems; and that even middle and upper income mothers are being forced onto AFDC rolls or into the Food Stamp program.

19. Table VI—indicates the total number of divorces annually starting with 1968. At this rate of increase, the U.S. can expect 1,000,000 divorces by the end of 1975.

20. Table VII—Is a composite from the Citizens Advisory Council memo on the ERA—dated January 1972.

21. It indicates that child support payments furnished less than ½ the necessary amount in 1965; and that after the first year of the divorce only 40% of the fathers are in full-compliance and 60% are in non-compliance.

22. The data collected during 1955–65 is the *only* study in the U.S. of any performance record on compliance.

23. Table VIII explains that 70% of divorced women work and 62% of these have children under 6 years old—in numbers that means roughly, as of March 1971 there were 2,000,000 divorced women of which 1,480,000 were in the labor market and 840,000 of these had children under six years old.

By December 1972 divorced women totaled 3,607,000 approximately—adding the 1971 and 1972 total divorce figures to the 1970 total—(This is grossest data-gathering but it gives a framework) 70% of this number is about 2,524,900 di-

vorced women in the labor force and 62% or 1,514,940 have children under 6 years.

EFFECTIVENESS OF UNIFORM RECIPROCAL SUPPORT ACT

24. The following case should illustrate the problems inherent in the present mechanism for enforcing support orders out of state.

A divorced father left Connecticut to settle in Pennsylvania leaving a wife and 2 teen aged children. The Connecticut court had given no alimony, only child support to the guardian mother. The father did not comply with the order and built up a $4000 arrears. The mother engaged a lawyer in Connecticut, got a judgment from the Connecticut court which the mother then engaged a Pennsylvania lawyer to enforce. The father filed a cross-motion to reduce support in Pennsylvania courts. A hearing was held in the Pennsylvania court, the mother's lawyer was not notified of the hearing so neither she nor the mother appeared. The Pennsylvania court found that the Father did not have to pay the arrears of $4000 and it cut the Connecticut support order by ⅔. Remember that neither the mother nor her lawyer were at the hearing. After 2 years, the case is still going on. The mother meanwhile has been supporting herself and the children, working full time; paying 2 lawyers and is owed $4000 by the providing father! Her Pennsylvania lawyer is asking to reopen the case.

STATE COLLECTION AGENCIES

25. On Page 11, lines 22–24 and Page 14, line 4–10, is it implicit here (and elsewhere in the bill) that the Attorney General would have the authority to order a state to set up an official collection system? And then subsidize 75% of the gross of that system? Or to authorize any existing efficient state organization or sub-division as agent to collect the orders? May the Attorney General supervise the collection systems of the states and re-organize them too, in other words? If so, this is an excellent provision. In our experience, the state legislators have no grasp of the enforcement problem nor any commitment to solve it. In Connecticut there is no "cross pollination" between the data bases and the welfare department and the judiciary department—the sources of state information on unpaid child support. To effect such cross-pollination in Connecticut would require an order by the Governor. Or so I've been informed. If the policy of secret data bases exists in all other states' agencies—some method of dealing with this matter must be taken into account. (see Table VIII).

COURT CALENDARS DELAYING IMPLEMENTING OF S. 2081

26. The delay in the marital courts would be increased by the Attorney General's caseload of non-support cases from AFDC as outlined in your bill. This will multiply the burdens of already petitioning spouses.

27. A recent newspaper article told of a Sheriff in Philadelphia who had organized teams of two agents to pursue non-paying spouses. The teams are presently turning over to the courts fifty or sixty such spouses per week. The Philadelphia courts cannot handle even this small additional number of cases. Increased enforcement efficiency would be nullified by overcrowded court calendars.

28. Could some provisional system be established which could expedite dealing with support cases? A core of lawyers and others trained to act temporarily as judges just to deal with support matters? Special sessions of the martial courts just for support matters? Or whatever? And could not more women be trained as enforcement aides, as they are the primary victims of divorce at present?

FEDERAL TAX CODE AND S. 2081

29. Several provisions of the Federal Income Tax Code work against this bill.

a. This bill seeks to protect the extended family unit but the code does not permit as a tax deduction any wages paid by a working parent to a member of the immediate family for taking care of the children while he/she is at work.

This provision discourages extended family relationships by giving tax relief to the working parent who brings a stranger into the house to care for the children. The children, all things being equal, should get greater emotional security if cared for by a close relative such as grandmother, grandfather, aunt, uncle, etc.

30. b. Alimony is tax deductible to the providing spouse and child support is not. Providing parents already prefer paying alimony orders to child support orders to reap this tax benefit. This strong child support enforcement bill would be an additional reason for the providing parent to seek alimony orders rather than child support orders because these alimony orders presumably could not be enforced by any of the provisions in bill. Could bill be partially nullified by a widespread substitution of alimony for child support orders?

THE EXISTING LAW AND ALIMONY

31. a. Alimony in noncompliance, is not enforceable out of state through any Federal Act. Child support is enforceable out of state through the Uniform Reciprocal Support Act. With the passage of strict child support enforcement bill, alimony will—for a 3rd reason—be a much more attractive alternative to child support orders.

32. b. Alimony ceases automatically on the remarriage of the recipient spouse. There should be a "conversion" principle built into the present law protecting children, who might be minors at the time of remarriage of the recipient spouse. All or part of the alimony should be converted to child support.

BIGAMY AND NONSUPPORT

33. At this point in this testimony, bigamy should be mentioned as another potential outflanking maneuver that might subvert the aim of this bill. Laws on bigamy are different in every state. Bigamy is a felony and unenforceable as a practical matter because every district attorney's office is over-worked and this felony has the lowest priority. As a result, the deserting providing spouse now deserts the first family, remarries and if URSA ever tracks him/her down, the providing spouse claims obligation to support two families and the first family is discriminated against because the courts have not established the first family as the primary obligation to which subsequent families must defer.

ESTABLISHING PATERNITY AND CONSEQUENT VIOLENCE SUFFERED BY THE MOTHER

34. a. Fear of being beaten up by the identified father is the biggest deterrent to AFDC mothers cooperating with authorities, according to the Welfare Department personnel in Connecticut. If this is a nationwide concern to all AFDC mothers, is there some way that the Attorney General could get information about the father without his knowing who informed on him? Or some way the father could be prevented or deterred from violence after being identified? Or some protection provided for the co-operating mother?

FRAUD BY UPPER AND HIGH INCOME PROVIDING PARENTS AND FINES SUGGESTED IN S. 2081

35. In the report of the California Commission, mentioned earlier, 20% of their sample of noncompliant fathers had income over $10,000 per year and several over $18,000 per year. If this same 20% should be found to apply on a national scale, it would seem to N.O.W. that much more severe fines of $500 or $1000 plus penalties than provided for in this bill should be applied to upper and high income, noncompliant, providing spouses. A fine totalling *2 or 3 months income* might be more of a deterrent.

OEO LAYERS AND S. 2081

36. It would appear that lawyers from the Justice Department might better be utilized to bring the enforcement matters into court. That department will have the Parent Locator File and it would seem that co-ordination under one

department of as many enforcement activities as needed would make implementing this bill more effective.

RIGHTS OF THE MOTHER, FATHER, AND CHILD

37. Some Legal Aid lawyers I talked with in Connecticut feel that collecting from the Welfare father is an harrassment; other Legal Aid lawyers feel the AFDC mother has a right *not* to reveal the identity of the father. Senator Nunn's remarks for the Congressional Record note that children have a right to know their parents and be cared for and supported by them and also inherit from them. Does this right of the children outweigh the above mentioned rights of the parents? Is there a Constitutional question, or a civil liberties question herein that must be answered by the courts before your bill could be thoroughly implemented?

CHILD-REARING CONCEPT TO BE INCLUDED WITH CHILD SUPPORT

38. A suggestion that N.O.W. has that might block circumvention of the intent of this bill by the use of unenforceable alimony orders instead of enforceable child support is that the concept of child support be expanded to include the concept of a "child-caring allowance" for the guardian spouse of the children. In Hawkes v. Hawkes (New Mexico) the president of the Santa Fe Chapter of N.O.W. asked the court that it include this concept in her child support orders, and the court allowed the request. The Legal Defense and Education Fund filed an amicus curiae brief on this case which could be available if the committee wishes. "Child Rearing" would surplant alimony for recipient spouse and could be enforced under this bill if part of child support.

39. The entire AFDC program is, after all, based on the financially unrecognized assumption that one parent is staying with the children, generally the mother. If both parents took off, the children would have to be sent to foster homes or institutional care. In Connecticut the flat grant was $81 per month per child roughly; the foster home grant $125 per month plus medical expenses plus education expenses and an initial clothing allotment for a rate 1 child i.e. no physical, or emotional problems; and institutional care cost the state about $15,000 per child in fiscal 1971–72. AFDC is the least costly of these three methods of child care. But its existence is predicated on one parent being present. The question arises would it be less expensive to subsidize the guardian parent, and tax the providing parent rather than chase him/her.

RIGHTS OF DIVORCED OR SEPARATED WOMEN

40. Divorced or separated women have an equal right to a choice of life styles just as have divorced or separated men. The courts and the labor market do not provide them with this equal choice and the "absent mother" is one result.

CONCLUSION

41. At their present rate, divorces will increase to 1,000,000 per year by 1975, N.O.W. hopes that this testimony has established that divorce is a many-faceted problem that intersects with AFDC rolls; child care in day care centers, foster homes and institutions; the Federal Tax Code; court calendars; personal attitudes of judges and lawyers; the mental health of parents and children in divorce is implicit in the context of the problem; juvenile delinquency data has established that some 90% of juvenile delinquents come from broken homes, sociological role reversals are showing up; and the moral and religious aspects of family life are threatened.

42. N.O.W. would respectfully suggest, should this bill or a similar one be passed that a study commission be established at the Federal level to cross reference the data from the three agencies mentioned in this testimony—HEW, Justice and Census. The purpose being to destroy the myths of divorce with data on its many intersects.

Thank you for your attention, gentlemen.

If there are any questions, I'd be pleased to try and answer them.

CONNECTICUT: SURVEY OF THE WORK-LOAD OF THE MARITAL COURTS

	COURT OF COMMON PLEAS				(Bureau of Support)			CIRCUIT COURT			
	Applied for Divorce	Divorce Granted	Granted to Wife	Per Cent	Petitions Filed	Payment Orders Entered	Per Cent	Support Hearings	Warrants for Non-Support	Convictions on Warrants for Non-Support	Per Cent
	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
1968-69		5363	4144	77%		1505					
1969-70		5749	4656	81%	2848	1592	55%	12,743	3575	835	23%
1970-71		5812	4480	77%	2884	1460	50%	14,574	3320	1215	31%
1971-72	11,000	7034			3020	1535	51%	14,070	3169	772	24%

DEFINITIONS

1. MARITAL MATTERS Includes memos, reports interviews, as well as cases. Marital matters are the work-load of the Court.
2. CASES "matters" that come formally into a court.
3. CLOSED CASE Wherein one payment is made in a case.
4. ANNUAL MATTERS All the above that were the work-load for that one year.

COURTS IN CONNECTICUT

Superior - Family Relations Divisions
Circuit - Domestic Relations Divisions
Common Pleas - Bureau of Support

SOURCES OF FIGURES

Report of Chief Court Administrator

Annual Report for each Marital Court

Annual Report State Health Department

SUPERIOR COURT (Family Relations Div.)				OPEN CASES (From Prior Years)			TOTALS		
Marital Matters	Collection Cases Opened	Collection Cases Closed	Per Cent	Bureau of Support	Superior Court	Total Open Cases*	Tptal Annual Marital Matters	7/31/72 Total * Matters**	WAGE EXECUTIONS
12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
	1308	1895	145%	5825	8,324	14,149			
11,800	1338	1349	100%	6111	9,618	15,729	27,391	43,120	
12,911	1688	856	50%	6438	11,565	18,003	30,369	48,372	61
12,399	1808	1278	70%	6740	12,095	18,835	29,489	48,324	295

*Circuit Court totals not available.

**Non-compliance matters not brought into the court system are an unknown number but should be added to this total in order to complete the non-compliance picture.

RATIOS OF DIVORCES TO THE TOTAL ANNUAL MATTERS AND OPEN CASES			PERCENTAGES OF SUCCESS IN MAKING ONE COLLECTION			
Divorces to Annuals	Divorces to Open Cases	Divorces to Totals*	Annual Matters to Cases Closed	Bureau of Support	Superior Court	Average of All Totals To Closed
22.	23.	24.	25.	26.	27.	28.
	1-2.7		59%			
1-5	1-3.1	1-8.3	44%			
1-4	1-2.6	1-6.8	48%	16%	9%	12½%
Columns 2:19	Columns 2:18	Columns 2:19+20	Columns $\frac{7+11+15}{3}$	Columns $\frac{5+16}{6}$	Columns $\frac{13+17}{14}$	Columns $\frac{25+26+27}{3}$

DATA NEEDED:

1. Number of divorces that become enforcement problems.
2. How soon after final decree did they become an enforcement problem?
3. How often has the non-compliance occurred in each enforcement problem?

On Custody of Children -
Given to mother, to father, to a third party or divided?

On Court Calendar:
Length of time from initial inquiry to the collection of payment?

Table 1.

Summary of Marital Matters in Connecticut 1971-72

Divorce Matters;	
Petitions for Divorce	11,000
Divorces Granted	7,034
Enforcement Matters:	
Current Matters	
Common Pleas	3,020
Superior Court	12,399
Circuit Court	14,070
	29,489
Backlog of Cases	
Common Pleas	6,740
Superior Court	12,095
Circuit Court	N.A.
	18,835
Totals	
Current Matters (3 courts)	29,489
Backlog of cases (2 courts)	18,835
	48,324*

Ratio of Enforcement Matters to Divorces Granted:

Current Matters	4 / 1 divorce granted	(7,034/29,489)
Backlog of Cases	3 / 1 divorce granted	(7,034/18,835)
Total	7 / 1 divorce granted	(7,034/48,324)

* For 2 of the 3 Marital Courts

** (Potentially 96,648 legal fees for the 5,000 lawyers in Connecticut [Connecticut Bar Association membership, March 1973])

CONNECTICUT MARITAL COURTS SURVEY

SUMMARY OF SUCCESS IN COLLECTIONS MADE THROUGH THE COURTS

1971-1972 COURT YEAR

SUPERIOR COURT		CIRCUIT COURT		COURT OF COMMON PLEAS (USRA)		TOTALS
Collection Cases Opened	1808	Warrents Issued for Non-support	3169	Petitions Filed	3020	7997
Collection Cases Closed	1278	Convictions on Warrents Issued	777.	Orders Entered	1535.	3590
Percentage of Success	70%	Percentage of Success	24%	Percentage of Success	51%	48% (average)
Open Cases	12,095	Open Cases - Not Available		Open Cases	6740	18,835 (Excluding Circuit Court

NO DATA AVAILABLE YET

Other factors to be considered in collecting on unpaid alimony and/or child support orders:

1. Length of the non-support period - i.e. period of time between the first non-payment and receiving money owed.

2. Financial cost to petitioner of:

   a) Legal fees and disbursements
   b) Living expenses during the period of non-support
   c) How often does non-support occur and re-occur?

Table II

Table III

A Comparison of Divorce/Marriage Ratios in No-fault Divorce States With National Averages

National Average, Divorce/Marriage:		Percent
1968		27.2
1969		29.8
1970		32.8
1971		35.0
Averages, Divorce/Marriage in No-Fault States:*		
1971	California	65.2
	Texas	39.4
	Oregon	58.2
	Michigan	31.8
	Iowa	33.0
	Colorado	44.5
Combined Averages for above states		45.4

* Please note that the degree of commitment to the "no-fault" concept varies in each of these states, i.e., some states retain alternate grounds in addition to no-fault.

Table IV.

Correlation Between Increased Divorce Rates and Increased Public Assistance

The following statistics have been provided by the Social Welfare Department, State of California, where an "irreconcilable differences" divorce statute became effective 1 January 1970.

Year	Divorces Granted	% Increase	Families on AFDC	% Increase
1969	81,670		263,000	
1970	113,708	39.2		
1971	108,941	33.3	435,000	65.3*

* of which approximately 43% is attributable to maritals, according to Cal. officials.

Applying California Figures to Connecticut A.F.D.C. Costs for 1971-72:

	Year	Divorces Granted	% Increase	Families on AFDC	% Increase
	1972	7,034		31,666**	
projected	1975	9,848	40.0	45,274***	43.0

** Cost to the state = $93,790,000.
*** Projected figure = $134,120,190.

Table V.

CONNECTICUT STATE DEPARTMENT OF HEALTH

Public Health Statistics Section—Hartford, Connecticut U.S.A.

ABSOLUTE DIVORCE OR ANNULMENT

STATE FILE NUMBER

PART I—TO BE COMPLETED BY THE ATTORNEY FOR PLAINTIFF

HUSBAND

HUSBAND—NAME (FIRST / MIDDLE / LAST)			
1			
RESIDENCE—STATE (2A)	COUNTY (2B)	TOWN (2C)	
STREET AND NUMBER (2D)		STATE OF BIRTH (IF NOT IN U.S.A., NAME COUNTRY) (3)	DATE OF BIRTH (MONTH, DAY, YEAR) (4)
RACE—HUSBAND (WHITE, NEGRO, AMERICAN INDIAN, ETC. (SPECIFY)) (5)	NUMBER OF THIS MARRIAGE (FIRST, SECOND, ETC. (SPECIFY)) (6)	IF PREVIOUSLY MARRIED HOW WAS LAST ENDED BY: DEATH (7)	DIVORCE OR ANNULMENT (7)
EDUCATION—SPECIFY HIGHEST GRADE COMPLETED: ELEMENTARY (0, 1, 2, 3, 4, ... OR 8) (8)	HIGH SCHOOL (1, 2, 3, OR 4) (8)	COLLEGE (1, 2, 3 OR 4+) (8)	

WIFE

WIFE—NAME (FIRST / MIDDLE / LAST)			MAIDEN NAME—LAST ONLY (9B)
9A			
RESIDENCE—STATE (10A)	COUNTY (10B)	TOWN (10C)	
STREET AND NUMBER (10D)		STATE OF BIRTH (IF NOT IN U.S.A., NAME COUNTRY) (11)	DATE OF BIRTH (MONTH, DAY, YEAR) (12)
RACE—WIFE (WHITE, NEGRO, AMERICAN INDIAN, ETC. (SPECIFY)) (13)	NUMBER OF THIS MARRIAGE (FIRST, SECOND, ETC. (SPECIFY)) (14)	IF PREVIOUSLY MARRIED HOW WAS LAST ENDED BY: DEATH (15)	DIVORCE OR ANNULMENT (15)
EDUCATION—SPECIFY HIGHEST GRADE COMPLETED: ELEMENTARY (0, 1, 2, 3, 4, ... OR 8) (16)	HIGH SCHOOL (1, 2, 3, OR 4) (16)	COLLEGE (1, 2, 3 4, OR 5+) (16)	

PLACE OF THIS MARRIAGE—COUNTY (17A)	STATE (IF NOT IN U.S.A., NAME COUNTRY) (17B)	DATE OF THIS MARRIAGE (MONTH, DAY, YEAR) (17C)	APPROXIMATE DATE COUPLE SEPARATED (MONTH, YEAR) (18)
LIVING CHILDREN—TOTAL NUMBER (19A)	UNDER 18 YEARS OF AGE (19B)	PLAINTIFF—HUSBAND OR WIFE (SPECIFY) (20)	FAMILY RELATIONS DIV. CUSTODY STUDY—YES OR NO (21)
PUBLIC ASSISTANCE RECIPIENT—YES OR NO (SPECIFY) (22A)	AMOUNT OF ASSISTANCE MONTHLY (22B) $		
ATTORNEY FOR PLAINTIFF—NAME (23A)	ADDRESS (STREET OR P.O. NO., CITY OR TOWN, STATE, ZIP) (23B)		

PART II—TO BE COMPLETED BY THE CLERK OF THE SUPERIOR COURT

DECREE

DATE OF DECREE (SPECIFY MONTH, DAY AND YEAR) (24A)	TYPE OF DECREE—ABSOLUTE DIVORCE OR ANNULMENT (SPECIFY) (24B)
DECREE GRANTED TO HUSBAND, WIFE (SPECIFY) (24C)	LEGAL GROUNDS FOR DECREE (SPECIFY) (24D)
CUSTODY MINOR CHILDREN TO HUSBAND, WIFE (SPECIFY) (25)	CASE CONTESTED—YES OR NO (SPECIFY) (26)
DATE WRIT RETURNABLE (SPECIFY MONTH AND YEAR) (27)	COURT DOCKET NUMBER (28)
SUPERIOR COURT NAME (29A) / COUNTY OF DECREE (29B)	SIGNATURE (CLERK OR ASST. CLERK) (29C)

Table VI.

Divorces in U. S.

	Number	Increase Over Previous Year
1965 -	479,000	
1968 -	584,000	105,000
1969 -	639,000	55,000
1970 -	715,000	76,000
1971 -	768,000	53,000
1972 -	839,000	71,000

From World Almanac & Book of Facts, 1973

Child Support — Table VII

With respect to child support, the data available indicates that payments generally are less than enough to furnish half of the support of the children. The following chart of weekly payments was submitted by a Michigan court in 1968 (Quenstedt-Winkler study):

Weekly Net Income*	Number of Dependents: One	Two	Three	Four	Five	Six or More
$ 40	$10.00	$16.00	$22.00	$24.00	$24.00	$24.00
50	12.50	20.00	27.50	30.00	30.00	30.00
60	15.00	24.00	33.00	36.00	36.00	36.00
70	17.50	24.00	35.00	42.00	48.00	48.00
80	20.00	24.00	40.00	48.00	52.00	52.00
90	21.60	27.00	45.00	54.00	58.50	63.00
100	25.00	30.00	45.00	60.00	70.00	75.00
120	24.00	36.00	54.00	72.00	84.00	84.00

Even these small payments are frequently not adhered to. One court commented:

> However we find that in the great number of cases we are unable to adhere to the chart because of excessive amounts of financial obligations and limited earnings; also in many cases the man has more than one family.

* After deductions for income tax, F.I.C.A., hospitalization, life insurance, union dues, and retirement plan payments.

Collection of Alimony and Child Support

The only information we could locate on collection of support money was reported by Nagel and Weitzman in "Women as Litigants" (Hastings Law Journal, November 1971). The following table from their article is based on data gathered by Kenneth Feldhardt from a sample of fathers who were ordered to pay some child support in a divorce decree in a metropolitan county in the State of Wisconsin in 1955. Row 1 shows that within one year after the divorce decree, only 38 percent of the fathers were in full compliance with the support order. Twenty percent had only partially complied, and in some cases partial compliance only constituted a single payment. Forty-two percent of the fathers made no payment at all. By the tenth year, the number of open cases had dropped from 163 to 149 as a result of the death of the father, the termination of his parental rights, or the maturity of the children. By that year, only 13 percent of the fathers were fully complying, and 79 percent of the fathers were in total non-compliance. Row 5 shows the percentage of nonpaying fathers against whom legal action was taken, including those taken or instigated by welfare authorities.

Years since court order	Number of open cases	Full Compliance	Partial Compliance	No Compliance	Non-paying fathers against whom legal action was taken
One	163	38%	20%	42%	19%
Two	163	28	20	52	32
Three	161	26	14	60	21
Four	161	22	11	67	18
Five	160	19	14	67	9
Six	158	17	12	71	6
Seven	157	17	12	71	4
Eight	156	17	8	75	2
Nine	154	17	8	75	0
Ten	149	13	8	79	1

Women as Family Heads

In the first half of the 1960's, the number of families headed by women grew at about the same rate as all others, and they accounted for about 10 percent of all American families. This proportion began to inch upward in the latter 1960's, and by March 1971 it was 11.5 percent. During the year ending in March 1971, an unusually large number of families headed by women were added to the population (375,000) and labor force (270,000). These additions brought the totals to 6 million families; 54 percent of the women who headed them were in the labor force. The unemployment rate for these women stood at 7.1 percent, up from 5.6 percent in March 1970, and the highest rate since 1961.

The large increment in the number of female-headed families in 1970-71 was due to divorces and separations, rather than deaths of husbands. The number of widowed family heads in the population did not change between March 1970 and March 1971, while the number divorced or separated increased by about 335,000. In 1970, the national divorce total (an all-time peak of 715,000) was nearly 75 percent above the 1962 level, with two-thirds of the increase occurring since 1967.

The chance for divorced and separated women to be in the labor force is generally much greater than for wives or widows. In March 1971, 70 percent of all divorcees, including those who were not family heads, and 50 percent of all separated women were in the labor force, compared with about 41 percent of all wives and only 26 percent of all widows.

Among the most obvious elements that account for the differences in labor force rates are the presence and age of children, and the need for self support. In March 1971, the proportion of divorcees with preschool age children (13 percent) was considerably lower than for married (20 percent) or separated women (24 percent). Even so, with children under 6 years old, divorcees had a much greater labor force participation rate (62 percent) than the other mothers of young children (30 and 41 percent, respectively), suggesting that many either receive no child support payments or find them insufficient.

TABLE 2.—POPULATION AND LABOR FORCE, BY RACE AND MARITAL STATUS, MARCH 1967 AND 1971

Sex and marital status	March 1967		March 1971	
	White	Negro and other races	White	Negro and other races
MEN:	Percent distribution of population			
Total	100.0	100.0	100.0	100.0
Married, wife present	70.5	55.7	69.0	51.8
Single	21.6	27.9	23.3	33.7
Other marital status[1]	7.9	16.4	7.7	14.5
	Labor force participation rate			
Total	78.5	74.3	77.7	71.8
Married, wife present	85.9	87.2	86.0	85.2
Single	60.2	56.3	60.8	57.0
Other marital status[1]	53.3	61.5	54.3	58.2
	Percent distribution of labor force			
Total	100.0	100.0	100.0	100.0
Married, wife present	78.0	65.3	76.4	61.6
Single	16.6	21.1	17.3	26.8
Other marital status[1]	5.4	13.6	6.4	11.7
WOMEN:	Percent distribution of population			
Total	100.0	100.0	100.0	100.0
Married, husband present	63.9	48.9	63.0	44.9
Single	16.5	19.4	17.5	24.5
Other marital status[1]	19.6	31.7	19.6	30.4
	Labor force participation rate			
Total	38.7	47.4	41.8	47.9
Married, husband present	35.8	47.8	39.7	52.5
Single	51.7	43.8	54.0	45.4
Other marital status[1]	37.5	49.0	37.6	43.1
	Percent distribution of labor force			
Total	100.0	100.0	100.0	100.0
Married, husband present	59.0	49.3	59.8	49.3
Single	22.0	17.9	22.6	23.4
Other marital status[1]	19.0	32.8	17.6	27.3

[1] Includes widowed, divorced, and married, spouse absent.

TABLE 3.—LABOR FORCE PARTICIPATION RATES[1] OF MARRIED WOMEN, HUSBAND PRESENT, BY PRESENCE AND AGE OF CHILDREN, MARCH 1960–MARCH 1971

Year	All wives	No children under 18 years	With children under 18 years				
			Total	6 to 17 years only	Under 6 years		
					Total	3 to 5 years, none under 3 years	Under 3 years
1960	30.5	34.7	27.6	39.0	18.6	25.1	15.3
1961	32.7	37.3	29.6	41.7	20.0	25.5	17.0
1962	32.7	36.1	30.3	41.8	21.3	27.2	18.2
1963	33.7	37.4	31.2	41.5	22.5	28.5	19.4
1964	34.4	37.8	32.0	43.0	22.7	28.7	20.5
1965	34.7	38.3	32.3	42.7	23.3	29.2	20.0
1966	35.4	38.4	33.2	43.7	24.2	29.1	21.2
1967	36.8	38.9	35.3	45.0	26.5	31.7	23.3
1968	38.3	40.1	36.9	46.9	27.6	34.0	23.4
1969	39.6	41.0	38.6	48.6	28.5	34.7	24.2
1970	40.8	42.2	39.7	49.2	30.3	37.0	25.8
1971	40.8	42.1	39.7	49.4	29.6	36.1	25.7

[1] Labor force as percent of population.

National Organization for Women
National Task Force - Marriage, Divorce and Family Relations
newsletter
"Equal partnership in marriage"

Vol. II No. 2 August, 1973 Editor: Betty Berry

PROPOSED ACTION PROGRAM FOR THE TASK FORCE
By Betty Spalding, National Coordinator

The most oppressive problem of divorce is not the divorce, but the enforcement of the alimony and child support orders. The myths of divorce (see box) are widely accepted and therefore compound the problem of getting stricter enforcement legislation from the states.

These myths no longer are acceptable to the U. S. Congress (see list of corrective bills currently before it), largely due to the collection of data on the Federal level. State legislators still are uninformed or indifferent - hence the need for the federal bills. The state legislators' attitude is evidenced by the increasing number of so called "divorce reform" bills, making divorce quicker and easier to obtain, and yet the almost complete absence of accompanying "enforcement reform" and "financial protection of the wife-reform" bills.

The Department of HEW is currently gathering data from the AFDC rolls that will reveal how many AFDC women have unpaid child support orders. This data will be released in December 1973. Using these figures, N.O.W. will be able to establish the correlation between the number of divorces granted and the size of the AFDC rolls. As all unsupported divorced and separated women know, the states are forcing them onto AFDC because divorce and enforcement laws are going in opposite directions.

At the time the HEW data is released, I would like N.O.W. to have available the survey of the marital courts, showing the ratio of divorces granted to enforcement matters. The format was attached to the last newsletter. (It is available from me, if you did not receive the newsletter). This survey showed that for every divorce granted in Connecticut in 1971-72, there were 7 enforcement matters already in the courts; that only 1 out of 8 enforcement matters was successfully collected; and that there was a backlog of over 12,000 uncollected enforcement cases in Connecticut at the beginning of that court year. If our Task Force would make a similar survey for each state and have it prepared by December 1973 to buttress HEW's figures, N.O.W. would have irrefutable figures to underscore our complaints that the marital courts do not give equal protection to women and children.

This survey is a personal priority of mine which I hope the Task Force will implement as the survey had a stunning impact in Connecticut when read at the hearing to pass the ERA.

If this Task Force agrees that the survey has intrinsic value, reform value, and ERA support value, please check directly with me before undertaking the survey in your state, as there is no value in duplication of effort.

For others in the Task Force, who would rather pursue other projects, the following is a list of suggestions for the action program

. . . . . .

OUTLINE OF DIRECTION

Short term goals: deal with immediate problems, define the problem; solve the problem of divorce.
Long term goal: educate to decrease the divorce rate

. . . . . .

Dealing with the problem of divorce for women is best served by the rap sessions. These group meetings provide solace and information for N.O.W. members at a very difficult time of their lives.

Defining the problems of divorce:

1. **Survey** the work-load of your marital courts as explained.

2. **Court-watchers.** The Quakers were the first to practice sitting in the courts during the sessions to see that justice was done for everyone. N.O.W.'s court watchers want to see that judges and lawyers are fair to women.

3. **Questionnaires** to lawyers, judges, enforcement officers or legislators. These serve the dual purpose of getting whatever information it is you seek and of informing the recipients that N.O.W. is alert to an objectionable situation. This is N.O.W.'s way of preparing a corrective action program (Domestic Relations T.F., P.O. Box 86024, Pittsburgh, Pennsylvania 15221 has sent out a questionnaire to lawyers. You could get information from them on procedures).

4. **Complaint list of sexist lawyers.** (Southeastern Connecticut Chapter, 16 Morgan Street, New London, Connecticut 06320 has one and can give you guidance. Be certain to get the list of legal constraints for this project as there are libel and slander dangers, if such a complaint list is not privately held for N.O.W. members only).

5. **Investigate the bigamy laws** in your state and what prosecutions have been made. Compare your information with someone doing the same thing in another state. This area is potentially explosive because state laws differ widely; district attorneys seem reluctant to prosecute this felony; and we believe bigamy is widespread and hidden.

6. **Kidnapping of children by their non-custodian parent.** Write Citizens Committee to amend Title 18, P.O. Box 936, Newhall, California 91321 for information on this project.

7. **Housewives problems.** Write Sharon Menard, 2348 N. 107th Street, Lafayette, Colorado 80026. The Boulder, Colorado chapter has done a study on this subject that includes practical, sociological and psychological aspects.

8. **Discrimination against women in the Federal Income Tax Code.** Professor Stuart Filler, School of Law, Hofstra University, Hempstead, L.I., N.Y. 11550 has information

9. **A cost of living schedule** for your region to be circulated and publicized to aid lawyers and judges in setting appropriate amounts for alimony and child support.

10. **Psychological studies,** such as:
    a. Personality of the divorcing adult.
    b. Emotional effects of divorce on children.
    c. Day care centers and their effect on children under 4 years old - especially children of divorced parents.
    d. Juvenile deliquency among children of divorced parents

There is already some material published on these subjects and your bibliography would be helpful.

11. **A file-your-own divorce kit.** There are some kits in existence and the use of them is being fought in certain states. Further information will be available in subsequent newsletters

12. **Shelters for divorcing women** who are threatened with, or are experiencing violence at home. The Wilmington, Delaware chapter has one such in operation and can give suggestions. (Roslyn Rattew, 708 Rysing Drive, Wilmington, Delaware 19809).

13. **Compile a series of booklets giving information on:**
    a. Marriage law; divorce law; credit law; pensions and insurance law in your state.
    b. How to choose a lawyer.

Long Range Goal:

To prevent divorce, education is needed in schools and universities on family living which would include parental roles, marriage roles, civic responsibility, sex education, child-caring on a day-to day basis, elemental child psychology, and related subjects.

Data gathering and the above projects can inform women of their rights; can dispel the myth of divorce; can rectify the injustices to women that exist in the marital courts; help institute "responsible divorce".

The current situation makes divorce a rip-off of the women. N.O.W. knows this and is taking action!

MYTHS OF DIVORCE

1. That divorced men wholly support their ex wives and the children of ex-wives. (70% of divorced women work – 62% of this 70% have children under 6).
2. That courts set alimony and child support orders that maintain the life style of the marriage.
3. That divorce settles all the problems of a married couple in conflict.
4. That divorced men pay on schedule and the exact amounts the alimony and child support ordered by the court.
5. That women make money on alimony.

PENDING LEGISLATION

Listed below are bills dealing with enforcement of child support. The underlying purpose of all the bills is to strengthen support enforcement. The bills differ in scope and detail. We suggest you write expressing your interest in general in strengthening support enforcement and refer to these bills. Write to the Chairman of the Committee to whom the bill has been referred and to your Congressperson if the bill is listed as "H.R.", and to your Senator if the bill is listed as "S". Either your legislator or the Committee Chairman can send you copies of the bills if you would like to examine them in detail and comment. Both the government Committee Chairmen and this NOW Task Force are extremely interested in your opinion.

FEDERAL BILLS

H. R. 9240. Introduced July 12, 1973 by Mr. Koch and Ms Abzug. This would amend title 5, U.S. Code to provide that the wages of Federal employees be subject to court-ordered deductions for child support. (This includes a member of the Armed Forces). Referred to the Committee on Post Office and Civil Service, Representative Thaddeus J. Dulski, Chairman.

S. 2061. Introduced by Senators Munn and Talmadge. This would amend Title IV of the Social Security Act to provide a method of enforcing the support obligations of parents of children who are receiving assistance under such title and for other purposes. Referred to the Senate Finance Committee, Chairman Russell Long.

In the Congressional Record of June 27, 1973 Senator Munn states, "Certain myths have grown up about the difficulty of locating absent parents and their inability to provide support when located." State child support enforcement activities have not been monitored and frequently are ineffectively administered. This bill would provide:

1) an effective program of locating the parent
2) establish paternity
3) effective systems of support including the creation of a collection mechanism under the Attorney General, and for the garnishee of the salaries of Federal employees for court ordered deductions for child support.

S. 1842. Introduced by Senator Bellmon. Would amend the Social Security Act so as more effectively to assure that certain children who have been abandoned by a parent will receive the support and maintenance which such parent is legally required to provide, and otherwise to enforce the duty of parents to provide for the support and maintenance of their children. Referred to the Senate Finance Committee, Chairman Russell Long.

S.852. Introduced February 15, 1973 by Senator Tower. To provide for the enforcement of support orders in certain state and federal courts and to make it a crime to move or travel in interstate and foreign commerce to avoid compliance with such orders. Referred to the Committee on the Judiciary. Chairman John L. McClelland.

STATE

California

Assembly Bill AB – 1946. Introduced by Assemblyman Alister McAlister. Provides that child support be deducted from the wages of the parent ordered by the court to pay. It would work this way:

NEWSLETTER–NATIONAL TASK FORCE MARRIAGE, DIVORCE & FAMILY RELATIONS OF THE NATIONAL ORGANIZATION FOR WOMEN

EDITORIAL POLICY

This issue of the newsletter marks our most formal effort to give direction to and information about the activities of the Task Force. It also reports what's happening in legislation of interest to us, and what significant developments are happening around the country. Please send us your input -- and help destroy the myths surrounding marriage and divorce by circulating this newsletter.

Send news to: Betty Berry, Editor, 641 East 20 St., N.Y.C. 10010

1) When a court order for child support is entered a copy of the order shall be sent to the employer of the parent ordered to pay.
2) The employer shall deduct the child support in accordance with order and mail it directly to the custodian of the child.
3) For these services the employer will receive a state tax credit to cover bookkeeping and mailing costs.
4) Should the parent leave that employer the order shall be returned to the Franchise Tax Board which will then forward it to the new employer for handling in the same manner.

For copies of bill write to Assemblyman McAlister, 25th District, State Capitol, Sacramento, California 95814.

OTHER LEGISLATION.

FEDERAL CHILD CUSTODY BILLS

The latest results of the Citizen's Committee to Amend Title 18, Section 1201a, of the U.S. Code's efforts are that the House and Senate's Judiciary Committees are presently studying bills which would amend the kidnapping law. In the House, the bills are H.R. 4191 and H.R. 6046. In the Senate the bills are S. 1 and S. 1400. It is important to write to the chairman of these committees now and to urge them to support the bills that are pending in their committees. These bills will give FBI aid to local and state law enforcement agencies, when children have been stolen in violation of custody orders, and taken across state lines and out of the jurisdiction of the state.

Contact: Honorable Peter W. Rodino, Jr., Chairman of the House Judiciary, House Office Building, Washington, D.C. 20515 and Honorable John L. McClellan, Chairman of the Senate Judiciary, U.S. Senate, Washington, D.C. 20510

The above information is from Beth Kurrus, Coordinator of the Citizens' Committee to Amend Title 18. She also reports that her grand children have been returned.

RECENT BILLS PASSED BY STATE LEGISLATURES

Michigan: The House and Senate passed a bill establishing one criterion for granting a divorce which the Governor is expected to sign. The criterion would be a finding by a judge after hearing evidence, that the partnership was so troubled that "the objects of matrimony have been destroyed and there remains no reasonable likelihood the marriage can be preserved." Reconciliation, property, custody and alimony arrangements are unchanged.

Maine: Approved into law on June 20, 1973 an amendment providing for irreconcilable marital differences as a ground for divorce.

New York: Signed into law an act amending the Domestic Relations Law to extend definition of state under Uniform Support of Dependents Law to include a foreign country.

Signed into law a provision to Domestic Relations Law that in matrimonial action for divorce or annulment, judgment or decree shall contain provision that women may resume use of maiden name.

THREE TASK FORCE RESOLUTIONS PASSED AT N.O.W. PITTSBURGH CONFERENCE.

The following resolutions from the workshop were passed at the NOW Eastern Regional Convention 1973, Pittsburgh, Penna. May 26--27, 1973.

1. In order to study sexism in the courts with the view toward eliminating it, BE IT RESOLVED that NOW adopt a program in each state to have court monitors or observers from NOW.

2. BE IT RESOLVED that NOW is opposed to closed hearings in proceedings in domestic relations matters, including but not limited to divorce, support, custody and visitation, except by consent of both parties.

3. BE IT RESOLVED that NOW is opposed to any and all closed court records in proceedings in domestic relations matters, including but not limited to divorce, support, custody and visitation.

HEALTH INSURANCE FOR DIVORCED PERSONS

Wives who were covered by their husband's health and medical insurance are discovering that upon divorce generally they are no longer covered under the former policy.

In New York State the N.Y. -N.O.W. Marriage and Divorce Committee worked with the N.Y. State Dept. of Insurance to change this. In 1971 the N.Y. State Legislature amended the insurance code so as to extend conversion rights in group health and accident policies to the divorced spouse. The way it works is that the dependent spouse is offered an option to continue the policy (on a different premium basis) without interruption of coverage or any exclusion of medical conditions other than those excluded under the existing policy.

For further information about this statute write to Benjamin R. Schenk, Superintendent, State of New York Insurance Dept., 123 William St., N.Y. 10038 and refer to chapter 899.

N.O.W. MEMBER PROPOSES A TAX REFORM PLAN FOR ECONOMIC JUSTICE AND EQUALITY IN MARRIAGE.

Virginia (Bonnie) Cowan, a lawyer and member of Nashville N.O.W., has presented testimony regarding income tax splitting by married persons to the U.S. House of Representatives Committee on Ways and Means. Her proposal "The Bonnie Plan" is reported in the Congressional Record of April 11, 1973.

In brief, she proposes "that any such couple be required to attest to an oath to be added to Form 1040, to be sworn to by each of the two married partners stating that he or she does in fact have equal ownership, management and control of the income, assets and liabilities of the marriage partnership, with penalties for perjury and fraud inhering to the oath." For further details write: Ms. Cowan, 188 Davidson Rd., Nashville, Tenn. 37205

STUDIES OF INTEREST TO MARRIED AND DIVORCED WOMEN

DOCTORS STUDY OF ILLS BROUGHT ON BY STRESS SHOWS THAT:

- death rate of widows and widowers is 10 times higher during the first year of bereavement than for others their age.
- divorced persons have an illness rate 12 times higher than married persons in the year following divorce.
- up to 80% of serious physical illness seems to develop at a time when the victims feel helpless and hopeless

From N. Y. TIMES, June 10, 1973

AFTER-DIVORCE COSTS TRANSFORMS MODERATE INCOME DIVORCED FAMILY INTO TWO LOW-INCOME HOUSEHOLDS

Janice Clinthorne of The Community Council of Greater New York researched living standards for a family of four with after tax incomes of $10,000. After the divorce a little more than $12,000 after taxes was needed to run the two households.

The cost of two apartments or an apartment and a house is the family's biggest expense. The cost of food goes up about 7%. Medical care costs rise because the wife has to get separate coverage while the husband can usually continue the children on his medical insurance plan, some of which may be paid by his employer.

Other significant increases are the duplication in cost of two telephones instead of one; reading material, contributions, and gifts. The study also pointed out that as the children grow older their financial needs will increase.

It was concluded that many couples contemplating divorce do not realize that it is much more expensive to maintain two households than one, and retain a comparable standard of living.

From N. Y. TIMES, July 8, 1973

A COMPARISON OF FAMILY LIVING COSTS FOR 1971 AND 1972 FOR A FAMILY OF FOUR FOR THE NEW YORK AREA

The Bureau of Labor Statistics has issued the following figures for the cost of maintaining a family in the New York-northeastern New Jersey area. They cite costs for three standards of living: lower, intermediate and higher level.

	LOWER	INTERMEDIATE	HIGHER
1971	$ 7,578	12,666	19,236
1972	$ 7,841	13,179	20,165

In subsequent issues of the newsletter we will print indices for other areas.

WOMEN'S INCOME 57% of MEN'S IN 1972

According to the U.S. Dept. of Commerce, Current Population Report of Consumer Income, June 1973:--

The 1972 median income for men working year round full time was $10,640, an increase of 9.4 percent over the 1971 median. Between 1971 and 1972, the median income for women working year round full time increased by 6.2 percent reaching a level of $6,060, or about 57 percent of the income of men.

--Series, P--60, No. 87 June 1973

CHICAGO DAILY NEWS REPORTS ON FAILURE OF CHILD-SUPPORT SYSTEM

"It says something about our society that traffic fines can be collected but the money that goes to feed and clothe children isn't" observed Judge David Linn, one of the two judges (out of a total of 27) in the Circuit Court divorce division who hears postdecree cases.

Patricia Moore in two articles studied the situation of child support collection and enforcement in the Cook County (Chicago) area. She found there was no provision for monitoring child-support payments in Cook County. If the woman is not on welfare, there is no way of keeping a record of promised payments once the man leaves the court.

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She inentions that "The Chicago chapter of the National Organization for Women just did a very rudimentary check of a random number of Cook County divorces and found slightly more than 50% of the fathers weren't making their current payments."

Judge Linn and the other postdecree Judge, Robert Buckley, would like to see the state laws changed to require that child-support payments be made through some administrative system such as the clerk of the court. "These payments would be recorded on computers that give an automatic printout when the payments fall into arrears. Further, there would be an enforcement agency such as sheriff's police to bring the nonpayer into court."

"Michigan has such a system through the friend of the court office. The Wayne County (Detroit) office collected nearly $42 million last year. That sum covered payments in a variety of areas besides child support (separate maintenance and paternity suits, for instance) but the overwhelming amount, perhaps 80 to 90% was in postdivorce child support.

(By contrast, the court services of Cook County Public Aid, which seek to collect for women on public aid and a relative handful not on welfare but unable to pay a lawyer, collected less than $3.5 million in 1972. Cook County has a larger population than Wayne, so it is apparent that a huge number of men here are paying small amounts of child support or none at all.)"

The article describes an interesting provision in Wisconsin "which also has a system of paying child support through court. A divorced father cannot get a marriage license to remarry without permission of Family Court. The hearing officer checks the applicant's payment file and, if the man is in arrears, he can't get the marriage license."

--Chicago Daily News, June 28, 29, 1973

FOR YOUR CALENDAR

N.O.W.--NEW YORK STATE MARRIAGE AND DIVORCE CONFERENCE

New York City -- November 17--18, 1973

The CHAIRMAN. Do you have an additional statement, Ms. Berry?

Ms. BERRY. Thank you, I do, Senator. My name is Betty Berry and I am the adviser to the Naitonal Task Force on Marriage, Family Relations and Divorce of the National Organization for Women.

Having previously served as coordinator of that task force for 5 years, I welcome this opportunity to testify on legislative proposals S. 1842 and S. 2081, which deal with child support enforcement, which is one of the major problems of divorce.

I will underscore NOW's interest in the principle of establishing a parent locater system and the concept of a Federal child support fund as described in S. 1842 by describing the divorce and support situation in the State of New York. Then I will mention very briefly NOW's interest in the development of new systems for dealing with divorce as it relates to the subject before us today.

Essentially divorce is a new phenomenon in our society and we have not had time to develop the necessary judicial, legal, and social institutions to cope with it.

The proposed bills are the start of a new approach of treating the very serious problem of support enforcement.

NOW recently undertook a study of the divorce and support situation in New York State. In 1967 the New York divorce law was liberalized. It had been very strict with only one ground for divorce. In the last year under the old law there were 4,000 divorces. In 1972 there were 10 times as many divorces, there were 30,000. But there has not been a correspodning increase in the number of petitions for support in the family courts. While there was a small increase, it in no way reflected the dramatic increase shown in divorce cases.

And in studying the data we find that, while the official report of the Judicial Conference says that petitions for support are the largest single segment of cases in family court, there was no detailed breakdown of them. The report listed 29 types of offense for juvenile delinquency but just one single category of petitions for support.

We also found that the number of collections for family support in five counties in New York State remained constant over 3 years. The detailed figures on the yearly collections are in my printed testimony.

We know also that the number of families receiving aid to dependent children because of marital breakups was 2½ times greater 5 years later.

NOW members involved with support problems have found the family courts in New York seemingly overwhelmed by the magnitude and collection of the caseload. In May 1973, the Queens County of New York Chapter of NOW undertook a survey of support enforcement. Over 300 women telephoned NOW in response to an announcement and flier requesting information. These are some of the findings:

The average amount of time before getting on the court docket was 6 months. The minimum amount of time was 3 months. The average case was adjourned 17 times. The average number of years in court was 2.

193 of the women's husbands had moved to other States and were paying nothing at all on their support orders. The remaining 107 were having difficulty with the support orders. Over 60 women con-

tested their husbands' income statement. These men were self-employed and there was a great variance in what the women thought the men earned and what the men said they earned.

The findings revealed in this survey certainly indicated the need for locator services and a stepped up system of support payments.

We applaud the extension of services to persons other than those receiving public assistance. We know many middle-class women who are back living with their parents and spending a substantial amount of time as well as money trying to get their support orders enforced.

Further we urge the end of exemption of federal employees' salaries from garnishment. This exemption seems to us to be an unjustified loophole in the obligation of parents to support their children.

NOW is very interested in new concepts of handling divorce and I would like to go very briefly into this. These are not positions that we have voted on but are avenues we are exploring.

The first concept we would like to propose is that of preventive noncompliance. This would involve setting up a system for compulsory payroll deductions, wage execution or garnishment as soon as the support order is announced. The principal would be similar to the pay as you go system of Internal Revenue for income taxes. The mechanism of Internal Revenue might be considered for this kind of situation since it reaches the greatest number of people.

A simple beginning might be to start automatic deductions for child support where those obligations exist for Federal employees.

The second concept is the extension of social security benefits to dependent children of divorced parents in the same manner that survivorship benefits are extended to children upon the death of the supporting parent. The details of this are incorporated in the printed testimony in the paper entitled "A Proposal for Marriage Insurance."

This would utilize an existing family benefit structure.

The third concept is revising the social security structure to establish the housewife as an insurable class. In other words, the dependent spouse would have individual coverage and not so many benefits would be forfeited upon divorce. At the same time total coverage for dissolution of marriage would be incorporated in the social security system. This would be a new type of social insurance covering divorce and child support.

A pilot study was made for NOW which estimated that if every married worker between the age of 20 and 59 in covered employment paid a premium of $28 a year, a benefit of $100 a month for 8 years could be obtained. As I say the details are on the last page of my testimony.

To sum up, we think a huge increase in divorce merits and requires immediate attention and new solutions to its problems. Marriage should not be the road to becoming a public charge.

We appreciate very much the opportunity of testifying. Thank you.

The CHAIRMAN. Thank you very much for your statement.

You have given us some good views and advice and also some very constructive suggestions for the future. We certainly appreciate your testimony. We will study it.

[Ms. Betty Berry's prepared statement follows:]

TESTIMONY OF BETTY BLAISDELL BERRY, ADVISER TO THE NATIONAL TASK FORCE ON MARRIAGE, DIVORCE, AND FAMILY RELATIONS OF THE NATIONAL ORGANIZATION FOR WOMEN

Mr. Chairman and Members of the Committee my name is Betty Blaisdell Berry and I am the Adviser to the National Task Force on Marriage, Divorce and Family Relations for the National Organization for Women, having previously served as coordinator of that Task Force for five years. I am also a consultant to the Marriage and Divorce Subcommittee of the Council on Women and the Church of the United Presbyterian Church in the U.S.A. I will be speaking for N.O.W. unless I specifically designate a Presbyterian position.

N.O.W. is greatly concerned about the economic ramifications of divorce and welcomes this opportunity to testify on legislative proposals S. 1842 and S. 2081 relating to child support.

LIBERALIZATION OF DIVORCE LAWS

N.O.W. believes that the liberalization of divorce laws in many states proceeded without adequate financial safeguards and collection procedures for the dependent spouse, usually a woman, and the dependent children. We believe a consequence is an increase in the number of families receiving assistance under the Aid to Families with Dependent Children program.

Nationally an upward trend in divorce began in 1963 and accelerated in 1968. The rate has increased overe 80% in the last 10 years and for the last five years the average yearly increase in the rate was 11%.[1] Preliminary figures for 1973 show another increase. (There were 839,000 divorces and annulments in 1972).[2]

An analysis of the payments under the AFDC program shows that the total paid for the three categories of father absent because of a) divorce or legal separation, b) separation without court decree and c) deserting was nearly 2 and ½ times greater in 1971 than in 1967.[3]

Beyond the general concern for taxes and the burden on the public, as feminists we are even more concerned about the plight of these women whose lives and contribution to society are so devalued that they receive no financial or inadequate compensation from their husbands and as a last resource subsist on public funds.

Category	1967	1971
Divorced or legally separated	$30,639,964	$77,279,990
Separated without court decree	21,368,192	63,686,200
Deserting	38,315,619	77,102,810
Total	90,323,775	218,068,910

[1] U.S. Department of Health, Education, and Welfare, National Center for Social Statistics, Jan. 12, 1972, AFDC-2(71) table 85A.

Women have related the inadequacies of divorce laws and existing methods of support payments to our organization for five years. Problems of support cut across all economic levels—we hear from the woman in a welfare hotel with minor children and we hear from the woman in a $100,000 home waiting for her daughter's college tuition from a husband who has left the state with his former secretary and is duplicating his former lifestyle with a new wife. We find universally that the needs of the first wife and children are never as pressing as that of the second family in a man's priorities.

THE DIVORCE AND SUPPORT SITUATION IN NEW YORK STATE

I would like to examine the divorce situation in New York State which I am most familiar with, and which state in 1971 had the highest dollar amount of AFDC payments namely $88,350,420. In compiling the research for this testi-

[1] Monthly Vital Statistics Report, National Health Center for Health Statistics, HSM 71-1120, Vol. 21, No. 12, March 1973, p. 3.
[2] Monthly Vital Statistics Report, National Health Center for Health Statistics, Annual Summary for the U.S. 1972, HSM 73-1121, Vol. 21, No. 13, June 27, 1973, p. 11.
[3] U.S. Dept. of H.E.W., National Center for Social Statistics, August 1970, AFDC-4 (07) Table 131A.

mony we were handicapped by the paucity of data and the unavailability of information that would have been helpful to us. However, the N.O.W. chapter in Queens county undertook a meaningful study of support cases in May 1973 which we will rely on, and we have published figures from the Annual Reports of the Judicial Conference of the State of New York as well as the U.S. Government National Monthly Vital Statistics Reports and the H.E.W. National Center for Social Statistics Reports. The table on the following page incorporates the published data. In most of our research we try to substantiate or correlate the stories we hear with statistics. Unfortunately very few records of this type are kept in New York and conclusions have to be based on inference.

What are the dimensions of the divorce picture in New York? For the Judicial Year July 1st through June 30, 1966–67, the last year under the old divorce law, there were 4,073 divorce cases reported in Supreme Court.[5] The number of cases for the Judicial Year 1971–72 was 30,200.[6] Or to put it another way the number of divorce cases was ten times greater five years later. Recent figures continue to increase. For the month of March 1973 there were 4,152 divorces which is more in one month than for the entire year of 1966–67. Divorce cases now far outrank the number of negligence cases which used to be the largest category of civil cases in the Supreme Court.

Looking at the AFDC figures we see that the number of families receiving aid because of divorce and legal separation, and separation without a court decree in 1971 was nearly two and one half times what it was in 1967 (or 80,000 families.)[7]

The other category of statistics we examined was the number of petitions for support in the Family Court. For the Judicial Year 1966–67 20,800 petitions for support were disposed of[8] (excluding those in the category of Uniform Support Dependent's Law). For the comparable year 1971–72 28,805 petitions were reported for the disposed of category.[9] *While this is an increase of 8,000 petitions the size of this increase does not begin to correspond to the increase in the number of divorce cases.*

Among the responsibilities of the Family Court is the power to act as the collection agency for support. We were unable to get the total collection figures for the Family Courts throughout the State, but we do have the report for N.Y.C. which encompasses five counties including Queens in its report.

We have tracked these for eight years in order to include several years under the old divorce law. What is remarkable to us is that the *amount of collections over these years has remained fairly constant. Collections do not reflect the dramatic increase we observed in the divorce figures.* In fact for the last year reported, the actual number of transactions decreased, even though the total collections were higher. No explanation is given for this. (1971 809,000 transactions and 1972 808,000 transactions)

The figures are as follows:[10]

Year:	*Receipts*
1965	30, 973, 478
1966	32, 130, 032
1967	33, 374, 500
1968	33, 400, 954
1969	32, 867, 101
1970	32, 696, 969
1971	33, 283, 751
1972	34, 036, 057

In working with the published reports of the Family Court my most significant finding for our purposes was what they do not reveal. The 18th Annual Report of the Judicial Conference . . . for the period July 1, 1971–June 30, 1972 states "Support proceedings are the largest single segment in the Family Court".[11] The number of support proceedings was nearly three times that of juvenile delinquency and five times as many cases as child abuse.

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[5] 13th Annual Report, State of N.Y. The Judicial Conference 1968, Table 7 A116.
[6] 18th Annual Report, State of N.Y. The Judicial Conference 1973, July 1, 1971, June 30, 1972, Table 7.
[7] NCSS–AFDC–1 (71) Table 87.
[8] 13th Annual Report, op. cit. p. 383.
[9] 18th Annual Report, op. cit. p. 415.
[10] Annual Statistical Report of the Family Court of the State of N.Y. City of N.Y. 1972, p. 29.
[11] 18th Annual Report, op. cit. p. 388.

What is startling is that there is no detailed breakout for the petition figure other than a separate entry for USDI, petitions. The petition figure includes all kinds of support in and out of marriage, for awards, enforcement and modification. We do not know the rate of recidivism, amount of support, etc. On the other hand there are 20 categories of offense recorded under juvenile delinquency which includes such items as number of cases for sniffing glue, staying out late and using vile language.

The Administrative Board of the Judicial Conference determines what shall be contained in the periodic reports of the courts and until sufficient interest is registered in the composition of support petitions no breakdown will be reported.

WEAKNESSES IN THE NEW YORK DIVORCE LAW ENCOURAGING FINANCIAL IRRESPONSIBILITY ON THE PART OF THE SUPPORTING SPOUSE.

1. *Failure to provide for compulsory and full financial disclosure of assets.* This means the burden of proof falls upon the dependent spouse or wife. Falsification of income, concealment of assets, deliberate impoverishment such as quitting jobs, going back to school, giving up medical practice and moving to other states are not at all uncommon. This means support is set at a lower base than it should be.

In the study made by Queens N.O.W. of over 300 women involved in support cases over 60 of the women claimed that their husbands had falsified their income for the sake of lower support. These men were self employed and the wives had participated in the running of the businesses or offices. The women experienced great difficulty in proving their arguments.

STATISTICAL DATA FOR NEW YORK STATE PREPARED BY BETTY BLAISDELL BERRY FOR TESTIMONY BEFORE THE COMMITTEE ON FINANCE, U.S. SENATE, SEPT. 25, 1973

Judicial year July 1–June 30	Supreme Court N.Y. Incoming civil cases by number and category.		Petitions disposed of in family court (for support)		AFDC families in N.Y. State by numbers, dollar payments and marital status for calendar years 1967 and 1971 [1]		
	Divorce	Negligence	Total	USDL	Divorced or legally separated	Separated without court decree	Deserted
1966–67 [2]	4,073	37,896	[3] 32,691	11,891	15,157	17,447	61,544
Percent					6.8	8.4	32.8
Amount					$2,911,395	$3,593,149	$14,028,028
Average per family					$192.08	$205.95	$227.93
1971–72 [4]	39,299	19,286	[3] 43,715	14,135	36,200	44,600	94,000
Percent					10.9	13.4	28.3
Amount					$9,457,600	$11,559,600	$26,252,190
Average per family					$2261.26	$259.18	$279.28

[1] U.S. Department of Health, Education and Welfare, Social and Rehabilitation Service NSCC Report AFDC—3 (67), —4 (67) —1 (71) —2 (71).
[2] 13th Annual Report, State of N.Y., the Judicial conference table 7 and page 283. Years 1965-67.
[3] This includes USDL.
[4] 18th Annual Report, State of N.Y., the Judicial conferenc table 7 and page 388. Years 1971-72.

Recommendation: N.O.W. recommends mandatory and full disclosure with stiff penalties for failure to comply. This provision has been introduced in two legislative sessions as part of the N.O.W.–N.Y. Responsible Divorce bill.

2. *Ineffective method and mechanism for support payments conducive to non compliance*

In N.Y. State only the Supreme Court can grant a divorce. Both the Supreme Court and Family Court have jurisdiction over support with the bulk of cases being in the Family Court. At the time of marital breakup a woman can either go to the Supreme Court and ask for temporary alimony or she can petition the Family Court for support. Adjournments and other delays can drag into months before an amount is set by the court granting support. It is conceivably possible for months to go by before this award is enforced.

In the Queens study it was found that the minimum amount of time required to get on the court calendar or docket to get a support order enforced was three months. The average amount of time was six months. The average number of adjournments was 17 times and the average length of time it took

to get a petition disposed of was two years. One third or 107 of the women were experiencing difficulty with their support orders. Another group of 193 women had husbands who had left the state. Although the women had orders, the husbands were paying nothing at all.

It is widely believed that the Family Court has inadequate facilities and insufficient personnel at all levels which compounds its problems. A few illustrations and attitudes are given here, and we think they have wider application than merely New York.

(a) While the Court has the power to garnish wages in an interview with a N.O.W. Task Force member the Deputy Chief Clerk of the Family Court of one of the counties stated that "the judge could garnish his salary (the husband) but in general he doesn't since it can and has lead to loss of job"

(b) One estimate gives the judges 10 minutes per hearing.[12] The women say that if the case is at all complicated the judge will have to spend most of his time figuring out what previous judges have done. If the women try to explain or elaborate the judge may become impatient.

(c) A Family Court judge told me he felt the judges were reluctant to go after arrears in these cases and implied they were doing as much as they reasonably could if they simply got the payments resumed.

(d) At a Bar Association panel program within the last year a Family Court Judge spoke on "The Judge's Dilemma" which dealt with the problem of allocating an insufficient income between two families.

Recommendation: N.O.W. endorses the establishment of a locator service for absent parents as described in the bills before us and also supports the establishment of a revolving Federal Child Support Security Fund within the Treasury Dept. as put forth in the Bellmon Bill.

Further we recommend the establishment of a mechanism that would prevent non compliance. The bills before us deal with lack of enforcement. Our suggestion would preclude this condition in so far as possible. Most support payments are now conducted on a voluntary basis. We suggest a system of compulsory payroll deductions collected through the U.S. Dept. of the Treasury. Local courts are not structured to act as primary collection agencies which is the business of the Treasury Dept. Federal legislation would give legitimacy to support obligations.

ADDITIONAL RECOMMENDATIONS IN REGARD TO CHILD SUPPORT SHORT RANGE

1. *Recognition of support obligations for previous marriage before contracting new one.*

New wives are not always aware of the extent of these obligations and the effect on their future. The state of Wisconsin checks the Family Court to ascertain whether support obligations are up-to-date when a man applies for a marriage license. This should be routine in all states.

2. *Better education for marriage.*

We find a growing desire on the part of young persons to know just what their legal rights and obligations are during marriage, and we feel couples are entitled to this knowledge. The United Presbyterian Church in the U.S.A. has embarked on an educational program which details the rights and responsibilities of each partner in marriage, including support responsibilities. N.O.W. recommends that the dissemination of this information be mandatory before marriage.

FURTHER LONG RANGE RECOMMENDATIONS IN REGARD TO CHILD SUPPORT

1. *Investigate the possibility of federal insurance to cover divorce and child support.*

In this proposal Social Security would be expanded to include this and all married workers aged 20 to 59 would be covered. One study of this nature showed that for $28 per year benefits of $100 a month could be arranged for three years. This is described in the attached "Proposal for Marriage Insurance".

2. Investigate the possibility of including dependent children due to dissolution of marriage in the Social Security system in the same manner that survivorship benefits are extended to dependent children because of death. See details in the attached "Proposal for Marriage Insurance".

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[12] "Women as Property," Verna Tomasson, The New Republic, Sept. 10, 1970.

NEED FOR UNIFORM MARRIAGE AND DIVORCE LAWS

The different state laws mean that very different solutions for similar situations will be found because of geographic location. Geographic location determines the standard of justice. As the national divorce rate increases it becomes even more important to have standard guidelines for handling all the many aspects of divorce.

NEED FOR A COMMISSION

We respectfully suggest a government commission be created to outline the problem areas that need study, examine them and formulate programs.

CONCLUSION

Women traditionally married to live happily ever after. The modern woman thinks of marriage as a partnership with shared responsibilities and rights. All too many women are finding that marriage leads to becoming a public charge.

PROPOSAL FOR A MARRIAGE INSURANCE PLAN

(National Organization for Women, Betty Berry, Coordinator, New York Chapter, Marriage and the Family)

PREFACE

In studying the problems of the family, the NOW-N.Y. Marriage and the Family Committee concluded that the financial area of marriage is one of the most neglected and important aspects of this relationship. It is important not only for the marriage partners, but also for the family when the marriage is dissolved by divorce or death. Indeed, in terms of the future well being of the family, a sensible and thorough approach to the whole economic structure of marriage is essential.

The Committee analyzed the economic side of marriage and the economic effects of its dissolution and the resulting problems. In an effort to meet the financial difficulties caused when the marriage ends, we have outlined a possible approach that could alleviate and partially solve some of them.

We are, herewith, presenting this proposal to the National Board of the National Organization for Women for its consideration and discussion; and also sharing it with others who have an interest and concern in these problems.

Respectfully submitted,

BETTY BERRY.

INTRODUCTION

The basic economic dilemma confronting the housewife is that her position is not defined as an occupation in terms of compensation and fringe benefits. This perpetuates and reinforces her economic dependency upon her husband in marriage and greatly increases her financial vulnerability when the marriage ends.

When we realize that in the United States in 1960, 60% of all married women or 20,845,000 women did not work outside the home, we see the scope of this problem. Although, the housewife is entitled to support from her husband, essentially these women constitute our largest category of unpaid labor.

As long as the marriage continues to work tolerably well, the housewife is not aware of her dependency and precarious financial position. In effect, she is sheltered and betrayed by the myth of economic security for she is excluded from almost all civil rights and protective labor legislation. It is only when the ultimate hazards of her job occur—death, divorce, desertion, disablement—that she becomes aware of her own economic reality.

In America a tremendous step was taken to provide social insurance for its citizens when the Social Security Act of 1935 was enacted. Conceived in an era when the traditional role of the woman was to be a wife and mother, the focus of this insurance was on the man and the wife obtained her benefits indirectly through him. (Private insurance plans paralleled this). These benefits primarily related to her old age and subsequent widowhood. (In four out of five marriages the husband will die first). Thus from the onset, widowhood was recognized as an insurable hazard of marriage. At this time divorce was not widespread and was not considered a hazard.

These Social Security benefits have provided enormous assistance toward easing the financial situation of the elderly. But the fact remains, that the entire Social Security structure for the non-working housewife is based on her being an appendage to her husband and not in recognition of her services.

A comprehensive report "Social Insurance and Allied Services Report" by Sir William Beveridge was issued in England in 1941. In it he discusses the possibility of establishing the occupation of housewife as an insurable class. He states: "Recognition of housewives as a distinct insurance class, performing necessary services not for pay, implies that, if the marriage ends otherwise than by widowhood, she is entitled to the same provision as for widowhood . . ."[1]

Actually the situation of the wife in England is comparable to that of the woman in the United States because the property rights of married women are determined by the English common law (except for the eight American Community property states). For many years various organizations in Great Britain have been concerned with the property rights of the married woman. They have emphasized the basic inequity in the financial situation of the spouses under this law when divorce occurs, since the woman by becoming a housewife has forfeited her financial independence and in large measure her ability to accumulate capital except through gifts and inheritance. Surprisingly, women in the United States have apparently not manifested in organized concern about this.

The need for revision of existing property laws in the United States to insure a fair distribution of the assets of the marriage upon divorce or death will not be discussed here. However, a change in these laws is imperative in order to meet the needs created by the emerging patterns of termination of marriage by divorce and the ensuing sequential marriages. Such changes must accompany other legislative activity in this area.

The employment of women in the labor force has traditionally been an alternative to the career of housewife, or an interim period before marriage. When the marriage has ended in the husband's death and the widow was young enough, she has often entered the labor force. In other words there is a tendency to look upon employment and marriage as an either/or situation with the inevitable corollary that the economic status of the woman will be derived from and safeguarded by whichever path she follows. This polarization is being challenged by a number of factors.

In recent years many married women have returned to paid employment largely because of compelling economic necessity.[2] Among the more affluent members of society, there appears to be a gradual shift in the thinking of the fifties when a working wife had a negative social value in favor of a married woman exercising her option to work if she so desired.

These and other factors—such as the liberalized divorce laws—have created a new category in which a woman can move freely from job to marriage and back to a job again. The net result is that the economic status and security of the woman is subject to change, fragmentation, interruption and often termination over and above the normal vicissitudes that may attend her husband.

The Committee thinks it is important to take all the facets of a woman's life into consideration and meld them together in a plan that will meet these modern conditions and needs.

ECONOMIC RECOGNITION FOR THE HOUSEWIFE

First of all the housewife must be given ecomonic recognition for her household services in some manner. Her work must be afforded this dignity and her status changed to that of partnership from that of mere appendage or parasite (as the interpretation may sometimes be).

The domestic dependency of the stay-at-home wife can be lessened through various changes and innovations in our social insurance and tax structure. Economic acknowledgement of the housewife as a bona fide occupation or at least as an insurable class would improve her position in divorce enormously. It is time to admit the hazard of divorce is a reality and by so doing the resulting economic hardship, acrimony, and emotional trauma can be planned for and minimized.

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[1] Social Insurance and Allied Services Report. Sir William Beveridge, The MacMillan Co., N.Y. 1942, p. 134.

[2] "A Matter of Simple Justice." The Report of the President's Task Force on Women's Rights and Responsibilities. April 1970, p. 11.

In order to underscore the vagueness of the housewives legal economic status in New York, one legal position put forward maintains that a spouse does not have a vested right in the preservation of marital status, Social Security, property rights inheritance, etc. ("the loss thereof does not constitute a legal wrong, but only an injury to feelings").[8]

We suggest that a comprehensive plan be implemented that would reach from the altar to the grave whereby married women, or the dependent spouse would be covered by health and medical insurance, divorce or retirement insurance and benefits. This plan would be composed of a number of elements both public and private.

Several of these plans already exist and are carried by the husbands—the wives receiving the benefits on a dependency basis. (In a piecemeal fashion numerous men already have this lifetime coverage.) An essential element of such a comprehensive plan is to insure housewives individually for their services and not as dependents of their husbands. This in the main would simply result in a shifting, or sharing of policies and plans. However, it would eliminate those gaps in coverage that occur because of death, divorce or other contingencies.

Secondly, the plans should be so devised that there is a maximum portability of benefits from job to marriage etc. and continuous coverage. This would enable the woman to take her benefits in and out of the labor market and marriage. At the same time duplication of either benefits or payments should be avoided.

GOVERNMENT PARTICIPATION

The social benefits and insurance distributed by the government are to be considered throughout as a minimum level, or a floor. This is a skeleton which would be filled out according to individual need and means, as indeed is already the case.

A. Social Security Old Age Benefits

According to 1969 figures, as we have already noted, there are over 26 million married women who do not work outside the home. There are approximately 43 million married women living with their husbands.

These 26 million married women receive or will receive their old age and survivorship benefits as dependents of their husbands provided their husbands are in covered employment.

The remaining women are covered the same way, or through their own coverage which they have built up through their own employment.

It is NOW's position that the housewife should be insured individually in recognition of her services. An adjustment should probably be made in the social security deductions for employed persons and their dependent spouses in acknowledgment of the fact that the employer is receiving the services of the household spouse as well as the employed person.

It is also important to note that Medicare and proposed government health insurance plans are based on the existing social security structure. Unless individual coverage is instituted, future plans and extension of social security benefits just perpetuate existing inequities.

In any event as long as the present Social Security law is in effect, a dependent spouse should be guaranteed continued coverage regardless of the years of marriage or the financial arrangements of the divorce.

B. Social Security Family Benefit Plan

The existing social security structure provides for 1) Aid to dependent children 2) survivorship benefits to qualified family members upon the employe's death and 3) income to the employe and his qualifying family members upon disability.

Another financial catastrophe that can befall the family is divorce. In this case the dissolution of the marriage is by judicial decree rather than by death. However, the same circumstances apply in the case of a mother with young children to care for. Welfare roles throughout the nation attest to the need for financial aid of this type.

As an existing vehicle already providing a structure for family benefits, extending social security to cover qualified family members seems logical.

In addition, since mothers with dependent children are already receiving government aid under certain conditions, undoubtedly a certain percentage of

[8] "Correspondence", New York Law Journal, November 26, 1968.

these people would receive their benefits under this proposed plan. The additional financing required by this extension would require research and factual studies.

The proposal could work this way:

In case of a divorce, family benefits would be payable on the same basis as the present survivor family benefits are payable. The ex-wife and each child under 18 would receive 75% of the benefit that would have been payable had the ex-husband died on the date of the divorce. The same overall maximum family benefits would apply.

The ex-wife would receive benefits until the youngest child reaches age 18 but a child attending school would continue to receive benefits up to age 22. A disabled, dependent child would, of course, receive it for life. Once the children are past 18 the ex-wife's benefit would stop until she reaches age 62 at which time she would receive the 82½% life income just as if she had been widowed on the date of divorce.

In other words, no change would be made in the present Social Security provisions per se affecting this area of family benefits except to include this new group.

The realities of the amount of tax and how it would be paid would have to be determined. It would obviously begin at the time of marriage. One suggestion is this. At the time of marriage—first, second or however many—each man would pay an additional Social Security tax for his wife. This tax for her stops—just as it does now on disability or death whenever the family becomes eligible for the payment of benefits. A wife's earnings could be given a value equal to half of her husband's earnings. His tax for her, based on the then current Social Security tax base—would be the amount of tax payable for those earnings. The participation of the employer and the state would have to be determined.

Two examples are:

1. Man A—earnings $20,000. His wife's earnings for Social Security purposes would be $10,000. The current Social Security base is $7,800 and he would pay a tax for her on the full $7,000.

2. Man B.—earnings $6,000. His wife's earnings would be $3,000. So his tax for her would be the tax on $3,000 of earnings.

It is interesting to note on October 28, 1970 Prime Minister Heath's Government in Great Britain proposed a family assistance plan that would be of particular benefit to single persons bringing up children, who were in need. It would provide a minimum of $35 a week to a family with one child and $4.80 a week ment in Great Britain proposed a family assistance plan that would be of par- now divorced or separated persons, or widowers with children would be covered. However, the concept of this assistance is still based on need rather than anticipating an insurable hazard and providing for it as such.

C. Manpower Development and Training Act of 1962

Upon divorce, where necessary, the dependent spouse should be eligible for government sponsored retraining for re-entry into the job marked. Possibly such a program could come under the above mentioned act. Since the skills of the women invovled are obsolete in most cases, divorced wives are a disadvantaged jobless group. Higher education, where feasible, sould also be provided and certainly can be done through our city universities and colleges.

PRIVATE INSURANCE PARTICIPATION

A. Health and Medical Insurance

Upon divorce now, the health and medical insurance plans no longer cover the ex-spouse although the children are covered Some policies such as Blue Cross and Blue Shield do have an option to convert the policy to an individual basis. The New York Insurance Law states that widows have the right to conversion but in New York the law does not specifically cover divorced persons. We suspect this is generally true. This means that new policies have to be written, medical examinations taken, and various exclusions can be written into the policy as the person may have developed medical conditions during the coverage of the old policy. The result is that, aside from the financial problems of getting a new policy, in some cases people are being penalized in the extent of their coverage because of divorce. In view of the astronomical medical costs today, NOW believes each person is entitled to the same or equivalent benefits that she or he had in marriage.

Accordingly NOW is drafting a bill for consideration by the N.Y. State Legislature at its 1971 session and has already obtained the support of several legislators. It is hoped that this will serve as a pilot bill for the nation. When the final text of the bill is prepared it will be attached as an appendix to this report.

B. Insurance To Cover the Contingency of Divorce

As discussed previously, the extension of social security benefits could provide a floor for qualified family members upon divorce. This however, would need to be supplemented. At any rate in the absence of existing legislation, alternate plans by private insurance companies should be encouraged.

Besides reducing the economic hardship upon divorce, the difficulty in enforcing court orders for support and all the attendant problems of collection would be eliminated if insurance could take over the job. And to the extent that it can, the whole problem will be that much easier, and the need to establish effective government mechanisms to enforce alimony and child support payments obviated.

Insurable Risk, Social Value, Economic Loss

This Committee believes there is an insurable risk with some social value in insurance to cover divorce. A definite economic loss results to the head of the household since from 30–50% of his income will probably be assigned to his ex-spouse and children. Funding should be available to offset this hazard.

Underwriting

There are some inherent dangers in insurance of this type and care must be used not to encourage antisocial behavior. Because there has been no experience in this type of insurance the first plan we are submitting for study is a very simple one. A description of this plan, which we will call Plan A follows:

NOW PLAN A

In essence benefits would be paid on a monthly basis for an indeterminate number of years. Initially no choice as to type of benefit would be offered because of underwriting considerations.

The policy would be sold in units of $100 a month and would span a period of time—2, 5, 10, 15, or 20 years.

Length of Time Necessary To Pay Premiums Before Effective

It was felt that premiums should be paid for five years from the date of issuance before this policy would become effective. Possibly it could be arranged on a three year basis.

To Whom Would the Policy Be Paid

The policy would be paid to:

(a) The dependent spouse or,

(b) Each of the marriage partners could be jointly insured jointly responsible for premiums and the benefits payable in equal shares to each.

The extent to which the children were to be protected would also be considered.

Divorce Much Be Clearly Established

Must Be Legally Married

Would refund premiums, if discovered this were not so.

Premium Rates

Might vary upon age and length of the marriage.

The Commitee would be interested in determining if certain occupations or professions have a higher divorce rate than others; in which case those persons so employed might pay a proportionately higher rate.

It is possible that dividends could be paid on this insurance.

Non-Payment of Premiums

If the couple remains maried and stops payment there will not be cash values.

Death

If one of the partners dies the company will pay premium refunds to the estate as upon death policy null and void.

Pilot Project

This Committee is working on setting up a pilot project in cooperation with the N.Y. State Department of Insurance. The Department will work with us

in costing out such a policy and establishing premium levels for this type of policy. When completed this information will be attached in the Appendix. If, and as, other forms are developed they, too, will be appended.

Whether the magnitude of this social problem is great enough at present to sell this type of policy is not known. The insurance companies have to be convinced there is a market and all of this depends upon acceptance and demand by the public.

It is possible that this type of policy could also be incorporated with another kind of insurance.

C. Private Life Insurance, Pensions and Annuities

Traditionally the bulk of insurance has been carried by men. Upon divorce, the ex-wife and/or children may be beneficiaries of this life insurance.

In this connection it should be borne in mind that the average life expectancy of women is seven years more than men of the same age. Upon the death of the ex-husband alimony stops and therefore the older ex-wife needs insurance coverage. Moreover, the amount of insurance this ex-wife gets is a matter of negotiation not law, at least in N.Y. With an increasing pattern of sequential marriages, especially for men, there is understandably a growing reluctance on the part of wives to see all the insurance carried on the men. There is also a growing interest in annuities and pensions for wives.

Also the working divorced wife with children may wish to insure herself in order to protect her children.

Congressman Bertram Podell of Brooklyn has recognized the need for a housewives pension plan and has developed a plan whereby housewives could set up their own pension fund. A housewife would be allowed to put a maximum of $25 a week into this which she would presumably take out of the house money. This has certain tax advantages and is similar to the present Keogh plan for self employed persons. In this case Congressman Podell says the wife would be called an independent proprietor in charge of a specific amount of money—that used for the feeding, housing and clothing of the family. Such a system would enable the woman to create her own pension plan, independent of her husband's and she could supplement it and temporarily discontinue it, if she were going back to work and eligible for a company pension.

Senator Javits' plan of pension portability from job to job would be very helpful to the married woman who is quite likely to have an interrupted job record and lose her coverage in such pensions.

CONCLUSION

Divorce has brought with it a new social need. This will be reflected in the distribution of existing insurance as well as necessitating new types of insurance.

Beyond this, the growing importance of and emphasis on fringe benefits in paid employment is also affecting the attitude of the wife toward her marriage. More and more women will have had these benefits before they married, and during marriage if they work outside the home. This exposure to these types of social insurance is causing the thoughtful woman to wonder why a modern system of social security and insurance cannot be devised that would apply to her occupation of housewife.

Whether the government and the insurance industry will anticipate this changing need and meet the challenge and responsibility will to some extent depend upon the awareness of the need and the demand for the services.

APPENDIX A

NOW met with actuaries of the Metropolitan Life Insurance Company and discussed the possibility of developing a divorce insurance plan. The company agreed to undertake a pilot study as a public service. We are most grateful to this company for their cooperation.

A plan was drawn up and the highlights are given below. The most significant conclusion was that it would probably have to be developed along the lines of Social Security. According to the thinking and statistical research of the Metropolitan Life Insurance Co., it was felt that a divorce insurance plan would only be feasible from the actuarial standpoint if there were compulsory enrollment. This would require legislative action. It seemed as if the existing social security mechanism would be the logical way to incorporate such a plan.

Under this basis, the plan would cover all married workers between the ages of 20–59. Each worker would pay $28 a year. This premium would permit the following benefits:

(a) $100 a month temporary annuity for three years to the dependent divorced spouse (as long as unmarried).

(b) at age 60, if still unmarried, a benefit of the same form and magnitude as the present widow's benefit under social security would be paid.

The marriage must have lasted 5 years in order for the person to be eligible.

The CHAIRMAN. Next we will call Mrs. Kenneth Greenawalt from the League of Women Voters.

STATEMENT OF MRS. KENNETH GREENAWALT, NATIONAL HUMAN RESOURCES CHAIRMAN, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, ACCOMPANIED BY BETTY VINSON, SENIOR STAFF SPECIALIST, LWVUS, AND RUTH SIMS, ACTION CHAIRMAN FOR THE NATIONAL BOARD OF THE LWVUS

Ms. GREENAWALT. I am Martha S. Greenawalt, a member of the National Board of the League of Women Voters of the United States and chairman of its human resources item.

To my left is Betty Vinson, a member of our staff and to my right is Ruth Sims, chairman of our action department.

I welcome this opportunity to appear before the Senate Committee on Finance to protest the program proposed in S. 2081 for setting up a new Federal system in the Department of Justice to force absent parents to support their children.

I would hope that the full statement will be placed in the record, please.

The league is not opposed to child support; but we want constructive programs that reinforce and strengthen family life. We believe this bill has little in it that is constructive to offer and much that is unjustifiable.

We urge the members of the Finance Committee to reject the proposals in S. 2081 for child support and establishment of paternity for these reasons:

(1) The tremendous human and financial resources required to carry out the program as proposed could and should be used to strengthen family life and the welfare program in more constructive ways;

(2) The proposal discriminates against AFDC recipients, most of whose family heads are women, and deepens the separation of people living in poverty;

(3) The proposed new federal system of administration would make an already complex AFDC system a costly hydraheaded monstrosity;

(4) The coercive policies it proposes smack of an Orwellian violation of individual rights and excessive invasion of privacy;

(5) The proposed new federal system of enforcing child support and paternity determination would be available to nonwelfare families as well as to AFDC recipients. Jurisdiction of this committee, therefore, seems questionable.

Let me expand a bit on as many of these reasons as time permits:

1. Need for More Constructive Ways To Strengthen Family Life. In introducing the bill for himself and Senator Talmadge, Senator

Sam Nunn (who, we note, is not a member of this committee) said that it would "help reduce the welfare rolls" and ". . . should be an affirmative force in preventing family breakup."

The first reason stated is a dead giveaway that the real goal of S. 2081 is reduction in the numbers of families with children on welfare rolls. It is easy to imagine that, as a result of the proposals in S. 2081 to enforce child support, many mothers simply would not apply for aid under AFDC. The potential for harrassment would not justify the reward and children, once again, would bear the burden of adult irresponsibility—that is a high price to pay for reducing welfare rolls, especially when there are other, more constructive options for helping people off of welfare.

The second advantage Senator Nunn ascribes to the bill is that it would be "an affirmative force in preventing family breakup." How can this be true when the bill deals only with identifying deserting parents, locating them and collecting support? The breakup would have occurred already.

The numbers of "welfare" and "nonwelfare" families that are separated is tremendous. And we do know that only 38 percent of fathers are still making child-support payments 1 year after a decree of separation. If the proposed program is in fact to be available to all families having a deserting parent, then a massive and costly new bureaucracy would be required.

It is obvious that, for AFDC and nonwelfare families alike, family life would be strengthened more readily if the same amount of money and effort were spent in more positive ways, for example, by adding to existing programs of family counseling, legal services and child care, and by increasing wages and creating more job opportunities.

For lower income families, if the only way a parent can assure a decent income for the family is by living separately, then obviously something is lacking in the opportunities society provides for those families. Special studies have provided much evidence to indicate that the work attitudes and ambitions for family life and their children are the same among so-called welfare families as for other families. Why then take out after AFDC families with a coercive and costly program of hunting down parents?

During the 91st and 92d Congresses, the committee pointed out how the present AFDC program drives families apart. Why not, then, take constructive steps? For example:

(1) The Federal AFDC program should require that intact families, including those with a parent who works full time, be eligible for assistance;

(2) The program of social services should be available to intact families (rather than being denied to them as under the newly proposed regulations);

(3) State and local capabilities to meet needs of separated families should be strengthened. Ways to achieve that include an infusion of Federal funds to undergird State and local domestic affairs courts, to provide incentives, technical assistance, and staff training to State and local agencies, and to promote equity among States. Parents would then have greater opportunity to seek aid voluntarily and without regard to any classification as "welfare" or "nonwelfare" parents.

2. The proposal is discriminatory in several respects. First, applicants for aid to families with dependent children are the only citizens in the country who, as a condition of receiving Federal assistance, will be required to sign over to the United States the rights to support funds and to cooperate with the U.S. attorney general in establishing a paternity and obtaining support payments.

What about veterans for example? Are male and female veterans who apply for educational aid, going to be required to support children they have deserted, here and in other lands, or to name and help pursue deserting parents as a condition of Federal school assistance? Not according to this bill. Let me footnote this, however. We are not implying league support for application of S. 2081's system to veterans. Far from it!

Second, the proposals in S. 2081 would segregate public assistance recipients in families with dependent children from other separated families. One major goal league members have in seeking welfare reform is to gain a system of public assistance which will bring needy more into the mainstream of American life—not isolate them further.

Third, most of the parents who head AFDC families are the mothers. They are the ones who would be subjected to Federal investigation and harassment, and this fact makes the bill discriminatory against women. Another goal the league has is assuring equal opportunity for women. S. 2081 violates this concept.

Would it be right or constitutional to require one class of Federal-aid recipients to meet conditions that other needy applicants for Federal grants are not to be required to meet? The league is convinced that such discriminatory practice would be wrong and unjust.

We are convinced that the effects of S. 2081 would be evil and that a country dedicated to the principles embodied in the Bill of Rights, and as wealthy and as resourceful as ours should not stoop to the requirements set forth in this bill for AFDC applicants.

If a parent has children who are hungry, in ill health, and living in rat-infested housing, the only option, often, is to turn to the one source of aid there is—the Federal/State public public assistance system. Making aid for the parents conditional upon assigning certain rights to the Federal Government, and helping to identify the deserting parent, smacks of coercion and a police state.

We note that payments to children themselves would not be terminated; but without the amount otherwise due the parent being paid, the assistance would be far too meager. I cannot imagine that the $30 incentive payment to parents, plus a chancy small amount of child support would be worth the harassment, and fear of reprisal by the deserting parent, especially to a female parent.

A sense of privacy and dignity is hard enough to maintain when one is in need; subjecting people to unnecessary investigation and police surveillance is demeaning.

COMMITTEE JURISDICTION

The bill would amend title IV of the Social Security Act. Clearly the program of aid to families with dependent children has come under jurisdiction of this committee primarily because that Federal-aid program is a part of the social security law. But the section 459 pro-

vides for aid to nonwelfare parents, and that is another matter. If, as Senator Nunn says, "* * * this service (the Department of Justice parent locator service) would also be available on a fee basis for locating other deserting fathers", then a new Federal program unrelated to the public assistance system is what is intended. If that is true, the league believes another committee, either Labor or Public Welfare, or Judiciary should have jurisdiction. To continue to load down the social security system and this committee with legislation which relates only peripherally to its main revenue concerns is unwise and unnecessary.

Again, I thank you for the opportunity to speak to you today. I urge the committee to consider this bill to promote child support and parent determination with great skepticism and critical thought.

The CHAIRMAN. Thank you very much.

[Mrs. Kenneth Greenawalt's prepared statement follows:]

TESTIMONY OF MARTHA S. GREENAWALT, CHAIRMAN, HUMAN RESOURCES COMMITTEE, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

I am Martha S. Greenawalt, member of the national Board of the League of Women Voters of the United States and Chairman of Human Resources. I welcome this opportunity to appear before the Senate Committee on Finance to protest the program proposed in S. 2081 for setting up a new federal system in the Department of Justice to force absent parents to support their children. Not that the League is opposed to child support; it is, rather, that we want *constructive* programs that reinforce and strengthen family life. This bill has little that is constructive to offer and much that is unjustifiable.

Because of conflicts between the press announcement of these hearings and statements by staff members, it was unclear as to whether or not this set of hearings was scheduled to deal also with the work bonus and "guaranteed job opportunities" proposals reported last year by this Committee as a part of HR 1. Certainly we are not aware of any legislation pending with regard to those recommendations. As most Committee members know, the League opposed the work bonus and guaranteed job opportunity plans last year. We still oppose them, and we urge separate hearings on the proposals if the Committee has them under consideration for reintroduction.

And while I am here, I want to take the occasion to thank the Committee members for your action that resulted in delaying the effective implementation date of the social services regulations issued by the Department of Health, Education and Welfare. I trust that you will review HEW's most recent modifications, which the League still finds inadequate, and insist that HEW comply with the legal requirements you summarized in the Committee Report on the Renegotiation Act. The League filed a statement with the Committee during hearings on the regulations, so I need not comment on the changes we see as essential. Suffice it to say that social services programs must be designed and administered so as to help families stay together and to enrich family life.

Today, I shall speak primarily about S. 2180, which would amend Title IV of the Social Security Act by adding a new section to be known as Part D: "Child Support and Establishment of Paternity." As we understand it, the Committee has before it the House-passed bill H.R. 3153, making technical corrections and amendments to Public Law 92-603 (better known as H.R. 1 in the 92nd Congress.) H.R. 3153 is the basic legislation which could be amended to make further changes in the welfare titles of the Social Security Act and could be amended to include provisions of S. 2081.

We urge the members of the Finance Committee to reject the proposals in S. 2180 for Child Support and Establishment of Paternity for these reasons:

1. The tremendous human and financial resources required to carry out the program as proposed could and should be used to strengthen family life and the welfare program in more constructive ways;

2. The proposal discriminates against AFDC recipients, most of whose family heads are women, and deepens the separation of people living in poverty;

3. The proposed new federal system of administration would make an already complex AFDC system a costly hydra-headed monstrosity;

4. The coercive policies it proposes smack of an Orwellian violation of individual rights and excessive invasion of privacy;

5. The proposed new federal system of enforcing child support and paternity determination would be available to non-welfare families as well as to AFDC recipients. Jurisdiction of this committee, therefore, seems questionable.

Let me expand a bit on as many of these reasons as time permits:

1. *Need for more constructive ways to strengthen family life.*—In introducing the bill for himself and Senator Talmadge, Senator Sam Nunn (who, we note, is not a member of this Committee) said that it would "help reduce the welfare rolls" and ". . . should be an affirmative force in preventing family breakup."

The first reason stated is a dead give-away that the real goal of S. 2081 is reduction in the numbers of families with children on welfare rolls. It is easy to imagine that, as a result of the proposals in S. 2081 to enforce child support, many mothers simply would not apply for aid under AFDC. The potential for harassment would not justify the reward, and children, once agian, would bear the burden of adult irresponsibility—that is a high price to pay for reducing welfare rolls, especially when there are other, more constructive options for helping people off of welfare.

The second advantage Senator Nunn ascribed to the bill is that it will be "an affirmative force in preventing family breakup." How can this be true when the bill deals only with identifying deserting parents, locating them and collecting support? The breakup would have occurred already. Because of the short notice for this hearing, we have few hard facts to submit, but it is common knowledge that the numbers of "welfare" and "non-welfare" families that are separated is tremendous. And we do know that only 38% of fathers are still making child support payments one year after a decree of separation. If the proposed program is in fact to be available to all families having a deserting parent, then a massive and costly new bureaucracy would be required.

It is obvious that, for AFDC and non-welfare families alike, family life would be strengthened more readily if the same amount of money and effort were spent in more positive ways, for example, by adding to existing programs of family counseling, legal services and child care, and by increasing wages and creating more job opportunities.

For lower income families, if the only way a parent can assure a decent income for the family is by living separately, then obviously something is lacking in the opportunities society provides for those families. Special studies have provided much evidence to indicate that the work attitudes and ambitions for family life and their children are the same among so-called "welfare families" as for other families. Why then take out after AFDC families with a coercive and costly program of hunting down parents?

During the 91st and 92nd Congresses, the Committee pointed out how the precent AFDC program drives families apart. Why not, then, take constructive steps? For example:

1. The Federal AFDC program should *require* that intact families, including those with a parent who works full time, be eligible for assistance;

2. The program of social services should be available to intact families (rather than being denied to them as under the newly proposed regulations);

3. State and local capabilities to meet needs of separated families should be strengthened. Ways to achieve that include an infusion of federal funds to undergird state and local domestic affairs courts, to provide incentives, technical assistance and staff training to state and local agencies, and to promote equity among states. Parents would then have greater opportunity to seek aid voluntarily and without regard to any classification as "welfare" or "non-welfare" parents.

2. *The proposal is discriminatory in several respects.*—First, applicants for Aid to Families with Dependent Children are the only citizens in the country who, as a condition of receiving federal assistance, will be required to sign over to the United States the rights to support funds and to cooperate with the U.S. Attorney General in establishing paternity and obtaining support payments.

What about veterans for example? Are male and female veterans who apply for educational aid, going to be required to support children they have deserted (here and in other lands) or to name and help pursue deserting parents as a condition of federal school assistance? Not according to this bill. It should be noted that our question in no way implies League support for application of the S 2081 system to veterans.

Secondly, the proposals in S 2081 would segregate public assistance recipients in families with dependent children from other separated families. One major goal League members have in seeking welfare reform is to gain a system of public assistance which will bring needy people more into the mainstream of American life—not isolate them further.

Third, most of the parents who head AFDC families are the mothers. They are the ones who would be subjected to federal investigation and harassment, and this fact makes the bill discriminatory against women. Another goal the League has is assuring equal opportunity for women. S 2081 violates this concept. Would it be right or constitutional to require one class of federal aid recipients to meet conditions that other needy applicants for federal grants are not to be required to meet? The League is convinced that such discriminatory practice would be wrong and unjust.

3. *The administrative monstrosity.*—Already, recipients of Aid to Families with Dependent Children are hustled between various federal, state and local agencies which administer assistance grants, WIN-job programs and social services. In addition to that complex giant, this bill would impose a nationwide legal network of Attorneys General and new special agencies in every state to track down deserting parents. The Department of the Treasury's Internal Revenue Service would get into the act to check tax records and collect payments. The result would be an expensive, hydra-headed administrative complex, which would serve only a small percentage of people in the country.

Reducing the administrative components only to the largest administrative units, we can count these nine heads: four federal bureaucracies—the Departments of Health, Education and Welfare, Labor, Justice, and Treasury; and five state and local units—state and local welfare grant assistance and social services agencies; state and local WIN-related agencies; and new state agencies for finding parents and collecting support. This does not count the new regional blood-typing laboratories to be administered by HEW.

And all of this at what cost in dollars? We can find no estimates, and the authorization is open-ended. Surely, the proposed elaborate system of securing agreements from AFDC applicants, finding deserting parents, checking federal agency records for evidence of income, collecting payments, and shifting money from one agency to another and eventually to the applicant would be costly beyond the point of return.

Why not, instead, require more careful administration of the 1967 child support requirements related to public assistance recipients? If voluntary state court and legal aid systems were beefed up simultaneously, parents could seek aid voluntarily. Then states could meet requirements of the present federal law without engaging in harassing tactics.

4. *Potential for violation of rights and excessive invasion of privacy.*—The League, of course, cannot present hard facts to prove to the Committee that a new network of federal and state agents working to find out who parents are, where they are, and how much they earn will result in violations of rights. And, U.S. Senators more often than not have the insight and foresight to avoid putting such proposals to a "real-life" test. We are convinced that the S 2081 system would be evil, and that a country that is dedicated to the principles embodied in the Bill of Rights, and as wealthy and resourceful as ours, should not stoop to the requirements set forth in this law for AFDC applicants.

If a parent has children who are hungry, in ill health, and living in rat-infested housing, the only option, often, is to turn to the one source of aid there is—the federal/state public assistance system. Making aid for the parents conditional upon assigning certain rights to the federal government, and helping to identify the deserting parent, smacks of coercion and a police state.

We note that payments to children themselves would not be terminated; but without the amount otherwise due the parent being paid, the assistance would be far too meager. I cannot imagine that the $30 incentive payment to parents, plus a chancy small amount of child support would be worth the harassment (and fear of reprisal by the deserting parent), especially to a female parent.

A sense of privacy and dignity is hard enough to maintain when one is in need; subjecting people to unnecessary investigation and police surveillance is demeaning. Furthermore, the *federal* Department of Justice connotes dealings with major national and international crime. Desertion is an irresponsible act; but certainly not one that justifies a knock on the door by a federal agent—or his state or local representative.

5. *Committee jurisdiction.*—The bill would amend Title IV of the Social Security Act. Clearly the program of Aid to Families with Dependent Children has come under jurisdiction of this Committee primarily because that federal aid program is a part of the Social Security law. But the Section 459 provides for aid to non-welfare parents, and that is another matter. The services to be provided are basically of a judicial or quasi-judicial nature. The Legal Services program is now under consideration by the Senate Committee on Labor and Public Welfare. That service would be available to low-income people on a voluntary basis for seeking support. If, as Senator Nunn says, ". . . this service (the Department of Justice parent locator service) would also be available on a fee basis for locating other deserting fathers" (p. S 12223), then a new federal program unrelated to the public assistance system is what is intended. If that is true, the League believes another Committee, either Labor and Public Welfare, or Judiciary should have jurisdiction. To continue to load down the Social Security System and this Committee with legislation which relates only peripherally to its main revenue concerns is unwise and unnecessary.

Again, I thank you for the opportunity to speak to you today. I urge the Committee to consider this bill to promote Child Support and Parent Determination with great skepticism and critical thought. It carries potential threats to individual rights, it fails to provide alternative and constructive programs to help answer needs faced by many children who have been deserted by a parent, and its administrative superstructure would be costly in dollars. That, in sum, is why we are convinced the Committee should reject S 2081.

The CHAIRMAN. The next witness and the last witness for today is the Honorable Jule M. Sugarman, Administrator, city of New York Human Resources Administration.

We are pleased to have you with us again and are sorry to have made you wait so long.

STATEMENT OF HON. JULE SUGARMAN, ADMINISTRATOR, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

Mr. SUGARMAN. I understand your problem perfectly. If it is agreeable to you I will just submit my statement for the record and mention a few points I would like especially to highlight.

No. 1, our statement clearly states New York City's position that parents should support their children and there should be vigorous enforcement methods.

The question really is what system will work? This committee has had long experience with experimenting with new systems and not having them work. So the first thing I want to urge very strongly is that whatever method you decide on—rather than going nationwide and converting the whole system at one time—try it on a pilot basis. Try it in a State, a few States, in a community or several communities, but don't try to put this system in nationwide overnight.

This, in my view, has been one of the real disasters of the public assistance and Medicaid systems.

The CHAIRMAN. Can you tell me how we could, on a pilot basis, try a proposal where we would call upon a U.S. attorney, for example, to help us require fathers to support their children?

Mr. SUGARMAN. Well, speaking only for the city of New York and not the State of New York, I would say the city of New York is willing to cooperate in an experiment in our city. For example, designate part of the second judicial circuit here—the Southern judicial circuit—and block out a geographic area. Treat all cases in that area for a period of several months or a year and assess the results of using the

offices of the U.S. attorney and with the cooperation of our department in the execution of the pilot program.

The CHAIRMAN. The thought that occurs to me is that if this program is to work, it seems to me we must make it very difficult for a fellow to escape doing his duty toward his children. If the Federal Government is going to make it difficult for these fathers, for example if the Federal Government is able through social security information to locate the father and simply start the proceedings against him, well, I don't see very well how we are going to do that on a pilot basis. In other words, if the father moves from any particular area, for instance from Washington, D.C., elsewhere, we will wind up with the fathers scattered throughout the entire United States.

Mr. SUGARMAN. I see no reason, Senator, why the U.S. Attorney for the Southern District of New York, for instance, could not reach out to his colleagues in other areas under a pilot program.

Let me underscore my point that we repeatedly go through the experience of trying to implement something overnight on a nationwide basis and it falls apart simply because it is not well prepared.

The CHAIRMAN. Well, I am a hundred percent in favor of the idea that before we inact a big new program, we should try it on a small scale and see how it is going to work. I for one would like to test the idea of paying a family twice as much in some sort of a workfare program—and, as you know, this would be on a voluntary basis—but I would be in favor of that instead of paying them for just sitting there on welfare.

When I proposed that to the various welfare administrators, those with whom I have discussed it have been enthusiastic about it. We seem to think it is a good idea and it will work. I very much think that may be the answer, but I think we ought to try it on a pilot basis, perhaps at five or six different cities and a few rural communities, and see how it works. But I agree with you that generally speaking on these broad nationwide proposals that we ought to try them on a pilot basis and see how well they work. I do think we are going to be seeing more of that.

Mr. SUGARMAN. Senator, if I might add, the last time I was before your Committee we talked a little about——

The CHAIRMAN. May I add one more point?

The great regret of my life in the entire time I have served here in this Congress was that we could not prevail upon those that spoke for the Nixon Administration to agree that they would be willing to have a proper pilot test, which the Committee could watch carefully, on that proposal for H.R. 1, and give us the opportunity to have the same type of test on the various workfare alternatives that were offered.

I subscribe to the theory that it is not a matter of who is right but it is a matter of what is right. And if I am in error and you are right, I will cheerfully accord you the opportunity to prove me wrong provided the opportunity is mutual. I think you should be willing to entertain my ideas, just like I am willing to entertain yours, so we can see which one is best.

Mr. SUGARMAN. It seems to me there could have been effective tests of both ideas developed.

The CHAIRMAN. We proposed it, you know.

Mr. SUGARMAN. Yes, I understand that.

The CHAIRMAN. The one thing that amused me about this thing was that a member of this committee, Senator Ribicoff, who served as Secretary of Health, Education, and Welfare, told me, and he has told others, that if he had been offered the same opportunity that this committee offered to Elliot Richardson and also his predecessor in the Department of Health, Education, and Welfare, to try the proposal and see if it would work, that he would have run a foot race to try it and he would have tried it right here in the District of Columbia.

Frankly, we all agreed if it would work here it would work anywhere, which was one reason why the Department was not willing to try it.

But if you think you have a workable proposal and you think it has some possibilities, I think you ought to be willing to give it a try and I would think we could have made tremendous headway if we could have persuaded the administration to test their proposal on what we would think would be an adequate basis and for us to test ours. It may be that the answer might not be either theirs or ours. It might be a mixture of the two. But how would you ever know if you hadn't tried it?

But this committee was not willing to double those welfare rolls unless it was sure it was going to mean in the long run a reduction of those rolls. And we didn't have any confidence it would work out that way.

So the program failed of enactment, but I hope very much that we can have more testing on a limited basis of these things. But I do have my doubts about your suggestion of seeking to have the U.S. attorneys help us on a pilot basis, particularly in the area where the State district attorney is uncooperative. It seems to me if you are going to do it, you ought to just do it rather than having a pilot test. But maybe you are right. We will certainly consider it.

Mr. SUGARMAN. I do want to mention a project which we discussed the last time I testified before this committee which relates to your interest in work programs. We have now instituted a work relief employment program in New York City. This is not a Federal program but a home relief category program. We now have converted well over 5,000 persons who are employable welfare recipients from welfare to part-time city jobs.

These persons are actually in jobs now and are treated as city employees. If they leave those jobs they are not eligible for welfare until some 75 days after they leave the job.

The CHAIRMAN. How many have you moved?

Mr. SUGARMAN. Over 5,000. By December we expect to reach 10,000. At that point there will be no welfare for an employable person in the home relief category.

The CHAIRMAN. How many of those are women that you are speaking about?

Mr. SUGARMAN. Probably about 30 percent are women. They are not, however, generally women with children. They are generally single individuals. This is a type of test which I hope this committee will take a close look at because I think it will provide some useful insights into what you may want to do in an experimental way further on.

We would like to do the same thing with a small group of our ADC population and would welcome the support of this committee in getting the Department of Health, Education, and Welfare to let us do that.

The CHAIRMAN. Well, you have my support for that concept and you will have it every step of the way. I will continue to support it. I think that is the type of thing that ought to be done to give people a chance to improve their condition by doing some work.

Mr. SUGARMAN. It is a source of great regret to us that the authority which is already available under the WIN Talmadge amendments for creating employment for welfare recipients is not being used by the administration. We have literally thousands of people who would like to go to work and get a decent job that we are not able to find jobs for and yet the authority is in the statute.

The CHAIRMAN. I hope we can provide the help that it will take to do that.

Mr. SUGARMAN. Just two other brief comments. One, I think part of the problem of support, which is not adequately addressed is the question of the level of support which the courts award. In New York City this averages about $15 a week. Since that represents probably no more than 20 or 25 percent of the man's income, I feel that the children are really getting shortchanged in terms of the level of benefits.

I am not sure that this is something the Congress can easily address but it is a real part of the problem. If you hope to make any real dent in the welfare rolls, someone will have to address that particular problem.

Second, as a number of your witnesses have already indicated, there ought to be a way for us to really deal with the issue of family instability either before or after it occurs. As it is now unless the family is actually on welfare (and if a man is present in the home the family is not on welfare), we can't get at that man. We can't give him employment. We can't give him marriage counseling. So we do need some device and some modification of existing laws which would permit us to really try to move in and help these families to regain or maintain their stability.

I think it should be on a time limit basis, for example no longer than 6 months. This would be very useful particularly in view of the very restrictive Federal legislation we are now faced with.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Sugarman. We appreciate your very energetic and imaginative efforts to try to do better by the poor and to improve on a program that we have.

I for one am not at all discouraged that the people of this Nation do not want to help or are against spending more money for the poor. I just think they want it spent so that they can feel that they are getting somewhere with this problem.

In other words, I think a program developed to help move some of these poor out of the ghetto areas and to build modern housing for them, to provide the children with a place to play, to provide decent schools or clear air or clean water, those programs would appeal to all people in this country.

It is just that they like to feel when we are doing it and moving the people out of poverty, that we are not just making the problem worse.

I see you nod your head so I guess you feel the same way?

Mr. SUGARMAN. I do.

The CHAIRMAN. The people of this country want to spend more money on the poor but they just want to feel that when they do, we are coming up with answers that are going to get us where we want to go in this country.

Thank you very much.

[The statement of Jule Sugarman follows:]

TESTIMONY BY JULE M. SUGARMAN, ADMINISTRATOR, HUMAN RESOURCES ADMINISTRATION, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES, CITY OF NEW YORK

Mr. Chairman and Members of the Committee, I am pleased to appear today in connection with S. 2081 and S. 1842 both of which are concerned with enforcing the support obligation of parents of children receiving assistance under Title IV. Absent fathers constitute the major portion of our AFDC caseload. We fully agree that the subject is an important one and that it warrants greater attention.

Before I begin let me state now that most of my comments will be directed to S. 2081, although S. 1842 has generally the same objectives. S. 2081 seems to us to be better designed.

New York City very strongly believes that fathers have an obligation to contribute to the support of their minor children, and that that obligation must vigorously be enforced. The task of locating absent fathers, establishing paternity where necessary, and obtaining support orders is, however, a complicated, difficult, and costly responsibility. It is not entirely clear to us in New York City that, where prolonged searches are involved, the dollars recovered necessarily off-set the costs incurred. This is not to say that the search and collection effort may not otherwise be justifiable from the point of view of deterrence. It's simply to say that all the evidence is not yet in and it may well be that a massive federal effort at this point may be premature.

Nonetheless, we in New York City are not waiting but are aggressively moving forward to strengthen and improve our systems. When I took office our operation was characterized by fragmentation of location functions, under-staffing, and poor record-keeping. The task of locating fathers was in part performed by a central unit but there were also people in each of our income maintenance centers—most of whom spent the bulk of their time on other duties—who were also expected to perform location functions. Not only were there separate supervisory structures but communication between the units was poor. After an extensive analysis of the necessary steps, the existing job functions, the back logs, the causes thereof and lines of authority, we consolidated all functions related to this effort in a new centralized Division of Locaton and Support.

We have sizeably increased our staff and, most importantly, this will be their only concern. This month several new Borough offices devoted to this responsibility will be opened. There are, of course, a variety of strategies that the various states have pursued. There is, no single technique which all will accept as the most effective strategy. We are committed, however, to moving forward and we are very optimistic that we will for the first time be coming to grips with this very difficult problem.

Notwithstanding the massiveness of the problem there are additional reasons to doubt that federal assumption of nation-wide responsibilities are warranted. With rare exception, most states, at one level of intensity or another, now perform each of the functions which this bill would federalize. Further, local welfare departments, acting through state bureaus already obtain clearance on records of the Social Security Administration, Internal Revenue Service and agencies of other States. Thus the laws proposed add little to existing authority.

If my many years in government at both the federal and local levels has taught me anything, it is that few, if any, federal programs have ever worked which were launched nation-wide. They have failed because experience with the

problems that were bound to develop was not obtained and the de-bugging could come only after implementation had commenced. That was certainly true of the medicaid program. I would strongly recommend that the Congress, if it feels intervention is necessary, begin by authorizing a pilot program, and thereafter, based on an evaluationof the pilot, it can better determine whether nation-wide implementation is required. Although we in New York City believe we are making strides in this area, we would certainly cooperate with implementation of such a pilot program within the City.

Let me move to what appears to me to be the most disturbing aspect of this issue and that is, the fact that fathers, in over-increasing numbers and for whatever reason, are choosing to leave home. Although the main interest of locating parents may be for financial consideration, it is critical to recognize that efforts to increase the stability of the family are also necessary. I am aware that the goal of reuniting the family may not be feasible or desirable in all situations, but in the least, visiting procedures for parents and children should be attempted. I recommend that at the point the absent parent is located, comprehensive services be provided to increase the family's stability. These should include an assessment of the factors which led to and continue to maintain the family breakup and dependence on financial assistance, and an assessment of the feasibility of reuniting the family, or establishing a relationship between the parents and children. Further, an assessment of employment opportunities which could increase the father's (or mother's) salary, e.g. job or skills training, is most important. Other services to enable the family to reunite may be helpful in alleviating the need for public welfare. For example, family or martial counselling services, help in locating sufficient housing facilities, transportation of family members to the residence of the father or mother. Additionally, family planning and health services may increase the stability of the family and decrease the need for welfare assistance.

I urge that the Congress address both aspects of the problem of absent parents. The first is already provided in the bills being considered by this committee. The second is a comprehensive, mandatory service component, as outlined above, with sufficient federal financial participation to enable states to carry out both components. I recognize that the initial costs of providing these services may be substantially more than the initial return on payments from missing parents. However, unless we help the family to become self-sufficient, we will have done little to retard welfare dependency in this country.

Let me turn now to some other aspects of the bill:

THE UNCOOPERATIVE MOTHER

We welcome new subdivision (26) of section 402 which would require as a condition of eligibility that an applicant or recipient cooperate in establishing paternity and in obtaining support. It will abrogate a number of court decisions which were issued because the obligation to cooperate had not been expressly stated in the law. We have two comments, however. First, the language should be clarified to insure that this provision is not interpreted to deny assistance to needy children of an uncooperative parent. Only the uncooperative parent should be barred. Second, whether or not an applicant is cooperating may be a very subjective judgment. Although persons denied assistance on that basis would have a right to a fair hearing, I would strongly recommend that the legislation provide additional standards as to what constitutes cooperation and that it make provision for women who may justifiably be afraid for their safety were they to reveal the wherebouts of the absent father.

USE OF OEO ATTORNEYS

The requirement that the Director of the Office of Economic Opportunity make available to the Attorney General the services of OEO attorneys to assist him in carrying out his duties (the latter is mandated to use them to the "maximum extent feasible") would pervert the original intention of section 222(a)(3) of the Economic Opportunity Act of 1964 and would destroy the important role legal services attorneys have played in the war on poverty.

Section 222 arose from the realization that the right to counsel was a valuable right that many Americans never enjoyed. Its purpose was to make attorneys available to provide legal services to the eligible poor in various kinds of legal

actions. It was never contemplated that legal services attorneys might at some point become not advocates for the indigent but a part of the law enforcement machinery of the nation. I fear that many attorneys would simply leave the program and that it would deter the poor from seeking assistance in such offices.

$20 DISREGARD

The provision exempting from budgeting 40% of the first $50 per month of support payments collected is intended to provide an incentive to recipients to assist in locating fathers and obtaining support. I frankly doubt that the amount of the exemption (a maximum of $20 monthly) is large enough to induce recipients to cooperate who would otherwise not do so. It does not appear to be limited to persons "cooperating" but would be available to anyone for whom support is collected under this section. In any event, it would discriminate against recipients whose spouses contribute voluntarily, and might conceivably influence such parents to withhold voluntary contributions to enable their dependents to obtain the benefit of the exemption.

COST-SHARING

Although the bill would raise the federal share of the expenses incurred in locating and obtaining support from 50 to 75%, the fact is that there are many other related costs—i.e. court operations, probation and warrant officers—for which no reimbursement at all is provided. In view of the urgency attached to this effort, we propose that the reimbursement be raised to 90% as is the case for WIN administrative costs.

The foregoing are simply the major aspects of the bill that concern us. There are other technical points that seem to us to require clarification and I will have my staff to address these separately. Let me close by urging again that your Committee refrain from acting precipitously in this area and that, if it does want to make this matter a direct federal obligation, it do so by employing a pilot system to gauge the effectiveness of federal enforcement.

The CHAIRMAN. The hearings are then concluded.

[Whereupon, at 4 p.m. the Committee recessed, subject to the call of the Chair.]

Appendix A

Questions Proposed by Senator Long and Senator Mondale to Secretary Weinberger

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Questions of Senator Long for Secretary Weinberger

Question 1. Establishment of paternity:

How many children are there receiving welfare whose fathers are not married to their mothers and for whom paternity has not been established?

Answer. It is estimated that about 1,750,000 children receiving AFDC are in families in which the absent father was not married to the mother. Data are not available as to the extent to which paternity of these children has been established.

Question 2. Children for whom no support action has been taken:

What information do you have or can you furnish the Committee concerning the number of children on welfare whose fathers are absent and for whom no court order has been established? We would appreciate it if you make this information available not only as a national total, but on a State-by-State breakdown.

Answer. Attached is a table showing the most recent data available on AFDC families by the status of the father. There is no data available by State on the number of children in these families. Neither is there data available on the extent to which no court order has been established.

TABLE 4.—AID TO FAMILIES WITH DEPENDENT CHILDREN: REASONS FOR DISCONTINUING MONEY PAYMENTS TO CASES, BY STATE, APRIL–JUNE 1972

State	Total			No longer eligible with respect to need													
						Material change in income or resources								No longer meets eligibility requirement other than need	Refusal to comply with procedural requirement	Transferred to another assistance program	Other
							Employment or increased earnings of person in home			Receipt of or increase in—			No material change in income or resources				
	Monthly average number of families aided	Number	Monthly rate per 1,000 families aided	Death	Total	Total	AFDC father	AFDC mother	Other person	Support from absent AFDC father	OASDI	Other					
Total[1]	3,029,728	301,298	33	1,343	126,274	115,118	43,974	20,359	4,171	4,159	8,057	34,398	11,756	68,521	22,479	9,061	73,020
Percent[1]		100.0		0.4	42.1	38.2	14.6	6.8	1.4	1.4	2.7	11.4	3.9	22.7	7.5	3.0	24.2
Alabama	41,972	3,773	30	55	2,085	2,039	166	907	44	199	339	384	46	1,271	162	15	185
Alaska	3,903	456	39	5	189	165	7	84	1	1	4	68	24	200	50	----	12
Arizona	18,534	2,296	41	18	1,006	859	48	280	10	23	87	411	147	979	43	----	250
Arkansas	21,670	1,433	22	2	693	671	37	244	8	20	98	264	22	511	216	----	11
California	451,627	61,263	45	201	26,499	25,063	14,369	2,156	1,878	411	569	5,680	1,436	10,305	8,086	453	15,719
Colorado	30,579	4,674	51	17	1,714	1,619	472	514	3	35	99	496	95	2,655	11	125	152
Connecticut	31,587	2,101	22	28	724	708	41	226	14	69	43	315	16	1,078	16	22	233
Delaware	8,724	1,017	39	5	255	248	56	82	48	7	15	40	7	186	31	52	488
District of Columbia	25,999	1,010	13	5	398	389	80	190	6	7	27	79	9	282	80	28	217
Florida	87,853	6,932	26	52	1,951	1,898	100	766	27	116	335	554	53	1,743	756	----	2,430
Georgia	94,681	5,960	21	41	2,218	2,107	108	610	60	103	407	819	111	2,138	446	----	1,117
Guam	605	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Hawaii	11,392	1,554	45	1	333	279	121	24	5	10	9	110	54	506	14	519	181
Idaho	6,809	1,262	62	1	567	542	47	115	6	20	25	329	25	463	61	----	170
Illinois	181,934	14,783	27	37	6,944	6,783	3,632	971	114	239	350	1,477	161	2,125	399	----	5,278
Indiana	46,916	2,960	21	22	649	444	34	124	3	24	66	193	205	844	----	9	1,436
Iowa	24,179	2,774	38	124	957	879	55	238	22	40	65	459	78	831	178	4	680
Kansas	20,011	2,867	48	7	773	678	241	142	13	25	47	210	95	450	133	456	1,048
Kentucky	40,681	3,313	27	6	1,565	1,483	57	252	4	84	260	825	82	1,196	326	----	220
Louisiana	63,229	4,620	24	29	2,020	1,953	156	670	23	271	356	477	67	1,650	----	4	917
Maine	18,176	1,382	25	18	573	533	49	98	16	12	55	303	40	655	79	----	57

Maryland	55,900	5,658	34	27	3,447	2,477	721	778	14	92	166	786	970	1,265	333	154	432
Massachusetts[1,2]	51,327	4,150	17	23	2,280	2,168	982	267	29	138	57	695	112	663	46	167	971
Michigan	155,818	12,910	28	19	8,144	7,122	2,072	881	31	150	360	3,628	1,022	2,971	912	363	501
Minnesota	38,487	4,982	43	26	1,886	1,788	530	276	48	46	94	794	98	1,512	114	----	1,444
Mississippi	43,641	1,441	11	6	403	392	44	87	66	5	87	103	11	663	54	----	315
Missouri	63,642	4,286	22	82	508	470	25	129	50	21	104	141	38	2,047	10	180	1,459
Montana	6,509	991	51	6	580	549	32	97	2	20	29	369	31	309	10	4	82
Nebraska	11,927	1,493	42	13	230	198	84	20	1	3	5	85	32	1,132	60	5	53
Nevada	4,632	910	65	4	313	297	2	98	----	10	10	177	16	351	227	----	15
New Hampshire	6,117	623	34	1	298	295	10	45	----	14	25	201	3	237	----	----	87
New Jersey	106,461	6,191	19	53	1,351	1,259	123	289	27	141	121	558	92	2,616	86	----	2,085
New Mexico	16,153	1,544	32	7	447	431	----	[4] 159	(*)	93	88	91	16	686	8	1	395
New York	354,914	30,205	28	62	6,522	6,300	2,123	1,541	101	475	277	1,783	222	2,620	3,784	2,179	15,038
North Carolina	47,543	4,108	29	35	1,680	1,511	150	625	45	109	189	393	169	1,619	221	----	553
North Dakota	4,367	559	43	----	205	193	23	16	1	5	12	136	12	298	6	----	50
Ohio	128,824	13,411	35	21	4,159	3,847	1,153	949	17	210	501	1,017	312	2,270	1,673	675	4,613
Oklahoma	32,197	4,090	42	31	1,363	1,323	140	649	5	44	153	332	40	2,615	74	4	3
Oregon	26,159	7,123	91	4	3,309	3,271	1,841	657	14	23	108	628	38	1,151	358	4	2,297
Pennsylvania	174,610	21,910	42	65	16,220	10,963	[5] 6,290	(*)	706	(*)	322	[6] 3,645	5,257	681	1,612	2,651	681
Puerto Rico	53,747	3,738	23	8	1,374	1,343	281	266	407	26	220	143	31	574	129	8	1,645
Rhode Island	13,924	1,509	36	2	1,080	1,070	398	150	9	29	52	432	10	326	38	----	63
South Carolina	25,769	1,678	22	6	925	914	186	316	5	50	162	195	11	405	56	----	286
South Dakota	6,175	590	32	4	321	310	22	63	----	13	35	177	11	196	1	----	68
Tennessee	54,957	3,624	22	14	1,161	1,114	59	370	45	27	212	401	47	1,736	139	5	569
Texas	116,813	9,046	26	64	2,723	2,687	176	1,059	147	330	740	235	36	1,813	12	9	4,425
Utah	12,472	3,855	103	9	2,727	2,725	2,418	43	1	9	21	233	2	960	145	14	----
Vermont	5,285	838	53	2	276	273	155	11	----	2	7	98	3	378	2	----	180
Virgin Islands	744	71	32	1	42	40	1	23	10	----	----	----	6	2	18	8	----	2
Virginia	43,203	3,338	26	20	1,247	1,113	238	292	----	78	195	310	134	1,926	10	----	135
Washington	44,476	10,714	80	19	5,252	5,175	2,132	778	34	84	110	2,037	77	2,001	357	466	2,619
West Virginia	20,906	4,245	68	13	1,966	1,948	863	242	32	118	218	475	18	1,332	859	1	74
Wisconsin	39,503	4,641	39	20	2,086	1,980	802	463	15	73	108	519	106	928	44	484	1,079
Wyoming	2,120	396	62	2	236	232	22	27	4	5	13	161	4	154	4	----	----

[1] Excludes Guam.
[2] Data not reported.
[3] Data incomplete.
[4] Employment or increased earnings of AFDC mother in home includes data for an unspecified number of "Other persons" who gained employment or increased earnings.
[5] Employment or increased earnings of AFDC father in home includes data for an unspecified number of "AFDC mothers" who gained employment or increased earnings.
[6] Receipt of or increase in support from absent AFDC father included in "other".

TABLE 4.—AID TO FAMILIES WITH DEPENDENT CHILDREN: REASONS FOR DISPOSITION OF APPLICATIONS OTHER THAN BY APPROVAL, BY STATE, APRIL–JUNE 1972

State	Total	Denied assistance								Other disposition			
			Financially ineligible			Did not meet other condition of eligibility			Refusal to comply with procedural requirements				
		Total	Total	Income sufficient	Resources exceed permitted limits	Total	Deprivation of parental support or care	Other		Total	Applicant could not be located	Withdrawal of application	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Total	141,258	82,258	40,443	35,663	4,780	25,189	7,956	17,233	16,626	59,000	10,567	30,176	18,257
Percent		100.0	49.2	43.4	5.8	30.6	9.7	21.0	20.2	100.0	17.9	51.1	30.9
Alabama	1,665	1,430	856	835	21	264	181	83	310	235	31	171	33
Alaska	160	100	50	46	4	48	22	26	2	60	35	10	15
Arizona	1,064	535	156	156	----	291	113	178	88	529	5	----	524
Arkansas	1,097	775	221	201	20	200	98	102	354	322	55	137	130
California	25,613	17,017	6,636	5,333	1,303	4,883	1,658	3,225	5,498	8,596	12,933	4,829	834
Colorado	623	539	254	207	47	282	6	276	3	84	11	52	21
Connecticut	1,613	1,118	621	477	144	400	127	273	97	495	17	213	265
Delaware	162	80	54	48	6	14	----	14	12	82	2	27	53
District of Columbia	858	618	231	204	27	215	----	215	172	240	83	101	55
Florida	2,880	2,034	1,202	1,154	48	629	233	396	203	846	186	594	66
Georgia	4,037	2,179	1,548	1,506	42	566	482	84	65	1,858	----	463	1,395
Guam	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Hawaii	677	207	193	139	54	13	2	11	1	470	10	105	355
Idaho	526	366	159	132	27	173	109	64	34	160	26	100	34
Illinois	7,414	3,380	2,301	2,232	69	863	101	762	216	4,034	1,806	331	1,897
Indiana	1,727	1,444	899	874	25	436	49	387	109	283	61	148	74
Iowa	655	357	182	136	46	109	64	45	66	298	17	146	135
Kansas	603	197	105	91	14	59	15	44	33	406	89	126	191
Kentucky	826	616	32	26	6	413	350	63	171	210	34	125	51
Louisiana	4,889	2,919	1,482	1,378	104	1,401	226	1,175	36	1,970	82	712	1,176
Maine	426	351	212	202	10	124	39	85	15	75	14	43	18

Maryland	1,910	1,351	668	570	98	493	108	385	190	559	50	183	326
Massachusetts [3]	548	328	238	195	43	72	6	66	18	220	43	107	70
Michigan	5,272	3,027	1,788	1,566	222	1,083	178	905	156	2,245	250	1,169	826
Minnesota	847	588	292	160	132	282		282	14	259	26	233	
Mississippi	1,652	1,231	387	362	25	633	404	229	211	421	64	281	76
Missouri	2,668	1,938	751	665	86	1,095	602	493	92	730	143	478	109
Montana	223	137	77	31	46	47	19	28	13	86	9	52	25
Nebraska	125	95	48	45	3	38	16	22	9	30	4	18	8
Nevada	459	315	178	154	24	59	17	42	78	144	20	112	12
New Hampshire	277	235	136	136		53	24	29	46	42	11	28	3
New Jersey [3]	903	812	504	321	183	188	188		120	91			91
New Mexico [3]	1,270	650	338	[4] 338	(2)	292	209	83	20	620	107	(2)	513
New York [3]	10,667	6,982	3,381	2,912	469				3,601	3,685	550	1,728	1,407
North Carolina	2,041	976	386	365	21	300	142	158	290	1,065	134	662	269
North Dakota	117	76	34	21	13	39	24	15	3	41	2	27	12
Ohio	10,475	3,904	1,995	1,823	172	1,638	97	1,541	271	6,571	1,746	3,463	1,362
Oklahoma	1,625	989	410	340	70	548	142	406	31	636	171	357	108
Oregon	1,643	1,058	375	354	21	594	99	495	90	584	61	438	85
Pennsylvania	9,431	4,092	2,334	2,098	236	129		129	1,629	5,339	37	4,962	340
Puerto Rico [3]	2,699	2,172	664	500	164	959		959	549	527			527
Rhode Island	346	231	184	158	26	35	6	29	12	115	11	53	51
South Carolina	2,010	1,319	501	467	34	564	248	316	254	691	168	405	118
South Dakota	128	102	30	28	2	40	17	23	32	26	2	8	16
Tennessee	2,659	1,961	624	566	58	515	208	307	822	698	136	421	141
Texas	13,254	6,095	4,413	4,376	37	1,572	805	767	110	7,159	742	3,159	3,258
Utah	444	298	68	39	29	214	5	209	16	146	8	52	86
Vermont	230	177	61	49	12	114	65	49	2	53	10	37	6
Virgin Islands	31	21	10	10		10		10	1	10		7	3
Virginia	2,376	1,587	877	764	113	406	290	116	304	789	61	440	288
Washington	3,478	1,295	540	378	162	730	103	627	25	2,183	126	2,034	23
West Virginia	1,519	1,057	306	144	162	712	46	666	39	462	143	289	30
Wisconsin	2,317	841	415	325	90	334	4	330	92	1,476	228	522	726
Wyoming	99	55	36	26	10	18	9	9	1	44	7	18	19

[1] "Applicant could not be located" includes "Moved to another county or State."
[2] Data not reported.
[3] Data incomplete.
[4] "Income sufficient" includes "Resources exceed permitted limits."

TABLE 15.—AFDC FAMILIES, BY STATUS OF THE FATHER WITH RESPECT TO THE FAMILY, 1971

Census division and State	Total families	Status of father					Status of father									
				Unemployed or employed part time, and—			Absent from the home							Other status		
		Dead	Incapacitated	Enrolled in work or training program	Awaiting enrollment after referral to Win	Neither enrolled nor awaiting enrollment	Divorced	Legally separated	Separated without court decree	Deserted	Not married to mother	In prison	Other reason	Stepfather case	Children deprived of support or care of mother	Unknown
Total:																
Number	2,523,900	108,700	246,300	54,700	30,300	67,600	358,700	73,800	325,000	382,700	700,000	53,300	31,300	66,600	22,900	2,000
Percent	100.0	4.3	9.8	2.2	1.2	2.7	14.2	2.9	12.9	15.2	27.7	2.1	1.2	2.6	0.9	.01
Census division:																
New England	134,000	2.7	7.3	1.7	.6	2.3	23.7	5.4	17.0	10.8	19.3	2.1	1.5	5.1	.4	.1
Middle Atlantic	560,100	4.1	8.0	2.5	.9	3.1	6.8	4.0	13.8	24.3	27.5	1.9	1.7	.4	1.0	.1
East North Central	363,500	3.6	5.5	1.8	1.7	2.7	16.7	3.3	11.0	14.7	31.1	2.5	.8	4.3	.2	.1
West North Central	136,600	4.4	8.0	1.0	.4	.9	27.4	2.7	12.4	9.1	24.9	1.8	1.4	4.8	.9	0
South Atlantic	321,800	5.8	11.0	1.1	.2	.6	7.0	2.1	11.7	18.5	35.1	2.6	1.1	2.8	.2	.1
East South Central	161,900	8.6	15.1	0	0	0	11.5	1.4	8.2	14.0	34.7	2.2	1.2	1.6	1.2	.2
West South Central	183,000	5.0	12.1	.1	0	.1	14.4	2.4	13.4	11.4	36.9	2.3	.8	.6	.6	0

Mountain	87,600	4.1	12.8	3.9	.1	1.4	25.2	1.3	9.9	9.9	23.3	1.4	2.2	4.2	.2	.1
Pacific	517,000	2.9	8.8	4.5	3.3	6.4	19.4	2.6	15.6	6.8	22.0	2.0	.9	3.3	1.3	.1
Selected States:																
Alabama	42,600	8.7	16.2	0	0	0	6.8	1.9	10.6	13.1	36.9	3.3	.9	1.2	.2	.2
California	440,000	2.8	8.5	4.5	3.4	6.0	18.2	2.7	16.0	7.0	23.4	1.9	.7	3.3	1.3	.1
Florida	78,200	5.6	7.0	0	0	0	10.7	1.9	10.1	19.1	38.9	2.7	.9	3.0	.3	0
Georgia	75,100	8.5	10.0	0	0	0	7.3	1.5	10.0	20.9	34.5	2.7	.8	3.6	.1	.1
Illinois	120,300	3.2	4.7	2.9	2.0	3.2	9.6	1.3	9.6	22.6	36.2	2.1	.7	1.7	.2	.1
Kentucky	37,600	10.9	17.3	0	0	0	19.7	1.6	7.2	13.0	27.1	2.7	.5	0	0	0
Louisiana	54,100	5.0	13.3	0	0	0	8.1	1.8	17.4	8.7	42.1	1.1	.4	.7	1.3	0
Maryland	40,900	2.4	8.6	.7	0	2.2	5.9	3.4	20.8	13.2	34.2	2.4	1.2	4.6	0	.2
Massachusetts	72,300	2.6	8.0	2.5	.4	2.8	24.2	7.1	16.5	10.7	17.0	3.0	1.7	3.5	.1	0
Michigan	94,700	3.4	4.4	1.7	1.7	3.2	18.6	4.5	16.4	7.9	27.7	2.3	.7	7.3	0	.2
Mississippi	34,600	7.2	13.9	0	0	0	5.8	.9	5.5	15.3	41.6	.9	2.0	1.7	4.9	.2
Missouri	48,500	5.8	10.1	.4	.2	.2	19.2	.8	12.8	10.7	33.6	2.1	1.0	2.9	.2	0
New Jersey	86,200	4.3	4.9	3.6	1.0	5.5	6.3	2.3	13.9	20.6	32.3	2.7	1.6	.5	.5	.1
New York	332,600	4.8	6.3	1.9	.4	1.7	6.3	4.6	13.4	28.3	27.7	1.9	1.6	.2	.9	0
North Carolina	39,200	7.4	13.8	0	0	0	3.3	2.3	11.5	20.2	36.2	3.3	1.3	.3	.5	0
Ohio	91,500	4.4	6.3	1.6	2.4	3.2	20.2	2.4	11.1	12.7	28.9	2.7	.3	3.4	.1	.2
Pennsylvania	141,300	2.5	13.8	3.3	1.8	4.9	8.2	3.6	14.6	17.2	24.3	1.5	2.1	.8	1.4	.1
Tennessee	47,100	7.6	13.4	0	0	0	13.4	1.3	8.9	14.6	33.5	1.9	1.5	3.2	.4	.2
Texas	84,000	3.9	10.0	0	0	0	14.6	3.2	10.8	15.8	36.5	3.9	.6	.2	.2	0
Washington	42,500	3.1	9.9	3.8	3.8	8.9	28.7	2.4	14.4	6.1	13.6	1.9	1.6	1.2	.7	0
Puerto Rico	57,800	4.2	38.6	0	0	0	2.1	.5	5.4	32.9	3.8	1.4	1.4	2.4	7.3	.2

Question 3. State Agencies:
In general, what agencies in the States are responsible for child support collections? By agency I mean the welfare department, the Courts, or some other type of organization.

Answer. The determination and enforcement as to child support, including responsibility for collection rests with law enforcement officials and the Courts in the various States.

Support payments are sometimes ordered by the Courts to be made directly to the Court, to other law enforcement officials such as a States attorney, to a parent or caretaker of the child or to the parent through a social agency including public welfare agencies.

The attached tables were compiled in 1970 and have not been checked with States as to currency.

Federal policy contained in 45 CFR 233.70 consistent with provisions in the Social Security Act, require that States notify the appropriate law enforcement officials in writing promptly as soon as AFDC has been furnished in respect to a child who is believed to have been deserted or abandoned by a parent.

All States have enacted into law provisions for the reciprocal enforcement of support. Each State has designed its own method of handling support collection between States. The attached pages identified as Table II, State Information Agents for Uniform Reciprocal Enforcement of Support provides information that in more than half of the States the Welfare Agency serves as the State Information Agent.

The attached pages identified as Table III includes information as to the officials handling payments in the various States. Both Tables II and III are from the *Register of Lists of Essential Information Concerning Uniform Reciprocal Support Laws* compiled by the Arkansas State Welfare Department and reproduced for issuance by the Department of Health, Education and Welfare.

Income to the family through the payment of support is handled in accordance with Federal and State policies for consideration of income and resources and is therefore taken into account in determining eligibility and the amount of the payment.

It is incumbent on public welfare agencies to do all they can to encourage parents to make regular contributions to the care of their children and to cooperate with the courts in the method designated. States have been so advised through Federal issuances.

It is considered desirable that the payments be made to the welfare agency so far as it meets approval of the courts when a child is receiving AFDC.

Some States, because of maximums, percentage reductions or other similar limitations, make payments that do not meet need in full according to agency standards, but under the State plan allow income of the recipient to be applied to make up the difference between the amount of assistance determined to be needed and the payment. The part of the support payment that exceeds such difference must be treated as a refund.

SUPPORT PAYMENT PAYEE—1970

Support payments are paid to or endorsed to either the family (mother), the court, or the welfare department as payee under varying circumstances.

Payee	*States*	
1. The family (mother) in all cases. (5 States)	Arkansas Georgia Kentucky	Puerto Rico Wyoming
2. The court (or other State law officer; e.g., States attorney) in all cases. (3 States)	Alabama Florida	Texas
3. The welfare department in all cases. (6 States)	Connecticut Massachusetts Illinois	Ohio Vermont Washington
4. To either the family or the court. (9 States)	Indiana Iowa Louisiana Missouri Montana	Nebraska New York South Carolina Virgin Islands

Payee	*States*	
5. Either the family or the welfare department. (1 State)	Wisconsin	
6. Either the family or the court or the welfare department depending upon discretion of court or arrangement with welfare department. (22 States)	Alaska	Mississippi
	California	New Hampshire
	Colorado	New Jersey
	Delaware	New Mexico
	Hawaii	North Dakota
	Idaho	Oregon
	Kansas	Pennsylvania
	Maine	Rhode Island
	Maryland	South Dakota
	Michigan	Tennessee
	Minnesota	Utah

COLLECTION PROCEDURES—1970

In States where the collection and accounting of support payments is provided (either in some or in all cases) by State or local agencies, the following collection procedures are used:

Procedure	*States*	
1. Payments are collected by court system or law enforcement official and transferred to the State or county welfare departments. (12 States)	California	New Jersey
	Colorado	Oregon
	Delaware	Rhode Island
	Maryland	Tennessee
	Michigan	Utah
	Minnesota	Virgin Islands
2. Payments are collected by local or county offices and transferred periodically to an office at the central (State or county) administrative level. (10 States)	Idaho	North Dakota
	Kansas	Ohio
	Massachusetts	Utah
	Mississippi	Vermont[1]
	New Hampshire	Wisconsin
3. Payments are collected directly by an office at the central (State or county) administrative level. (11 States)	California[1]	Pennsylvania
	Connecticut	Rhode Island
	Hawaii	South Dakota
	Illinois	Vermont[1]
	Maine	Washington
	New Mexico	

[1] Multiple procedures followed.

STATE COLLECTION SERVICE—1970

State and local agencies provide collection service (regardless of who is payee) in the following cases:

State Agency Collects	*States*	
1. In no case at all. (17 States)	Alabama	Missouri
	Arkansas	Montana
	Florida	Nebraska
	Guam	New York
	Georgia	Puerto Rico
	Indiana	South Carolina
	Iowa	Texas
	Kentucky	Wyoming
	Louisiana	
2. Only in cases where court assigns or transfers payment to welfare. (14 States)	Delaware	New Mexico
	New Hampshire	North Dakota
	Kansas	Oregon
	Maryland	Rhode Island
	Michigan	Tennessee
	Minnesota	Virgin Islands
	New Jersey	Wisconsin

State Agency Collects	*States*	
3. Only in cases where payments by absent parent become inconsistent or incomplete or mother requests agency collection. (3 States)	Colorado Hawaii Idaho	
4. In cases where either of the two preceding circumstances (2 or 3) exist but not necessarily in all cases. (7 States)	Alaska California Maine Mississippi Pennsylvania South Dakota Utah	
5. In all cases. (6 States)	Connecticut Illinois Massachusetts	Ohio Vermont Washington

TABLE I—CITATIONS TO RECIPROCAL SUPPORT LAWS (AS OF JULY 1971)

State or other jurisdiction	Citations to Reciprocal Support Laws
Alabama	Act 870, 1951, as amended by Act 823, 1953; Code of Ala. Title 34, §§ 105 to 123
Alaska	A.S. 25.25.010-270, as amended by Chap. 10, SLA 1960
American Samoa	P.L. 9-20, 1965; Rev. Code Title V, Ch. 5.04
Arizona	Laws 1970, Ch. 90; A.R.S. §§ 12-1651 to 12-1691
Arkansas	Act 182, 1969; Ark. Stats. § § 34-2401 to 34-2448
California	Code Civ. Proc., §§ 1650 to 1697, as amended by Stats. 1970, Ch. 1126
Colorado	43-2-17 C.R.S. 1963 (1969 Supp.)
Connecticut	Conn. Gen. Stats., Title 17 Ch. 308, Part IV, § § 17-327 to 17-355b
Delaware	Ch. 6, Title 13, Del. Code
District of Columbia.	Act of July 10, 1957; Ch. 94
Florida	FSA §§ 88.011 to 88.371
Georgia	Ga. Laws of 1958, Page 34; Ga. Code, § § 99-901a to 99-932a
Guam	Title X, Part III, Guam Code of Civil Procedure
Hawaii	Ch. 576, Hawaii Rev. Stat.
Idaho	Title 7, Ch. 10, Idaho Code, as amended 1969
Illinois	P.A. 76-1090, 1969; Ill. Rev. Stats. Ch. 68, § § 101 to 142
Indiana	Ch. 309, Acts of 1961; Burns Ann. Stat. §§ 3-3101 to 3-3139
Iowa [1]	Ch. 252A, Code of Iowa, 1971
Kansas	KSA 1970 Supp. §§ 23-451 to 23-491
Kentucky	Ch. 190, Ky. Acts of 1954; K.R.S. Ch. 407
Louisiana	Acts 1966, No. 288, §§ 1, 2; R.S. §§13:1641 to 1699
Maine	M.R.S.A. 1964, T. 19, § § 331 to 410
Maryland	Ch. 295, 1965; Md. Code Article 89c
Massachusetts	M.G.L.A. Ch. 273A
Michigan	Act 8, P.A. 1952, as amended 1953, 1955, 1957, 1959, 1960; MCLA §§ 780.151 to 780.172
Minnesota	Minn. Stats. 1969, §§ 518.41 to 518.53
Mississippi	Laws of 1954, ch. 211; Code 1942 §§ 456-01 to 456-34
Missouri	Ch., 454, R.S. Mo. 1969
Montana	Ch. 237, Laws of 1969; §§ 93-2601-41 to 93-2601-82, RCM
Nebraska	R.R.S. Neb., §§ 42-722 to 42-761

TABLE I—CITATIONS TO RECIPROCAL SUPPORT LAWS (AS OF JULY 1971)—Continued

State or other jurisdiction	Citations to Reciprocal Support Laws
Nevada	Ch. 44, 1955, as amended by Ch. 61, 1961 and Ch. 346, 1969; Ch. 130 NRS
New Hampshire	Ch. 546, N.H.R.S.A., Vol. 5
New Jersey	N.J.S. 2A: §§ 4-30.1 to 4-30.23
New Mexico	Ch. 242, Laws 1969; Ch. 22, Art. 19, Vol. 5, N.M.S.A. 1953, §§ 22-19-25 to 22-19-68
New York [1]	N.Y.U.S.D.L. Art. 3A, §§ 30 to 43. Dem. Rel. Law, as amended 1958, 1959, 1960, 1962, 1966, 1968
North Carolina	Ch. 52A, N.C. Gen. Stats., as amended
North Dakota	N.D.C.C. 14-12.1, as amended 1969
Ohio	§§ 3115.01 to 3115.22 Rev. Code of Ohio
Oklahoma	12 O.S.A. §§ 1600.1 to 1600.38
Oregon	O.R.S. 110, as amended 1957, 1959, and 1969
Pennsylvania	62 P.S. § 2043.1 *et seq*
Puerto Rico	Act No. 71 of 1956; 32 L.P.R.A. §§ 3311 to 3313v
Rhode Island	Gen. Laws Ch. 15 to 11 *et seq*, as amended by Ch. 287, 1970
South Carolina	§ 20-311, Code of 1962, as amended
South Dakota	Ch. 41, SL 1951, as amended by Ch. 43, SL 1953; S.D.C.L. 25-9
Tennessee	Tenn. Code Ann. §§ 36-901 to 36-920
Texas	1965, Ch. 679, p. 1561; Vernon's Tex. Civ. Stats., Art. 2328b-4, §§ 1 to 42
Utah	Title 77, Ch. 61a, Utah Code Ann. 1953
Vermont	No. 191 Adj. Session 1969; 15 VSA 385-428
Virginia	Title 20, Ch. 5.2 Code of Virginia
Virgin Islands	16 V.I.C. §§ 391 to 429
Washington	Ch. 45, Laws of 1963; R.C.W.A. 26.21.010 *et seq*
West Virginia	Ch. 48, Article 9, W.Va. Code, 1953, as amended
Wisconsin	§ 52.10 Wisc. Stats. as amended 1959, 1961 and 1968
Wyoming	Wyoming Stats. 1957, §§ 20-77 to 20-104

[1] Iowa and New York still retain the language of the "Support of Dependents Law" as originally developed by New York; all other jurisdictions follow, in whole or in part, the 1952, 1958 or 1968 version of the Uniform Reciprocal Enforcement of Support Act, as promulgated by the National Conference of Commissioners on Uniform State Laws.

Table II—STATE INFORMATION AGENTS FOR UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT

State or other jurisdiction	Information Agency [1]
Alabama	Ruben K. King, Commissioner, State Department of Pensions and Security, 64 North Union Street, Montgomery 36104.
Alaska	Department of Health and Social Services, Division of Family and Children Services, Pouch H, Juneau 99801.
American Samoa	The Attorney General, Territory of American Samoa, Pago Pago 96920. Attn.: James Kingzett, Assistant Attorney General.
Arizona	The Attorney General, State Capitol, Phoenix 85007. Attn.: Frances Nelson Wallace.
Arkansas	Department of Public Welfare, Capitol Mall, P.O. Box 1437, Little Rock 72201. Attn.: Ivan H. Smith.
California	The Attorney General, 600 State Building, San Francisco 94102. Attn.: Arlo E. Smith.

[1] In most States the reciprocal law officially designates an office of the State which shall act as "state information agency" to assist officials within and without the State in securing information about the operation of the reciprocal support laws. In other States this is done informally, and to the extent possible, by the listed agency. Individual names are listed here so that mail will be routed as promptly as possible to the person actually doing such work.

Table II—STATE INFORMATION AGENTS FOR UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT—Continued

State or other jurisdiction	Information Agency [1]
Colorado	The Attorney General State Capitol, Room 104, Denver 80203. Attn.: Douglas Doane.
Connecticut	Joseph J. Keefe, Executive Secretary, Judicial Department, State Library and Supreme Court Bldg., P.O. Box 1350, Hartford 06101.
Delaware	Kenneth Singleton, Master, Family Court, Public Building, Wilmington 19801.
District of Columbia	Corporation Counsel, Special Litigation Division, Support Section, 601 Indiana Ave., N.W., Washington 20001. Attn.: Ms. Judith Ann Dowd, Acting Senior Attorney.
Florida	The Attorney General, Department of Legal Affairs, State Capitol, Tallahassee 32304.
Georgia	Attorney General Arthur K. Bolton, 132 State Judicial Building, Atlanta 30303.
Guam	The Attorney General, Government of Guam, Agana 96910.
Hawaii	Legislative Reference Bureau, University of Hawaii, State Capitol, Honolulu 96813.
Idaho	B. Child, Commissioner of Public Assistance, Box 1189, Boise 83701
Illinois	Illinois Department of Public Aid, 618 East Washington Street, Springfield 62706. Atten.: Arthur C. Zimmerman, State Information Agent.
Indiana	Department of Public Welfare, 100 North Senate Avenue, Indianapolis 46204. Attn.: Oscar C. Crawford.
Iowa	State Dept. of Social Services, Lucas State Office Building, Des Moines 50319. Atten.: Ron Marvelli.
Kansas	Charles V. Hamm, General Counsel, State Department of Social Welfare, 6th Floor, State Office Building, Topeka 66612.
Kentucky	Ann T. Hunsaker, Attorney, State Information Agent, Department of Economic Security, Frankfort 40601.
Louisiana	Department of Public Welfare, P.O. Box 44065, Baton Rouge 70804. Atten.: Lucas S. Conner, Jr., General Counsel.
Maine	Department of Health and Welfare, State House, Augusta 04330. Atten.: Ruth L. Crowley, Assistant Attorney General.
Maryland	State Department of Employment and Social Services, Social Services Administration, 1315 St. Paul Street, Baltimore 21202. Attn.: John M. Williams.
Massachusetts	Department of Welfare, 600 Washington Street, Boston 02111. Atten.: Catherine M. Loughlin.
Michigan	William H. Meyer, Michigan Department of Social Services, Legal Liaison Unit, 300 South Capitol Avenue, Lansing 48926.
Minnesota	Department of Public Welfare, Centennial Office Building, St. Paul 55101.
Mississippi	The Attorney General, State Capitol, Jackson 39205, Atten.: R. Hugo Newcomb, Sr.
Missouri	Division of Welfare, State Office Building, Jefferson City 65101. Attn.: Proctor N. Carter.
Montana	Division of Family Services, State Department of Public Welfare, P.O. Box 1723, Helena 59601.
Nebraska	Diirector, Department of Public Welfare, State Capitol, Lincoln 68509. Attn.: E. D. Warnsholz.
Nevada	The Attorney General, State Capitol, Carson City 89701.
New Hampshire	Division of Welfare, State House Annex, Concord 03301. Attn.: Thomas L. Hooker.
New Jersey	Administrative Director of the Courts, State House Annex, Trenton 08625. Attn.: Mr. Fred D. Fant.
New Mexico	Miss Julia Southerland, Chief Attorney, Health and Social Services Department, P.O. Box 2348, Santa Fe 87501.
New York	State Department of Social Services, 1450 Western Avenue, Albany 12203. Attn.: Felix Infausto.
New York City	Family Court, 135 East 22nd Street, New York 10010. Attn.: Administrative Judge.

Table II—STATE INFORMATION AGENTS FOR UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT—Continued

State or other jurisdiction	Information Agency [1]
North Carolina	Clifton M. Craig, Commissioner of Public Welfare, P.O. Box 2599, Raleigh 27602. Attn.: Family Support Services.
North Dakota	Legal Counsel, Public Welfare Board, Capitol Building, Bismarck 58501.
Ohio	The Attorney General, State Capitol Annex, Columbus 43215. Attn.: Leo J. Conway, Assistant Attorney General.
Oklahoma	L. E. Rader, Director of Public Welfare, P.O. Box 25352, Oklahoma City 73125.
Oregon	The Attorney General, Welfare Recovery Division, 630 Oregon Pioneer Building, 320 S. W. Park Street, Portland 97204. Attn.: Walter N. Fuchigami.
Pennsylvania	Department of Public Welfare, P.O. Box 2675, Harrisburg 17105. Attn.: Robert Stewart.
Puerto Rico	Miguel A. Martinez Nieves, Chief, Division of Social Service, Office of Court Administration, Vela Street, Stop 35½, Hato Rey, San Juan 00919.
Rhode Island	John J. O'Neil, Court Administrator, Family Court, 22 Hayes Street, Providence 02908.
South Carolina	R. Archie Ellis, Director, State Department of Public Welfare, Wade Hampton State Office Building, Columbia 29201.
South Dakota	The Attorney General, State Capitol, Pierre 57501. Attn.: Lloyd B. Peterson, Assistant Attorney General.
Tennessee	Fred E. Friend, Commissioner, State Department of Public Welfare, State Office Building, Nashville 37219.
Texas	Burton G. Hackney, Commissioner, State Department of Public Welfare, Austin 78701.
Utah	The Attorney General, 236 State Capitol, Salt Lake City 84114. Attn.: Welfare Division.
Vermont	Commissioner, Department of Social Welfare, State Office Building, Montpelier 05602.
Virginia	Department of Welfare and Institutions, 429 South Belvidere Street, Richmond 23220. Attn.: J. Luther Glass, Legal Consultant.
Virgin Islands	The Attorney General, Department of Law, Government of the Virgin Islands, St. Thomas 00801.
Washington	The Attorney General, Temple of Justice, Olympia 98501. Attn.: Walter E. White, Assistant Attorney General.
West Virginia	Division of Family Services, Department of Welfare, State Capitol Building, Charleston 25305. Attn.: Mrs. Lelia H. Fay.
Wisconsin	The Attorney General, State Capitol, Madison 53702. Attn.: Ward L. Johnson.
Wyoming	The Attorney General, State Capitol, Cheyenne 82001.

TABLE III.—COURTS: OFFICIAL TO WHOM INITIATING STATE SHOULD MAIL PETITION; AND OFFICIAL RESPONSIBLE FOR HANDLING PAYMENTS

State or other jurisdiction	Courts handling cases	Petition to—	Officials handling payments
Alabama	Circuit court	Register of the circuit court in equity.	Register of the circuit court in equity.
Alaska	Superior court	Department of health and social services, division of family and children services.	Court clerk.
American Samoa	High court of American Samoa	High court	Clerk of Court.
Arizona	Superior court	Clerk of court	Do.
Arkansas	Chancery court	do	I.
California	Superior court	do	Officer designated by the court.
Colorado	District court	do	Clerk of court or probation department, depending on judicial district.
Connecticut	Court of common pleas	Clerk bureau of support, court of common pleas.	Bureau of support, court of common pleas.
Delaware	Family court	State information agent	Family court support department.
District of Columbia	Superior court	Chief deputy clerk	Chief deputy clerk.
Florida	Circuit court	State attorney	Clerk of court.

TABLE III.—COURTS: OFFICIAL TO WHOM INITIATING STATE SHOULD MAIL PETITION; AND OFFICIAL RESPONSIBLE FOR HANDLING PAYMENTS.—Continued

State or other jurisdiction	Courts handling cases	Petition to—	Officials handling payments
Georgia	Superior court	District attorney	Court probation department.
Guam	Island court	Clerk of court	Clerk of court.
Hawaii	Family court	do	Chief clerk.
Idaho	District court	do	Clerk of court.
Illinois	Circuit court	State's attorney	Circuit clerks and probation officers.
Indiana	do	Clerk of court	Clerk of court.
Iowa	District court	do	Do.
Kansas	do	do	Do.
Kentucky	Circuit court, county court	County attorney	No information.
Louisiana	Juvenile court	District attorney	Division of probation and parole.
Maine	Superior or district courts	Clerk of court	Clerk of court.
Maryland	Circuit court, juvenile court, trial magistrates, and people's courts.	do	Clerk of court or probation department.
Massachusetts	District court	do	Probation officers.
Michigan	Circuit court	County clerk	Friend of the court.
Minnesota	District court	Clerk of court	Clerk of court and directors, county welfare departments.
Mississippi	Chancery court	Chancery clerk	Clerk of court.
Missouri	Circuit court	Clerk of court	Do.
Montana	District court	County attorney	Do.
Nebraska	do	Clerk of court	Do.
Nevada	do	do	Clerk of court or other appropriate agency.
New Hampshire	Superior court	do	Probation officers.
New Jersey	Juvenile and domestic relations court.	do	Do.
New Mexico	District court	do	Court of court.
New York	Family court	do	Court probation officers.
North Carolina	District court	do	Clerk of court or department of social services.
North Dakota	do	do	Clerk of court.
Ohio	Court of common pleas	do	Do.
Oklahoma	District court	do	Do.
Oregon	Circuit court	do	Do.
Pennsylvania	Court of common pleas	Prothonotary	2.
Puerto Rico	Superior court	Information agent	Information agent.
Rhode Island	Family court	Manager of collections	Manager of collections.
South Carolina	Family courts, court of common pleas.	Information agent	Clerk of court.
South Dakota	Circuit court	do	Do.
Tennessee	Circuit court or criminal court.	Clerk of court	Do.
Texas	District court	do	Clerk of court or probation department.
Utah	do	do	County clerk.
Vermont	do	do	Clerk of court.
Virginia	Juvenile and domestic relations court.	do	Do.
Virgin Islands	Municipal court	do	Do.
Washington	Superior court	Prosecuting attorney	Do.
West Virginia	Several courts (usually criminal or intermediate).	Clerk of circuit court	Clerk of circuit court.
Wisconsin	Circuit court, Milwaukee County; family court branch of county court in other counties.	District attorney	No information.
Wyoming	District court	Clerk of court	Clerk of court.

[1] In Arkansas, those handling payments are: Master in Chancery (Pulaski County), Clerks of Courts in most counties, and the Welfare Director in 12 counties.

[2] Allegheny County—Director, Family Division, Court of Common Pleas; Philadelphia County—Department of Accounts, Family Division, Court of Common Pleas; all other counties—Domestic Relations Division, Court of Common Pleas, Probation Officer.

TABLE IV.—PETITIONER'S REPRESENTATIVES AND PETITIONER'S REPRESENTATIVE SERVICES

State or other jurisdiction	Public petitioner's representatives	When you are the responding State, what petitioners may secure services of public petitioner's representative?
Alabama	Circuit solicitor or other prosecuting attorney.	Decision entirely up to court.
Alaska	Attorney general	Any petitioner requesting it.
American Samoa	do	Do.
Arizona	County attorney	Do.
Arkansas	Assistant welfare attorney	Any petitioner requesting it except when court orders case handled by private counsel.
California	District attorney	Any petitioner requesting it.
Colorado	do	Do.
Connecticut	Petitioner's representative for each 10 bureaus to which petitions are forwarded.	Do.
Delaware	None	No public petitioner's representative as such.
District of Columbia	Corporation counsel	Only for persons on public assistance or liable to become so.
Florida	State attorney	Any petitioner requesting it.
Georgia	District attorney	Do.
Guam	Island attorney	Ordinarily handles actions only where petitioner has established inability to employ private counsel.
Hawaii	County attorneys for Maui and Kauai counties; otherwise corporation counsel.	Any petitioner requesting it.
Idaho	County prosecuting attorney	Do.
Illinois	State's attorney	Do.
Indiana	County prosecuting attorney	Do.
Iowa	County attorney	Do.
Kansas	do	Decision entirely up to court.
Kentucky	do	Any petitioner requesting it.
Louisiana	District attorney	Do.
Maine	County attorney	Do.
Maryland	State's attorney or counsel to the county council or commissioners.	Do.
Massachusetts	Court may appoint	When there appears to be a need for counsel, court may appoint counsel.
Michigan	County prosecuting attorney	Any petitioner requesting it.
Minnesota	County attorney	Ordinarily handles action only for needy persons on public assistance or in danger of becoming a public charge.
Mississippi	County attorney, but district attorney when county has no county attorney.	No public petitioner's representative as such.
Missouri	Prosecuting attorney [2]	Only handles action which has been initiated through a public official in another State.

Question 4. Child support collections:

Please tell us how much has been collected by the States in child support payments in fiscal 1971, 1972, and 1973.

How much of these collections were refunded to the Federal Government?

Please make this information available for the record on a State-by-State basis.

Answer. Data on child support payments is limited to that on support contributions by fathers which are considered in determining eligibilty and amount of assstance. The attached tables provide the only available data on this aspect of the program.

TABLE 54A.—TOTAL MONTHLY GROSS INCOME OF AFDC FAMILIES FROM SOURCES OTHER THAN ASSISTANCE, BY SOURCE, 1971

Census division and State	Total non-assistance income	Cash income										Income in kind with money value assigned
		Earnings of—				Earnings or incentive payments from WIN	Contributions from absent father	DASDI benefits	Unemployment compensation	Contributions from others in the home and other cash income	
		Mother	Father	Children	Other persons in assistance group						
Total:												
Amount	$162,993,000	$76,399,100	$17,562,100	$1,581,900	$321,600	$3,502,000	$28,608,200	$18,109,500	$4,412,800	$8,301,000	$1,797,400
Percent	100.0	46.9	10.8	1.0	.2	2.1	17.6	11.1	2.7	5.1	1.1
Census division:												
New England	9,336,100	3,444,600	1,095,200	123,500	0	166,300	2,517,400	918,600	184,900	469,800	98,900
Middle Atlantic	33,264,400	12,318,700	5,294,200	270,800	4,600	875,200	8,412,100	3,154,500	1,011,100	1,277,800	423,200
East-North Central	20,994,500	10,158,200	1,433,500	222,400	0	598,700	4,130,000	2,345,900	420,300	901,000	135,200
West-North Central	14,082,200	7,536,400	1,313,100	133,200	64,500	284,300	2,087,600	1,515,400	74,000	790,500	128,100
South Atlantic	17,376,000	10,261,400	439,000	116,200	45,100	481,300	2,495,300	2,148,900	89,700	664,500	283,300
East-South Central	8,406,700	3,899,800	410,700	116,200	0	123,000	1,180,000	1,815,600	57,400	370,900	253,100
West-South Central	6,558,500	3,489,100	129,100	166,900	0	87,100	892,200	1,338,300	17,200	422,300	11,800
Mountain	3,681,800	1,650,200	223,700	13,300	0	170,600	637,700	505,300	69,300	192,600	106,300
Pacific	47,284,600	23,543,200	6,598,800	378,500	207,400	617,000	6,053,100	3,868,900	2,444,100	2,875,900	330,200
Selected States:												
Alabama	2,000,500	905,700	86,500	75,200	0	13,000	266,800	521,300	14,000	60,700	55,800
California	43,282,500	22,145,000	6,169,500	321,300	207,400	470,500	5,138,100	3,508,700	2,245,000	2,498,000	253,800
Florida	5,165,300	3,855,400	19,500	0	0	156,800	360,000	483,500	13,900	142,000	35,000
Georgia	4,955,500	3,181,600	80,200	4,800	0	43,500	612,900	729,900	42,700	133,900	11,900
Illinois	5,704,700	3,005,600	412,600	64,800	0	105,500	739,700	607,500	234,300	222,500	60,300
Kentucky	1,835,900	793,400	3,400	11,600	0	12,000	355,800	499,000	12,600	141,000	13,900
Louisiana	1,870,500	1,058,900	57,400	59,000	0	21,200	280,900	275,400	17,200	106,100	7,000
Maryland	1,642,400	768,000	103,700	19,400	0	55,100	463,300	138,600	9,600	48,000	600
Massachusetts	4,791,200	1,499,300	638,300	110,100	0	106,200	1,407,600	420,700	95,300	290,700	69,200
Michigan	5,652,100	1,868,500	310,200	31,700	0	87,600	2,095,100	812,300	124,100	214,200	6,900
Mississippi	1,919,900	963,500	243,800	8,600	0	0	78,900	379,000	19,600	57,000	56,100
Missouri	6,113,500	3,378,900	60,000	80,800	64,500	98,000	919,700	921,700	4,000	437,100	84,200
New Jersey	6,256,800	2,548,900	979,100	17,500	0	29,000	1,269,100	642,200	253,900	195,400	189,400
New York	17,827,000	7,442,000	1,562,400	160,000	4,600	714,400	5,044,000	1,791,800	172,800	617,200	214,800
North Carolina	1,203,100	493,700	73,500	21,500	0	3,000	226,000	290,700	2,300	55,700	3,100
Ohio	4,313,800	2,448,400	449,600	74,900	0	253,500	361,600	339,900	61,900	121,100	15,800
Pennsylvania	9,180,600	2,327,800	2,752,700	93,300	0	131,800	2,099,000	720,500	584,400	465,200	19,000
Tennessee	2,650,400	1,237,200	77,000	20,800	0	98,000	478,500	416,300	15,200	112,200	127,300
Texas	2,946,700	1,630,400	43,000	58,900	0	46,400	381,600	577,600	0	179,200	0
Washington	2,087,300	746,400	116,800	19,800	0	84,100	708,200	142,900	49,500	191,200	20,400
Puerto Rico	2,002,000	97,500	628,800	40,900	0	98,500	199,800	494,900	40,800	335,700	27,300

TABLE 54B.—TOTAL MONTHLY GROSS INCOME OF AFDC FAMILIES FROM SOURCES OTHER THAN ASSISTANCE, BY SOURCE, 1971

[Percentage distribution]

Census division and State	Total non-assistance income	Cash income									
		Earnings of—				Earnings or incentive payments from WIN	Contributions from absent father	DASDI benefits	Unemployment compensation	Contributions from others in the home and other cash income	Income in kind with money value assigned
		Mother	Father	Children	Other persons in assistance group						
Total:											
Amount	$162,993,000	$76,399,100	$17,562,100	$1,581,900	$321,600	$3,502,000	$28,608,200	$18,109,500	$4,412,800	$8,301,000	$1,797,400
Percent	100.0	46.9	10.8	1.0	0.2	2.1	17.6	11.1	2.7	5.1	1.1
Census division:											
New England	9,336,100	36.9	11.7	1.3	0	1.8	27.0	9.8	2.0	5.0	1.1
Middle Atlantic	33,264,400	37.0	15.9	.8	0	2.6	25.3	9.5	3.0	3.8	1.3
East-North Central	20,994,500	48.4	6.8	1.1	0	2.9	19.7	11.2	2.0	4.3	.6
West-North Central	14,082,200	53.5	9.3	.9	.5	2.0	14.8	10.8	.5	5.6	.9
South Atlantic	17,376,000	59.1	2.5	.7	.3	2.8	14.4	12.4	.5	3.8	1.6
East-South Central	8,406,700	46.4	4.9	1.4	0	1.5	14.0	21.6	.7	4.4	3.0
West-South Central	6,558,500	53.2	2.0	2.5	0	1.3	13.6	20.4	.3	6.4	.2
Mountain	3,681,800	44.8	6.1	.4	0	4.6	17.3	13.7	1.9	5.2	2.9
Pacific	47,284,600	49.8	13.9	.8	.4	1.3	12.8	8.2	5.2	6.1	.7
Selected States:											
Alabama	2,000,500	45.3	4.3	3.8	0	.6	13.3	26.1	.7	3.0	2.8
California	43,282,500	51.2	14.3	.7	.5	1.1	11.9	8.1	5.2	5.8	.6
Florida	5,165,300	74.6	0.4	.0	0	3.0	7.0	9.4	.3	2.7	.7
Georgia	4,955,500	64.2	1.6	.1	0	.9	12.4	14.7	.9	2.7	.2
Illinois	5,704,700	52.7	7.2	1.1	0	1.8	13.0	10.6	4.1	3.9	1.1
Kentucky	1,835,900	43.2	0.2	.6	0	.7	19.4	27.2	.7	7.7	.8
Louisiana	1,870,500	56.6	3.1	3.2	0	1.1	15.0	14.7	.9	5.7	.4
Maryland	1,642,400	46.8	6.3	1.2	0	3.4	28.2	8.4	.6	2.9	.0
Massachusetts	4,791,200	31.3	13.3	2.3	0	2.2	29.4	8.8	2.0	6.1	1.4
Michigan	5,652,100	33.1	5.5	.6	0	1.5	37.1	14.4	2.2	3.8	.1
Mississippi	1,919,900	50.2	12.7	.4	0	0	4.1	19.7	1.0	3.0	2.9
Missouri	6,113,500	55.3	1.0	1.3	1.1	1.6	15.0	15.1	.1	7.1	1.4
New Jersey	6,256,800	40.7	15.6	.3	0	.5	20.3	10.3	4.1	3.1	3.0
New York	17,827,000	41.7	8.8	.9	0	4.0	28.3	10.1	1.0	3.5	1.2
North Carolina	1,203,100	41.0	6.1	1.8	0	.2	18.8	24.2	.2	4.6	.3
Ohio	4,313,800	56.8	10.4	1.7	0	5.9	8.4	7.9	1.4	2.8	.4
Pennsylvania	9,180,600	25.4	30.0	1.0	0	1.4	22.9	7.8	6.4	5.1	.2
Tennessee	2,650,400	46.7	2.9	.8	0	3.7	18.1	15.7	.6	4.2	4.8
Texas	2,946,700	55.3	1.5	2.0	0	1.6	13.0	19.6	.0	6.1	.0
Washington	2,087,300	35.8	5.6	.9	0	4.0	33.9	6.8	2.4	9.2	1.0
Puerto Rico	2,002,000	4.9	31.4	2.0	0	4.9	10.0	24.7	2.0	16.8	1.4

TABLE 62.—AFDC FAMILIES, BY MONTHLY AMOUNT OF CONTRIBUTIONS FROM ABSENT FATHER, 1971

Census division and State	Total families	Amount of contributions from absent father										
		None	$1–$24	$25–$49	$50–$74	$75–$99	$100–$149	$150–$199	$200–$249	$250–$299	$300–$399	$400 and over
Total:												
Number	2,523,900	2,186,900	33,300	75,300	66,600	41,300	71,200	29,800	13,200	4,400	1,300	600
Percent	100.0	86.6	1.3	3.0	2.6	1.6	2.8	1.2	.5	.2	.1	0
Census division:												
New England	134,000	82.9	.8	2.6	2.2	2.0	5.3	2.2	1.3	.5	.1	0
Middle Atlantic	560,100	85.9	.6	2.4	2.6	1.9	3.7	1.8	.8	.3	.1	.1
East North Central	363,500	86.1	1.8	3.5	2.4	1.4	2.7	1.3	.6	.1	.1	0
West North Central	136,600	84.2	.9	3.0	2.9	1.6	4.1	2.1	.8	.3	.1	0
South Atlantic	321,800	88.0	2.3	3.8	2.0	1.4	1.7	.7	.2	0	0	0
East South Central	161,900	87.7	2.6	3.8	1.7	1.9	1.9	.4	0	0	0	0
West South Central	183,000	91.7	1.5	2.4	1.9	1.2	1.1	0	0	0	0	.1
Mountain	87,600	89.4	.9	2.5	3.7	.6	1.8	1.0	0	.1	0	0
Pacific	517,000	85.8	.7	2.7	3.8	2.0	3.0	1.1	.7	.2	0	0
Selected States:												
Alabama	42,600	87.8	2.6	4.9	1.6	1.6	1.2	.2	0	0	0	0
California	440,000	85.8	.7	2.8	3.6	2.1	3.2	1.0	.7	.2	0	0
Florida	70,200	92.3	1.0	2.0	2.4	.9	1.0	.4	0	0	0	0
Georgia	75,100	86.8	2.5	4.4	2.4	1.3	1.7	.8	0	0	0	0
Illinois	120,300	91.8	1.1	1.8	2.2	.5	1.9	.7	.1	0	0	0
Kentucky	37,600	85.1	4.0	3.5	1.6	1.6	4.0	.3	0	0	0	0
Louisiana	54,100	90.2	1.5	3.7	2.2	1.7	.7	0	0	0	0	0
Maryland	40,900	82.2	3.4	6.8	1.7	1.7	2.9	.7	.5	0	0	0
Massachusetts	72,300	83.5	.3	2.8	1.9	1.9	5.0	1.9	1.8	.7	.1	0
Michigan	94,700	74.0	3.4	6.2	3.3	3.4	5.3	2.6	1.4	.3	.1	0
Mississippi	34,600	95.4	1.7	1.2	.6	.3	.9	0	0	0	0	0
Missouri	48,500	80.2	1.0	4.3	4.1	1.9	4.5	2.5	.8	.4	.2	0
New Jersey	86,200	85.4	.3	3.2	2.4	1.9	3.7	2.1	.7	.1	.1	0
New York	332,600	86.8	.5	1.6	2.4	1.9	3.7	1.7	.8	.4	.1	.1
North Carolina	39,200	88.3	3.6	4.3	2.0	.3	1.3	.3	0	0	0	0
Ohio	91,500	93.3	1.2	2.2	1.7	.4	.5	.5	0	0	0	0
Pennsylvania	141,300	84.0	.8	3.8	3.0	2.0	3.5	1.6	.8	.3	.1	.1
Tennessee	47,100	84.1	2.1	5.1	2.8	3.4	1.7	.8	0	0	0	0
Texas	84,000	92.4	1.4	2.0	1.5	1.0	1.7	0	0	0	0	0
Washington	42,500	81.2	.5	2.8	6.4	1.9	3.5	2.1	1.4	0	.2	0
Puerto Rico	57,800	89.3	5.0	3.6	1.4	.3	.3	0	0	0	0	0

Question 5. Cost of Collecting Child Support:

The State of Washington has reported that the cost of locating and collecting child support payments was less than 18¢ for each $1 collected for families receiving AFDC, and 8¢ for each $1 for non-welfare families. Collections in Washington totaled almost $8 million in fiscal 1971 for families representing approximately two-thirds of the total AFDC caseload. Massachusetts reported the costs as 6¢ for each $1 collected AFDC families. They collected over $17 million in fiscal 1973.

Do you have any information on how much is it costing the other States to locate missing fathers and to collect child support? Do you have a national figure on this?

Answer. Information on how much it is costing States to locate missing fathers and to collect child support is not available. A demonstration project in Sacramento County, California, is being conducted to determine the cost benefit ratio of intensified collection activities. During the first six months of the project, it was costing approximately $.22 for each $1 collected for families receiving AFDC. This demonstration effort is in addition to very comprehensive previous efforts and does not represent the easiest collections to make. Indications are that based on the first six months' experience, the cost benefit ratio should become even better.

States have not been required to identify these costs separately from other administrative expenses.

Question 6. Effective State Programs:

Can you tell us how many States, if any, now have child support programs which are doing what you would consider at least an acceptable job?

Which States are these?

Answer. According to present information all States have made provisions in their State plans committing that they will carry out the requirements of 45 CFR 220.48. This provision includes that: "There must be a program for establishing paternity for children born out-of-wedlock and for securing financial support for them and for all other children receiving AFDC who have been deserted by their parents or other legally liable persons. . . . There must be a single staff unit in the State Agency and in large local agencies to administer this program."

HEW has not conducted a State by State study to determine how well States are meeting each of the requirements in Federal regulations.

Some Regional Administrative reviews have been conducted and you are no doubt familiar with the recent G.A.O. report. We know that a number of States are doing a creditable job, including California, West Virginia and Washington.

SINGLE STAFF UNIT (AS OF 1970)

The State and local agencies have established the required single staff unit in the following manner:

Administrative Structure	*States*	
1. Question as to organization structure. (21 States)	Alabama	Nebraska
	Colorado	New Hampshire
	Florida	N. Dakota
	Georgia	Oregon
	Guam	Pennsylvania
	Indiana	S. Carolina
	Iowa [1]	Texas
	Kansas	Wisconsin
	Louisiana	Wyoming
	Michigan	Nevada
		N. Carolina
2. Single staff unit in each local or county office. (1 State) New York[2]		
3. Single staff unit in largest county or metropolitan offices. (3 States)	California	
	Maryland	
	Minnesota	

[1] Unit presently being established.
[2] With overall supervision furnished by a central State unit.

Administrative Structure	*States*	
4. Single staff unit at a central (State or county) administrative level. (27 States)	Alaska	Missouri
	Arizona	Montana
	Arkansas	N. Jersey
	Connecticut	N. Mexico
	Delaware	Ohio
	Hawaii	Puerto Rico
	Idaho	Rhode Island
	Illinois	S. Dakota
	Kentucky	Tennessee
	Maine	Utah
	Massachusetts	Virginia
	Minnesota	Vermont
	Mississippi	Washington
		W. Virginia

SUPPORT ENFORCEMENT FUNCTIONS (AS OF 1970)

In States with a true single staff unit, the unit performs the following support enforcement functions:

Function	*States*	
1. Unit performs all functions (i.e., location, interviewing parents and families, arranging voluntary agreements, filing petitions for court orders, etc.) (18 States)	Arkansas	N. Mexico
	California	New York
	Delaware	Rhode Island
	Illinois	Tennessee
	Maine	Utah
	Minnesota (county level)	Washington
		W. Virginia
2. Unit provides full assistance (direction, coordination, etc.) to local offices. (12 States)	Alaska	Missouri
	Connecticut	Montana
	Idaho	New Jersey
	Kentucky	Ohio
	Massachusetts	Puerto Rico
	Mississippi	Vermont
3. Unit provides only partial assistance to local offices. (e.g., policy or procedural guidance only) (6 States)	Arizona	S. Dakota
	Maryland	Virgin Islands
	Minnesota (State level)	Hawaii

Question 7. Method of Support Payment:

Do many States have the father pay child support to a State agency rather than directly to the family, with the family then receiving AFDC? Do you feel this is a good approach?

Answer. According to our last information the father pays child support to the State welfare agency in all cases in 6 States, and to the welfare agency in some instances in 23 additional States. States that have used this method have indicated that it is a good approach.

Question 8. Federal Funds Available Under Present Law:

In 1967 the Congress authorized Federal matching for courts and law enforcement agencies for their expenditures in assisting welfare agencies in carrying out their child support activities.

How much Federal money went for this activity last year? Why has the availability of this Federal matching not accelerated State activity in this area?

Answer. No data are available on Federal matching money expended for State child support activities.

Several States have reported that activity has not been high in this area because either the State share of the welfare grant was so small or in other States the local share was so small that there was very little incentive to reduce welfare payments through increased child support efforts. In California when the administration sharing ration was coupled with a program to permit the County to retain most of the Federal share of the grant recovered, County law enforcement activities in child support enforcement has accelerated at a record pace. Another problem recorded by the States is that the Federal matching applies only to increased efforts.

Question 9. Establishment of Paternity?

Establishment of paternity is one of the major problems arising in obtaining child support for welfare recipients. What research are you conducting in developing more effective procedures for determining paternity? Are you doing any research on blood typing as a tool in establishing paternity? Are you studying the medical and legal problems of using this type of evidence?

Answer. To date, at the Federal level, we have not financed research in developing procedures for determining paternity. Responsibility to establish paternity and obtain child support has traditionally been a State function and we have closely followed the experience in States that have mounted effective programs, such as those in California and Washington. Their experience would indicate that through improved fiscal incentives as well as sanctions, the States themselves would develop more effective procedures for determining paternity. Also, HEW is not engaged in research on blood typing as a tool in establishing paternity or currently studying the medical and legal problems in doing so. We feel there may be a need for some kind of demonstration project to run test groups, using existing medical laboratories to show how effective different test mechanisms would be. The important thing here though, would be to determine at what point a cost benefit from increased blood analysis is no longer realized. You may wish to consider a provision in finding such a demonstration project in HEW in lieu of establishing the system of Federal blood-test laboratories provided in S. 2081.

Question 10. In your statement you expressed concern about the provision requiring mothers to cooperate in determining paternity and collecting child support. I note a few months ago you published a regulation providing that the parent or caretaker who failed to cooperate with the State in seeking support from a person who had a legal duty to support the child, may be denied AFDC. The child, however, would still be eligible for assistance. (Published in May 3 Federal Register, sec. 233.90 of title 45, CFR).

What is the difference between this regulation and the provision in S. 2081 that you think requires additional clarification?

Answer. The bill S. 2081 provides that "as a condition of eligibility for aid, each applicant or recipient will be required. . . . to cooperate with the Attorney General or the State or local agency he has delegated under section 454 (1) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for herself and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due herself or such child."

Under this provision the child as well as the mother would appear to be ineligible for assistance. The current regulation in 45 CFR 233.90(a)(4) is responsive to the U.S. Supreme Court affirmance in the case of *Juras* v. *Meyers* which made it clear that assistance may not be deprived children whose caretaker relative refuses to cooperate in establishing paternity and securing support for the children. The regulation makes clear that assistance may not be denied to a child but leaves optional with the State whether or not assistance will be denied to the uncooperative caretaker relative.

The Bill should make clear whether the intent is that neither the child or caretaker relative would be eligible for assistance if the parent does not cooperate.

Question 11. The Social Security Act has, since the time of the 1967 Amendments, required that State AFDC plans must provide for the establishment of a single organizational unit in the State agency or local agency administering the State Plan in each political subdivision which will be responsible for the administration of the child support program.

Would you agree that this requirement can only be met if the State or local agency has a separate unit which is identified clearly as a child support unit?

How many States meet this requirement?

Answer. Federal policy contained in 45 CFR 220.48 requires that there be a single staff unit in the State agency and in large local agencies to administer this program. The Federal requirement has not been that this be a unit separate from all other functions nor that the name should be that of a child support unit.

There is no data currently available as to the specific designations in each State, although it is clear from various kinds of information available that many States clearly designate the child support functions as such.

Question 12. Lack of Information:

Mr. Secretary, in our Committee report on H.R. 1 last year we quoted from a March, 1972 General Accounting Office study of child support programs. The GAO study criticized HEW's lack of information about child support and the low priority placed by HEW officials on collection of child support.

That was a year and a half ago. What have you done since then to improve the situation?

Answer. There are several measures in this area which we have taken or are planning to undertake within this fiscal year. To add to our information on the subject, we extended the schedule for the 1973 AFDC study to provide us data on court support orders. We have conducted administrative reviews in several States on their organization of provisions for establishing paternity and collecting support. We are planning in this fiscal year to fund several research and demonstration projects on support from absent fathers.

In addition, the Secretary has placed the Office of the Commissioner of Welfare in the Office of the Secretary and has requested that State activities on welfare reform be encouraged and emphasized utilizing the success in California and other States as models. Part of California's program has been a successful comprehensive effort in the child support enforcement area. Arrangements are being worked out with URESA Conference and other officials involved in State and local support enforcement activities to provide technical assistance to States to help them intensify their support enforcement programs. If the provisions for incentives to the States (S. 2081) are adopted in a timely manner, these efforts will be materially assisted.

Question 13. Use of Computers:

Which States, or localities if not a complete State, have the support enforcement programs computerized in whole or in part?

Answer. No data are available to us in which States or localities have computerized their child support enforcement programs.

Question 14. Use of Social Security Numbers.

In regard to the provisions enacted last year requiring the issuance of social security numbers to all applicants and recipients of benefits under programs financed in whole or in part from Federal funds, we have up to now issued social security numbers only to potential recipients under the new Federal supplemental security income program. However, a much broader issuance of social security numbers is contemplated.

We intend to issue social security numbers to applicants or recipients of benefits under all cash or cash-related programs financed by the Federal Government or by a State, local, or private agency with Federal financial participation. People who would be issued account numbers would include applicants or recipients of supplementary medical benefits under Medicare, black lung benefits, AFDC, vocational rehabilitation maintenance payments, and various business and agricultural subsidies. Numbers would also be issued to applicants or recipients of benefits payable to veterans and their dependents, Indians, and seamen, as well as to applicants and recipients under the Medicaid, food stamp, and work incentive programs.

Plans are underway to issue social security numbers to these groups as rapidly as available resources permit. For example, enumeration of AFDC recipients will be underway before the end of this year.

Question 15. Issuing Social Security Numbers to Children:

The Secretary of Health, Education, and Welfare is pursuing the authority given to him to take affirmative measures to assure the issuance of social security numbers to school children.

It is true that this grant of authority specifically mentioned the issuance of account numbers to children upon entry into school. However, the Secretary's Advisory Committee on Automated Personal Data Systems strongly recommended against a program of issuing numbers to children at school entry. It recommended instead that the Social Security Administration undertake an active program of issuing numbers to ninth-grade students in school.

We believe that such an undertaking would be consistent with the authority granted to the Secretary. Moreover, the issuance of numbers to students in the ninth grade is likely to be consistent with their needs and therefore not to be interpreted as coercive. Since there are very few children in kindergarten who need a number, issuance of numbers to children 5 or 6 years of age would almost certainly be regarded by many as coercive. Furthermore, such children are too young to understand the social security program and their rights and responsibilities with respect to the uses of the number.

The whole question of enumeration of schoolchildren will of course be under continuous study and a report, as required, will be given to the Congress by January 1, 1975, concerning the feasibility of establishing a system requiring the issuance of social security numbers to people entering the first grade of school or at an earlier age.

QUESTIONS OF SENATOR MONDALE FOR SECRETARY WEINBERGER

Question 1. S. 2081 would involve the federal government in the direct enforcement of support obligations for the first time, including the use of prosecutors from the Department of Justice and both civil and criminal actions in the federal courts. What is the Justice Department's opinion of the appropriateness of such involvement?

Has the Judicial Conference of the United States reviewed the proposal from the standpoint of its impact on the already crowded dockets of the federal courts and what is that organization's position?

Answer. We understand the Department of Justice is submitting a report on S. 2081 which will answer these questions.

Question 2. Section 453 (c)(2) of S. 2081 allows the Attorney General to obtain information from other federal agencies "not withstanding any other provision of law." Please provide the Committee with a list of all agencies presently under a federal statutory duty of confidentiality which would be effected by this provision as well as the statutory provisions involved.

Answer. It is possible to provide a complete listing of all agencies as requested within the three day time period allowed to respond to the questions. We would be glad to provide as complete a list as possible if more time is allowed.

Question 3. Mondale Question for Secretary Weinberger: S. 2081 would redefine the term "Aid to Families with Dependent Children" in section 406 of the Social Security Act so as to exclude families which do not cooperate with federal, state or local authorities in locating and obtaining support from absent parents. Would you provide the Committee with data on a state by state basis showing the number of AFDC applicants or recipients who have failed to cooperate with state welfare officials during the past year and the recipients' reasons for refusing to cooperate?

Answer. The attached are the latest published tables by the National Center for Social Statistics which give state by state data on the number of applicants denied assistance and the number of recipient-families discontinued because of refusal to comply with procedural requirements. Data on specific reasons for refusal to cooperate are not available.

In addition, because of conflicting court rulings some States do not require cooperation for child support and thus would not be denying assistance. These non-cooperation cases would not be included in the attached data.

Question 4. S. 2081 does not include a specific authorization level. Can you estimate the cost of the child support programs which the bill would establish, including, if possible, separate estimates for the Parent Locater Service which would be established in the Justice Department, and the special block typing centers which would be established by the Secretary of Health, Education and Welfare.

Answer. It is not possible to provide cost estimates of the provisions of S. 2081 as requested within the three day time period allowed to respond to the questions. We would be glad to provide as complete a list as possible if more time is allowed.

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APPENDIX B

Communications Received by the Committee Expressing an Interest in the Subject of Child Support and the Work Bonus

DEPARTMENT OF SOCIAL AND HEALTH SERVICES,
MANAGEMENT SERVICES DIVISION,
Olympia, Wash., September 20, 1973.

DEAR SIRS: It is my understanding that United States Senate Bills S2081 and S1842 have been reported out of committee for public hearings, September 25, and 26, 1973.

With the permission of the Chairman, I would like to file a statement in support of a national law through which the child support obligation can be enforced effectively.

The failure of the father to provide necessary food, clothing, shelter and medical attendance for his minor dependent children is the single greatest cause for the overwhelming cost of the Aid to Dependent Children Program. While Federal legislation will not eliminate the problem, determined guidance and positive involvement from the Federal level will reduce it dramatically.

I have been the program supervisor of the Child Support Enforcement Program for the State of Washington for 13 years, during which time, through much trial and error, we have developed an enforcement program that is effective.

We have found that collection of child support money is a separate subject from criminal punishment for the failure to provide for minor dependent children. To be most effective, a child support "collection program" must be staffed and administered as a collection service, not as an ancillary activity to either social rehabilitation or prosecution for violation of criminal law. This is not to say that support collection program administrators should ignore the collateral aspects of nonsupport, but criminal violations and social problems should be referred to other staff primarily concerned with these subjects.

The success of our program is evidenced by the fact that we are recovering approximately 8.2 percent of ADC (Regular) grant expenditures, at an overall cost of less than 20 percent. (Direct identifiable costs were 17.75 percent for the period, January 1, 1973, through June 30, 1973; collections for this period were $4,046,310.72.)

It is our experience that it is not possible to recover the full legal obligation from all fathers of children receiving public funds, but it is possible to enforce a meaningful contribution in over 50 percent of the cases.

A projection of these figures, nationwide, should weigh heavily in support of legislation which would encourage all states to develop effective collection programs.

Further, child support collection services should be provided mothers who are not receiving public assistance to help them maintain an economic level above public assistance standards. Such a program nationwide should be given very high priority. It is our experience that many mothers can and will, with a little help, maintain economic independence.

Sincerely,

ROBERT E. QUERRY,
Supervisor, Support Enforcement Section.

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REPORT OF SES ACTIVITIES, AUGUST 1973

	August 1973	August 1972	Increase (decrease)	Biennium to date, 1973-75	Biennium to date, 1971-73	Increase (decrease)
Child support collections, public assistance cases	$699,624.54	$619,022.35	$80,602.19	$1,420,609.13	$1,194,595.92	$226,013.21
Child support collections, nonassistance cases	214,708.05	118,291.43	96,416.62	423,233.87	0	423,233.87
Medical 3d party collections	92,728.43	128,635.58	(35,907.15)	322,185.98	164,434.29	157,751.69
Funeral recoveries	35,385.13	25,177.85	10,207.28	57,611.82	40,676.17	16,935.65
Total, collections	1,042,446.15	891,127.21	151,318.94	2,223,640.80	1,399,706.38	823,934.42
AFDC-R support enforcement caseload	29,157	27,580	1,577			
Nonassistance support collection caseload	2,960	1,982	978			
Total	32,117	29,562	2,555			

Note: Most current data available, July 1973: AFDC-R public assistance caseload, 39,756; AFDC-R grants, $8,445,690.67

STATE OF WASHINGTON—DEPARTMENT OF SOCIAL AND HEALTH SERVICES, SUPPORT ENFORCEMENT SECTION
SES CASELOAD, JULY 1, 1971 THROUGH JUNE 30, 1973

Period	AFDC-R support enforcement caseload[1]	Nonassistance support collection caseload	Total SES caseload	AFDC-R public assistance caseload
July 1971	24,916		24,916	36,756
August 1971	25,761		25,761	36,778
September 1971	26,050		26,050	37,064
October 1971	26,041	185	26,226	36,654
November 1971	25,440	392	25,832	36,859
December 1971	25,816	606	26,422	36,716
January 1972	25,836	733	26,569	36,585
February 1972	25,676	923	26,599	37,158
March 1972	26,246	1,819	27,435	37,638
April 1972	25,598	1,364	26,962	37,624
May 1972	25,305	1,546	26,851	37,888
June 1972	26,151	1,746	27,897	38,103
July 1972	27,141	1,892	29,033	38,763
August 1972	27,580	1,982	29,562	39,347
September 1972	28,266	2,106	30,372	39,524
October 1972	28,379	2,272	30,651	39,833
November 1972	29,037	2,350	31,387	40,189
December 1972	28,668	2,412	31,080	40,037
January 1973	26,366	2,481	28,847	40,014
February 1973	27,256	2,603	29,859	40,110
March 1973	26,798	2,611	29,409	40,075
April 1973	27,569	2,727	30,296	39,810
May 1973	27,555	2,757	30,312	39,235
June 1973	27,896	2,818	30,714	[2]
Average	26,723	1,571	28,293	38,381

[1] Cases subject to collection action.
[2] Not available.

NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC.,
Washington, D.C., September 27, 1973.

Hon. RUSSELL B. LONG,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: A number of National Organizations active in the human services field have joined together in a consolidated statement of opposition to the specific thrust of the child support provisions of S-2081 and S-1842. They would like to make their statement a part of the record of hearings which the Committee on Finance is conducting on this subject. The statement is enclosed.

Thank you for your consideration.

Sincerely,

GLENN ALLISON,
Director, Legislative Department.

Enclosure.

Mr. chairman and members of the committee: The organizations joining in this consolidated statement have a strong interest in human service programs and their impact on family life. Listed in alphabetical order they are: The American Association of Psychiatric Services for Children, National Association of Social Workers, National Conference of Catholic Charities, National Council of Jewish Women, and the National Urban League. Our opposition to S-2081 and S-1842 is based on our belief that the creation of New Federal structures, located in the Law Enforcement divisions of the government, will not succeed in collection of support payments from absent parents and have the potential to undercut further the threatened fabric of American family life.

Continued absence of fathers from the home is the major reason for deprivation of support in families receiving grants under the Aid to Families with Dependent Children program. This is not a new circumstance. It has existed since the early days of the program. There exists the real possibility that the conditions for eligibility for welfare have contributed to family breakup.

We have no question about the need for effective programs that can result in collection of support from parents who are legally responsible. We believe such programs should be administered under state laws and that they should be conducted in conjunction with effective family rehabilitation programs. We also believe that state and local governments should be encouraged in their support collection efforts by the Federal government through a financial incentive arrangement, an arrangement under which the political jurisdiction which collects the support is permitted to keep a portion of the funds which ordinarily would be returned to the Federal government.

Our message to your Committee, however, is more fundamental than the issue of support collection. We choose rather to call your attention to the need for strong programs to deal with the frightening erosion of healthy family life in the United States.

We share your strong concern about absent fathers and their responsibilities.

We hope you share our concern for the reasons there are so many absent fathers.

A most important cause of the increase in the absent father caseload, especially since World War II, is the growing incidence of family breakdown. We see this in the frightening rates of divorce, desertion, separation and illegitimacy.

In our society the basic responsibility for children is with the family. When the family breaks down—all of the social ills are fed.

Desertion is a red flag of danger for American family life and for the future of our children. We believe strongly, and we hope you will agree, that we should invest heavily to try to help families broken by desertion to come together again.

To some this may seem a far cry from the issue of collecting support from deserting parents.

Our plea to your Committee is that while you consider legislation to do fiscal justice for the children of desertion you do not forget the issues of social and emotional justice.

Desertion and divorce are partners. They produce the same result—a broken family and potentially hurt children; children who will not be able to make it in the future; will not be able to take their places as solid citizens; children vulnerable to the pressures of anti-social behavior, of crime, drugs and violence.

Divorce is usually a middle and upper class phenomena. We have created all sorts of counseling arrangements in courts through sensible attorneys and social and mental counsellors.

Desertion is mainly a low income group circumstance. Dealing with it only as a fiscal matter is a loser. We urge that you consider seriously the need to attack desertion as a social problem, as a challenge to our ingenuity.

In many desertion situations the family, and hence the children, can be saved if we apply our knowledge, skills and resources. From both public fiscal and social considerations, saving a family is a more fruitful result than merely demanding that the parent pay support.

Prevention of desertion is another issue. We urge your attention to the need for educating young people to family responsibility.

Children and youth in this changing world have a hard time. The security of a stable, slowly evolving society is absent in their lives. Family life is often too unstable for them.

Youth alienation will not disappear. We will have to make it disappear. To do this will mean a revolution in child development and child rearing. What

produces the adult violence is too often a consequence of early development. We must get to children before critical periods of character formation are passed.

One of the major concerns of the 1960 and 1970 White House Conferences on Children was family life education. This meant many different things to different people. We read it to mean the preparation of young people for parenthood, the understanding of the roles of father, mother, husband and wife. The high divorce rate for young marriages, the increasing divorce rate among older couples, and the shocking number of neglected and abused young children all serve to prove that our family life education programs are meagre and not successful.

The past half-century shift from a rural to an urban society, with little planning to accommodate the newcomers, the cars, the working mothers, and the shifting employment market, has created severe problems, for families and children. Housing that once served single families is now being used for multiple family units. Streets designed for a small vehicular flow must now serve a constant stream of wheels with inadequate parking. Neighborhoods have disintegrated. Small family-operated stores and businesses are replaced. Recreation centers and playgrounds are inadequate for the new population. Our cities have not "modernized" to meet modern needs. You are familiar with the resulting problems of family disclocation and deterioration, delinquency, illegitimacy, vice, mental disorder, and recourse to illegal means of livelihood.

In 1965 by amendment to the Social Security Act Congress directed that a major study of mentally disturbed children and resources to treat them, be made. The Joint Commission on the Mental Health of Children was created to carry out the work. The Commission report is published in seven volumes by Harper and Row. In its first volume of recommendations entitled Crisis in Child Mental Health, the Challenge for the '70's, the Commission came to some startling conclusions which are worth reporting here.

The Commission said that if we are to promote the social, physical and mental health of our young, every infant must be granted: the right to be born healthy.

Yet, approximately one million children will be born this year to women who get no medical aid during their pregnancy or inadequate obstetrical care for delivery; because of this lack of professional care, many will be born with brain damage from disorders of pregnancy, some of which might have been avoided simply by protein and vitamin supplements.

The right to live in a healthy environment—yet, thousands of children and youth become physically handicapped or acquire chronic damage to their health from preventable accidents and diseases, largely because of impoverished environments; even greater numbers living in such environments will become psychologically handicapped and damaged, unable to compete in school or on a job or to fulfill their inherent capabilities—they will become dependents of, rather than contributors to our society.

The right to satisfaction of basic needs—yet, approximately one-fourth of our children face the possibility of malnutrition, inadequate housing, untreated physical and mental disorders, and all the other now well-known crippling effects of economic insecurity.

The right to continuous loving care—yet, millions of our young never acquire the necessary motivation or intellectual and emotional skills required to cope effectively in our society because they do not have consistent emotionally satisfying care, either in or outside the home; there are few programs which aid parents in developing more adequate child-rearing techniques; and especially there are few adequate child care facilities to serve working mothers, to aid in times of temporary family crisis, or for those children who are neglected or abused.

The right to acquire the intellectual and emotionel skills necessary to achieve individual aspirations and to cope effectively in our society—yet, each year almost a million of our youth drop out of school and enter the adult world without adequate skills and with diminished chances of becoming productive citizens; countless others are denied the opportunities to develop to their fullest potential through training or higher education; and for all of our children and youth the transition to adulthood is made more difficult because we fail to provide avenues for learning adult roles—or any approved means by which youth's voice might be heard and be influential in a world in which they too must live.

To summarize:

We agree that the persons responsible for the support of their children should be required to support them. We believe that strengthening state and local ability to collect support is more appropriate than a Federal system so long as the AFDC program is state administered and state child welfare and domestic relations law is in force.

We believe desertion is a symptom, not a cause of family disintegration; that our primary mission should be to strengthen family life in every way in order to prevent desertion.

Finally, we believe that children's rights and needs are best protected—and American family life best preserved—by strengthening the entire social fabric around the family so that it can be healthy.

STATEMENT PREPARED IN BEHALF OF THE NATIONAL ASSEMBLY FOR SOCIAL POLICY AND DEVELOPMENT, INC., BY ELIZABETH WICKENDEN, PROFESSOR OF URBAN STUDIES, UNIVERSITY CENTER, THE CITY UNIVERSITY OF NEW YORK

No one questions the fact that the growing number of children dependent upon public assistance because of desertion by their fathers constitutes a major challenge to our society. Differences of viewpoint arise not around the seriousness of the situation but rather around two inter-related questions: (1) Is desertion a symptom of related social ills or is it a root factor in such ills? and (2) in either case how should it be handled?

The Nunn-Talmadge bill (S. 2081) proceeds on the assumption that desertion is a primary social ill and should, therefore, be dealt with directly by severe and potentially punitive measures imposed upon the deserting father. The other point of view held by a large part of the social welfare community is that most desertion is derivative from more fundamental social problems (for example, unemployment and under-employment, inadequate income, racial discrimination and its cultural byproducts, slum and ghetto housing conditions, too hasty and unassisted transplatation from rural to urban living, poor education—including absence of knowledge about and access to family planning, and an environment generally conducive to self-destructive attitudes and behavior.) Thus while we do not consider it right or proper to reject the principle of a paternal obligation to support, we feel that it is only realistic to recognize the practical social climate in which desertion occurs. Any bill which proceeds on the assumption that a universal plan of Federal sanctions against deserting fathers will solve the problem is certain to bring disappointment to its supporters, further hardship to the children and mothers AFDC was intended to aid, and increased bitterness on the part of men already living for the most part at a marginal level.

The implementation of this bill is an administrative nightmare, especially for the Department of Justice where the central responsibility is lodged. Potentially the Department and its investigative arm, the FBI, would be responsible for assuring the identification of fathers for three and one half million children, locating those individuals, bringing a support action or assuring that one is brought, receiving the payment from the Internal Revenue Service as collecting agency, and bringing criminal charges in the case of non-payment. This is a huge task which can only distort the primary functions of the Department of Justice for the enforcement of law and order.

The requirement that OEO legal service attorneys be provided to assist in this gargantuan task compounds the problem by adding a new one. The Legal Services Program has been unusually successful in bringing to impoverished individuals and groups a remedy for grievances within the framework of established law and order. Among the constituencies for this service have been the recipients of public assistance in whose behalf many individual and class actions have been successfully prosecuted both in the courts and with the welfare agencies directly. For these attorneys to be now required to act in behalf of the government and of these same agencies would not only constitute an unethical conflict of interest but would virtually destroy the usefulness of one of the principal morale builders among the poor.

Basically our constitution and system of law provide that child support is a function of the state under its traditional police power and the principle of parens patriae. While there is admittedly unevenness in the way states carry out this function, there are also many advantages to keeping the welfare,

prosecutory and court functions related to child dependency all at the same decentralized level of state (or subdivision) jurisdiction.

This also makes possible more realistic judgments as to whether support action is warranted in a particular case. The provision in this bill for governmental assumption of support collection, at least to the level of payments to the family, is a good one which many states have already adopted since it relieves the mother of uncertainty and anxiety in case support is interrupted. On the other hand arbitrary and universal federal action could create many counterproductive situations. Few fathers in this group are financially able to support two families so a question arises as to whether a currently self-supporting family should be forced onto assistance in order for the father to make support payments in behalf of older children by a different mother. In the case of liens against social insurance or any other Federal payment an individual could likewise be reduced to such penury as to require assistance. An interesting question might well arise in the future as to whether a disabled or aging man identified as a delinquent AFDC father might not have a lien placed against his Supplementary Security Income thus causing one form of assistance to support another.

The question of imposing criminal penalties on deserting and delinquent parents of children receiving Aid to Dependent Children payments raises a serious constitutional question as to whether poverty is a reasonable classification under the 14th amendment.

The best way to deal with desertion is obviously to take steps to prevent its occurrence. Some of the constructive ways to do this are incorporated in the social service regulations now pending before the Senate Finance Committee. The broader the eligibility of potential assistance recipients the wider preventive impact so we hope the Committee will use its good offices in this respect. Family planning, family counselling, and child protective functions are all good preventive services. Assistance and social services to intact families in need of them are likewise of primary importance.

But even more fundamental are those measures which strengthen the underpinnings of society as a whole: an adequate range of jobs, education, housing, income and opportunities for all. Social responsibility is the product of a society in which benefits and opportunity are equitably open to all and cannot be instilled by the punishment and hence greater bitterness of an underprivileged sub-class.

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington D.C., September 27, 1973.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The National Chamber, in behalf of its business constituency throughout the country, recommends that before enacting permanent legislation, Congress authorize a carefully designed program of pilot-testing and evaluation of various proposals to reform welfare, including "work bonus" payments.

The proposed "work bonus" for low-income families is an essential element of the Finance Committee's overall strategy, as enunciated during your 1972 hearings on H.R. 1, of providing income supplements and guaranteed employment to reform the Aid to Families with Dependent Children Program. Our understanding is that the objective of this strategy is to slow down—perhaps reduce—the prodigious growth in AFDC caseloads and costs.

We endorse the Finance Committee's conclusion that a solution to the AFDC problem will not be found in ". . . a more expensive and expansive welfare program . . ." (Social Security Amendments of 1972, Report No. 92-1230, pg. 409).

"Work bonus" payments would be provided to those on welfare as well as low-income families who are working on a part-time or full-time basis. The bonus would be equal to 10 percent of a family's annual earnings (husband and/or wife) up to $4,000. When annual earnings exceed $4,000, the payment gets progressively smaller and phases out at $5,600 a year.

Other key provisions of the Guaranteed Job Opportunity Program include: public service employment through a newly created Work Administration; wage subsidies for those earning less than the federal minimum wage; child care for working mothers; and job training and job placement. Under the proposal, roughly 5¼ million families (including "employable" AFDC adults and the

"working poor") would be eligible for these various types of governmental assistance.

Your Committee estimated the total cost of the Guaranteed Job Opportunity proposal at $11.3 billion in fiscal year 1974—an increase of $4.3 billion over projected spending under present law. About 90 percent of the increase would be spent on public service employment, wage subsidies and "work bonus" payments. Estimates prepared by Robert J. Myers, Consultant to the Finance Committee and former Social Security Chief Actuary, indicate that the cost of the proposed "work bonus" program would range from $1.0 to $1.2 billion annually.

We regard the Guaranteed Job Opportunity proposal as a vast improvement over the Administration's Family Assistance Plan (FAP) because of its major emphasis on employment and job training. However, it is a very expensive proposal involving added federal spending of better than $4 billion initially. Moreover, there is no evidence available to indicate what effects this proposal will have on work incentives, labor supply and whether it is administratively feasible.

It would be unwise for Congress to approve any major proposal to restructure welfare, including "work bonus" payments, before completion of a carefully designed program of pilot-testing. Such a test should be conducted over a two-year period in representative demographic areas. At the end of two years, separate reports and evaluations should be submitted to the Congress by the Comptroller General and the Department of Health, Education and Welfare to provide a sound basis for developing permanent legislation.

We support pilot-testing because it would provide members of Congress with the factual information they need to determine which alternative plan offers the most effective solution for reducing welfare caseloads and costs under the AFDC program. We recommend, in the accompanying memorandum, criteria which we think should be followed in implementing any program of pilot-testing.

We appreciate your consideration of our views and requests that this statement be made a part of the hearings record.

Sincerely yours,

HILTON DAVIS,
General Manager, Legislative Action.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

PILOT-TESTING MAJOR WELFARE REFORM PROPOSALS

There are very little data for Congress or the public to evaluate the potential consequences on motivation and work incentives of proposals to provide a guaranteed income to those now on welfare, as well as to millions of other low-income families. Moreover, there is no evidence available to appraise the effects of the Guaranteed Job Opportunity program. No one really knows whether FAP, Guaranteed Job Opportunity, the Chamber's recommendations, or some other plan will solve the AFDC welfare problem.

We think it is absolutely essential for Congress to authorize a carefully designed and thorough program of field testing of at least three proposals before enacting any legislation on a permanent basis. The purpose of such an experiment would be to provide members of Congress with the factual information they need in order to choose the best solution to the AFDC problem.

The field tests should be designed to meet the following conditions:

(1) *Objective.*—To determine which welfare reform proposal will lead to a long-run reduction in AFDC caseloads and costs. The ultimate goal should be to minimize dependency by getting as many recipients as possible off the welfare rolls and into self-supporting employment on a permanent basis.

(2) *Conducted in a fair and impartial manner.*—To eliminate any possibility of "bias," no test should be conducted by personnel who have a previous or current proprietary interest in the problem or in any one solution, or by those who will have any responsibility for program administration. Each test should be monitored by the General Accounting Office.

(3) *Measuring effectiveness.*—To measure the effectiveness of each field test, there should be a minimum of at least one "treatment group" and one "control group" in each geographical area. Both groups should have similar characteristics; e.g., in terms of age, sex, color, number of children, earnings levels, educational backgrounds, etc. Moreover, the "treatment group"

and "control group" should be representative of the covered population in the proposed legislative solution.

(4) *Duration.*—The test should operate long enough so that one can be fairly certain that the results are valid and not distortions caused by the newness of the program. This suggests that each test should run for at least two and possibly three years.

(5) *Results.*—Should be reported at regular intervals—such as every six months—and fed back into the program. This enables one to take account of additional effects and to take corrective action.

(6) *Funding.*—Congress should authorize enough money and resources to carry out several full-scale tests in different areas of the country. Enough data should be produced so that the results are significant to provide guidance for public policy purposes.

(7) *Planning.*—There should be sufficient lead time to plan and structure the tests—preferably nine to twelve months.

(8) *Sampling techniques.*—The tests should be conducted on a sample basis in different labor market areas—both urban and rural. The various labor market areas should include some with relatively low unemployment, with a high and stable demand for the services of labor, as well as other areas with relatively high unemployment. In each area, the sample should be representative and reliable.

(9) *Findings and recommendations.*—Congress should receive a written report from both the Comptroller General and the agencies or contractors who are conducting the operations. This report should include a cost-benefit appraisal of each of the alternatives tested and recommendations on which plan offers the most effective solution for reducing AFDC caseloads and costs.

(10) *Maintaining congressional responsibility and control.*—Congress should contract directly with the agencies or organizations carrying out the field tests. Legislation authorizing the tests should not require automatic implementation of any plan before Congress evaluates the results. Any such requirement would imply advance acceptance and prejudice the case against any other test plans under consideration.

SEPTEMBER 25, 1973.

DEAR SENATOR LONG: I request that this study, The Concept of Family in the Poor Black Community, be, in full, included in the written record of the public hearing on proposals to child support and the work bonus program. Chapter V deals directly with our fundings on support from fathers, and may be used if the entire report is too lengthy.

CAROL STACK.
Professor, Boston University.

EXCERPTS FROM THE CONCEPT OF FAMILY IN THE POOR BLACK COMMUNITY BY CAROL B. STACK, ASSISTANT PROFESSOR, BOSTON UNIVERSITY, DEPARTMENT OF ANTHROPOLOGY AND HERBERT SEMMEL, PROFESSOR, ANTIOCH SCHOOL OF LAW

PREFACE AND SUMMARY

For three years, between 1968–71, Professor Carol Stack, an anthropologist, conducted a participant-observation study of urban poverty and the domestic strategies of urban born Black Americans whose parents had migrated from the South to a single community in the urban North. The study took place in the mid-western city of Jackson Harbor, a city in the 50,000–100,000 population range, 10 percent Black. The families studied lived in the Flats, the poorest section of the Black community of Jackson Harbor.

V

"FAMILY" IN POOR BLACK COMMUNITIES: IMPLICATION FOR PUBLIC AID POLICY

Children are the focus of the major public assistance program in the United States, the federally subsidized Aid to Families with Dependent Children (AFDC). Almost 11 million of the 15 million welfare recipients in the United

States in March, 1972, received benefits under AFDC. Seven million AFDC recipients are children, most of the balance are the mothers of these children.

Although concern for the welfare of children often has been expressed as a major consideration in determining welfare policies, maintenance of a work incentive and minimization of the expense to the public have in fact been the prevailing factor. The Social Security Act provisions on AFDC stress the provision of "financial assistance and rehabilitation and other services" to dependent children and the importance of providing them with "continuing parental care or protection" and of maintaining and strengthening family life. State welfare laws often speak in terms of providing sufficient income to protect the health and well-being of children. Judicial decisions abound with expressions such as ". . . protection of such [dependent] children is the paramount goal of AFDC"! It is important, however, for an appraisal of proposals for changes in welfare system to understand that the reality of welfare programs is markedly different from the expressed concern with children. Careful studies of the development and operation of public aid programs have shown that the well-being of children has played a secondary role to work incentives, the strings of the public purse and the emotions of popular prejudices. (Bell, 1965; Piven and Cloward, 1971).

The workhouse, the classic pre-twentieth century form of relief in England and America, was almost entirely a forced work, low cost program with no consideration of the interests of the child. The early 20th century "Mothers Pension", the first publicly funded cash assistance program for children, was granted only to the "deserving poor", which in practice meant white widows with children. A variety of legal rules and administrative techniques screened out most of the needy, illegitimate children and almost all non-whites. Bell, in her study of the development of the AFDC program, reports that in 1931, 96% of the recipients were white. Only 4% of the recipients were non-white, although the non-white percentage of the entire population was 9.7 percent and non-whites constituted a much higher percentage of the poor population of the country. In some states or municipalities, the exclusion of non-whites was complete.

The Social Security Act, enacted in 1935, established federal power over aid to children, and the Act fas amended to require that aid be furnished to all eligible persons. However, basic control and administration of the programs remained in the States. Bell has demonstrated how "suitable home" and "man-in-house" rules as well as administrative practices, effectively denied aid for eligible non-white or illegitimate children. In 1960, Louisiana brought the issue to national attention by declaring unsuitable any home in which an illegitimate child was born after the family was on welfare. Children and mothers were cut from the AFDC rolls in one fell swoop, a reduction of 25% in the rolls. Ninety-five percent of those cut were Black. The Louisiana action led to a change in federal law which in effect barred denial of aid under the suitable home rule and the United States Supreme Court held that the man-in-the-house rule also violated federal law. However, administrative practices continue to deny aid to eligible families. For example, it has been alleged that administrative practices account for the sharp tapering off of the rate of increase of AFDC families in New York City in 1970. Cases continue to be reported of cut-offs of all AFDC in some rural southern countries during cotton picking season.

Clear-cut evidence of the lack of concern for children in welfare programs is found in state practices of paying less than budgeted need to AFDC families. Each state prepares budgets of minimum need for persons in each of the federally subsidized aid programs—aid to the blind, the disabled the aged and AFDC. However, federal law does not require the states to pay these minimum budgets; states are permitted to pay reduced percentages of budgeted need or impose flat dollar maximums on payments. Many states pay 100% of budgeted need to the blind, elderly and disabled, but only a percentage of need to children. Only two states actually compute their budgets of maximum need for a welfare family at a level equal to the national poverty level of $4000; only 14 states pay AFDC families 100% of the already substandard budgets the state has prepared.

Some states, which purport to pay 100% of budgeted needs, budget artifically low. For example, Illinois law requires a payment sufficient to protect the health and well being of the child, and Illinois purports to pay 100% of the budgeted need. But Illinois budgets need for a family of four at $273 monthly, whereas its neighboring states, which do not pretend to pay 100 percent of need, all budget higher.

TABLE II.—AFDC BUDGETS AND MAXIMUM PAYMENTS, 5 STATES (FAMILY OF 4, MARCH 1972)

State	Budget	Maximum payment
Illinois	273	273
Indiana	355	175
Iowa	300	243
Missouri	313	130
Wisconsin	312	281

In March 1972, only one state, Connecticut, paid an AFDC family an amount sufficient to meet the barest survival needs measured by the current official poverty level of $4000 per annum for a family of four. And this $4000 figure, as already noted, contemplates a diet likely to result in long run malnutrition, allowing only 91 cents per day per person for food. Eleven of the states paid maximum AFDC benefits of less than 50% of the minimum poverty level (less than $167 monthly). Seven other states, for a total of 22, pay $200 monthly or less. Mississippi computes the minimum needs of a family of four at $277 monthly and pays that family $60 per month. Maine computes need at $349 monthly and pays $168; in Delaware, the maximum is $158. Moreover, in a majority of the states (28) any non-exempt income of a family reduces the welfare payment in whole or in part. In Alabama, for example, need is computed at $270 and the maximum payment is $81. Any non-exempt resources received or earned by the family reduces the amount of welfare payment. If an absent father pays $81 monthly for the support of his Alabama children, they receive no AFDC benefits even though they have no other income and their income is $149 less than the state's budget of minimum need.

An awareness of the below subsistence level of benefits received by welfare families is necessary to an understanding of the domestic strategies of poor Black welfare families. The stark necessities of survival within these incomes influence residence patterns, marital relations and the development of trading networks. Secondly, emphasis on the level of benefits keeps in focus the basic issue which must be faced in modifying public assistance programs. Is the primary emphasis that of providing children with the means of support necessary to provide an adequate diet, decent housing, health care and the other basic amenities of life or shall consideration of work "incentives" and "savings" of tax dollars continue to prevail?

ENFORCEMENT OF "SUPPORT" OBLIGATIONS OF AFDC FATHERS

The emphasis to be given to the enforcement of legal "support" obligations of absent AFDC fathers presents the most clear cut conflict between the interests of children and the "interest of the taxpayer" in reducing the amount of tax revenue expended for public assistance payments. Pursuit of a father may cause him to refuse to accept a child as his own, thereby depriving the child of the extensive resources which may otherwise be available from the father's kin. Yet in most situations, the state, not the child, receives the funds recovered from the AFDC father.

In 35 of the 50 states, any payment recovered from the father of a welfare child accrues solely to the state, the child receiving nothing. In 20 of these 35 states, the child receives nothing even though the state is paying public assistance benefits which are less than the state's own version of minimum needs. In West Virginia, for example, the standard of need for a family of four is $265 monthly but the state only pays $138. If the father were to contribute or pay $100 either voluntarily or by court order, the state payment is reduced to $38, leaving the family with only $138, still $127 short of the budgeted figure for minimum subsistence needs. In 10 other states, a portion of the father's payment goes to his children and a portion to the state, but the state receives the greater portion in most of these cases.

In only 5 states would a father's payment go entirely to the child, and these states all pay assistance benefits less than budgeted need. Even in these five states, as with the 10 in which the child receives aportion of the support payment, the child benefits only to the extent that the public assistance payment plus his share of the father's payment brings the family up to the state's budget of minimum need. Thus, in the five state group, (assuming a budgeted need of

$300 and a maximum public assistance payment of $250) if the father pays $100 support, the children receive only $50, the other $50 going to the state. It is therefore more accurate to describe payments by AFDC fathers as "state reimbursement payments" rather than the commonly used expression "support payments."

Even if the children receive nothing, reduction of the taxpayers burden would be a desirable goal if the children were not in fact harmed. Stack's study, however, indicates that vigorous pursuit of fathers of Black welfare children will deprive some of the children of sorely needed material, psychological and social support which would otherwise be forthcoming from the father and his kin. It is also questionable whether any significant surplus over the cost of collection will result from a program aimed at fathers of welfare children in urban conditions similar to the Flats.

As described more fully above, the crucial issue in terms of the resources available to a child is whether the father openly acknowledges the child to be his, thereby bringing the father's kin into the child's domestic network. The actual financial support from the father may be small or non-existent, and the expectation of such support is low, particularly where the father and mother do not marry. The significant element is the variety of material and psychological resources the child obtains from the father's kin if the father openly accepts the child. These resources cannot be measured in terms of dollars; they include providing child care, feeding the child, providing furniture, sharing clothing which circulates among children in the network, including the child in social and recreational activities. On occasion the father's kin assume complete care of the child. Moreover, a substantial number of AFDC fathers maintain close relationships with their children and play an important role in affection and discipline, even though offering no financial support.

The importance of the supportive role of the father's kin must be evaluated in terms of the inadequacy of AFDC payments. The strengthening and expansion of domestic networks is vital to the survival of poor families. A child's network can be doubled in size by inclusion of its father's kin, but this is dependent on the father's acknowledgement of paternity. Any program which actively pursues low-income fathers for reimbursement payments which accrue to the state will cause at least some reduction in the number of fathers acknowledging their children and deprive children of the support otherwise forthcoming from the father's kin. It will not be long before it is understood in poor Black communities that open acknowledgement of paternity increases the speed and certainty of judicial decrees of support. Whatever a court may decree, the father's determination will prevail as to whether the child receives support from his kin. Even where a father has first accepted a child, his later disaffirmance usually results in a withdrawal of the father's kin from the child's domestic network (except that where close, long term relationships have developed between the child and certain of the father's kin, those kin may remain in the network).

In some cases, the pursuit of low-income fathers to reimburse the state for public assistance payment may result in a loss of additional financial benefits available to a child. A father may not offer regular support but may make occasional gifts of money, or pay some rent in a crisis, or buy the child clothing. Such cash outlays may occur on occasions when the father is able to obtain a job after a period of unemployment. The amounts may appear small to the more affluent, but a gift of $30 is more than is generally budgeted by welfare authorities for food for a child for an entire month. In many states, small gifts not regularly received are not considered as resources or income and do not reduce the amount of public assistance payment; if technically a resource, they are unlikely to be reported. If a father is saddled with a reimbursement order, the likelihood that he will have the funds or desire to make an additional payment to his child is sharply reduced, if not negated. Public policy should encourage, not discourage, AFDC fathers to give assistance, however small, to their children living on sub-subsistence incomes.

Although Stack did not undertake a study of employment or income of AFDC fathers in the Flats, her observation of the fathers indicates that reduction in public expenditures which would result from a vigorous reimbursement program in the Flats would not be significant and would be far outweighed by loss of supportive resources for the child from the father and his kin. If one were to attempt to draw a composite picture of AFDC fathers in the Flats, the result would be a young man between eighteen and 35, a high school drop-out, unskilled or semi-skilled worker, unemployed or sporadically employed in low-paying po-

sitions. This profile conforms with the statistical information available concerning AFDC fathers and Black males living in low-income urban areas. A national survey of AFDC families in 1971 found that among those fathers whose educational status could be determined, only 27 percent had finished high school. This rate of graduation is only one-half of the already low graduation rate for all Black males in the labor force, age 22–34, living in low-income urban areas. Unemployment is also extremely high among the AFDC father group of Black males, those living in these low income areas. The "official" unemployment rate for Black males in low income areas aged 16-21 (non students) was 31 percent, and for age 22–34 was 10.5 percent. These figures do not represent the actual unemployment situation, however, particularly for the 22–34 age group. The official rate is based on a survey which defines as unemployed only those actively in the labor market, that is, those who have sought work within four weeks of the survey date. A large number of "discouraged" workers are excluded from the computation of the unemployed by this method. These are the workers who would accept employment if available but who have ceased actively seeking work because of repeated inability to obtain employment. In addition, official unemployment rates ignore the workers who are employed only part time or sporadically but desire full time steady work. In an analysis of 1970 census statistics for low income urban areas, the Reearch Department of the National Urban League has computed the "real" unemployment rate for all Blacks at 23.8%. Forty-three percent of all Black males in these areas earned less than $6000. Only 25% worked in any of the white-collar occupations (managerial, professional, sales or clerical) and only 12% as craftsman or foreman. In a 1954 study of support cases in New York, Gelhorn concluded that defendants in paternity support actions are by and large "men and boys whose earnings are low, whose prospects are dim, and whose irresponsibility is manifested by the very fact of their being before the court."

A court decree which deprives a man already working at low wages of a substantial portion of his earnings operates as a strong work disincentive. Such a decree may also inflict secondary penalties on children other than those in the AFDC group. Some AFDC fathers are supporting or contributing to the support of children other than their AFDC child, and often living with those non-AFDC children. A division of the father's income to reimburse the state for its AFDC payments to one child may result in adding another family to the AFDC roll or driving that second family deeper into poverty. Or, it may be the last straw which leads the already overburdened father, struggling at a thankless job at low pay, to give up the ghost.

Gelhorn suggested that the financial return on support actions are achieved at the cost of "later social expenses-for institutionalization of the parties, for lawlessness by men whose latent grudges against society are aroused, and for the economic and emotional wounds that may be suffered by the defendant's other family. In short, there are hidden as well as direct costs in collecting these moneys."

Available information on reimbursement payments from AFDC fathers indicates that an enforcement program against the broad population of AFDC fathers will lead to low per capita returns. A national survey of AFDC families by HEW's National Center for Social Statistics revealed that only 13.3% of the absent fathers of AFDC children were making "support" payments in 1971 and that the total of these payments comprised only 17.6% of the total income (including public aid) of the families to which they were contributing. The average payment from contributing fathers was $85 per month but more than half of these fathers contributed less than $75 monthly. These figures of actual payments are probably much higher than collections from an enforcement program against the entire population of AFDC fathers. In view of the limited and sporadic nature of enforcement proceedings against AFDC fathers, those actually making reimbursement payments are a select group, likely to represent a more highly-paid, regularly employed group than would be found in the overall AFDC absent father population.

There is little data available on whether more widespread support enforcement programs against AFDC fathers would produce substantial income in excess of the costs of the program. The national AFDC survey for 1971 found that the whereabouts of 53% of absent AFDC fathers was unknown. Whether this reflects actual difficulties in locating fathers or the lack of enforcement procedures is speculative. Many state officials share the view of Arkansas wel-

fare officials that an intensive program for securing payments "would not be worthwhile because most absent parents did not have the means to support their families." In Jackson Harbor, support proceedings against AFDC fathers are rare. On the other hand, in the State of Washington, according to a study by the Comptroller General, reimbursement payments from AFDC fathers were claimed to be five times what state officials claimed were costs of collection. Whether this ratio, if accurate, is attributable to Washington's well organized program for collection from AFDC fathers, as the Comptroller General assumed, or whether the ratio was not significantly different from other states is difficult to determine. In most states, responsibility for collection from AFDC fathers is spread among local welfare and law enforcement officials, making an accurate determination of collection cost difficult if not impossible. In Washington a centralized collection agency makes cost determination somewhat more possible, but not entirely accurate, and it appears that the Comptroller General uncritically accepted the cost estimates of state officials. For example, the cost figures used by the Comptroller General cover only the state-wide central Collections Section of the state welfare agency. This Section does not appear o employ any attorneys, enforcement proceedings being referred by the Collection Section to law enforcement officials. No consideration was given to costs of law enforcement agencies in proceedings against AFDC fathers or to the costs of the judicial agencies involved, even though it appears that approximately forty percent of the cases involved judicial proceedings. These costs will be substantial in any broad experiment. For example, in Jackson Harbor with an AFDC caseload of approximately 500 cases, an attorney was paid $3000 per year by the state supposedly as a fee for bringing support actions against AFDC fathers as well as for performing other legal services for the welfare agency. Computing the time available at the minimum established Bar rate, the attorney could devote less than two hours per week to the business of the welfare agency. Such a small amount of lawyer's time is not likely to produce significant support payments.

The findings of the 1971 National AFDC survey sharply challenge the validity of the Comptroller General's conclusion that "The State of Washington was more successful in collecting child support for AFDC children than were the other States [Arkansas, Iowa and Pennsylvania] included in our review." Washington differed from the national average in percent of contributing fathers by only 5.5 percent (18.8% to 13.3%) and in average contribution by only $3.63 monthly ($88.52 to $84.89). Pennsylvania, which appears to follow the usual pattern of limited pursuit of AFDC fathers (and which was criticized by the Comptroller-General) does almost as well as Washington. Pennsylvania fathers contributing 16% of the cases an average amount of $92.88.

All of this is not to suggest that all proceedings against AFDC fathers should be abandoned. There are undoubtedly a small number of AFDC fathers with sizable incomes who should pay for the support of their children. But the foremost consideration must be the maximization of resources available to poor children. In that light, the evidence is clear that attempts to wring small amounts of money out of low income men to reimburse the state will result in a reduction of resources for their children. At the same time, savings for the state may be marginal. Public policy should encourage fathers to support their children rather than discourage support by enacting what is in effect a 100% tax on payments by AFDC fathers. In short range terms, the Social Security Act should be amended to:

1. require the states to allow the AFDC family to retain any payments made by the absent father at least to the extent that the assistance payment is less than budgeted need.

2. require the states to allow the AFDC family to retain a percentage of payments made by the absent father which result in total family assistance and income in excess of budgeted need, thus providing an incentive to fathers in much the same fashion as the income disregard provisions of the Act.

3. establish national standards of budgeted need based on actual cost of living requirements, subject to adjustment for demonstrated regional variations.

In long range terms, government policies should be geared toward providing every adult willing to work with steady employment at wages which provide an adequate income (at least $6200 net of taxes in 1972 dollars). Stack's personal observation confirms the conclusion of a recently published survey of poor

families (Goodwin: 1972) that both welfare fathers and mothers place the highest priority on obtaining employment which will permit them to rise out of their poverty. What the poor, and particularly the Black poor lack is opportunity; quality education, decent-paying jobs and an income level which affords an adequate diet and housing. For those unable to work because of disability or because of the need to care for children, an income maintenance program should provide comparable income to those employed. The elimination of poverty, not its perpetuation, should be the objective. Children should no longer be condemned to a cycle of poverty and dependency by destroying their physical or mental health before they reach maturity.

September 21, 1973.

STATEMENT OF WILLIAM R. KNUDSON, COUNSEL FOR CHILD SUPPORT FOR CALIFORNIA, STATE DEPARTMENT OF SOCIAL WELFARE

S2081 embodies many of the child support reforms initiated in California Welfare Reform Act of 1971. The use of a law enforcement approach to the problem, the civil debt concept, 75% administrative expense sharing, and the Support Incentive Fund have been in effect in California for at least two years. During that period child support collections rose 37% and the percent of contributing parents increased by 64%. I think it is safe to say that this approach has been successful.

S2081 removes two obstacles to efficient enforcement of responsibility.

(1) Cooperation is made a condition of eligibility for public assistance under S2081. Up to the time the Supreme Court of the United States ruled that the cooperation requirement was inconsistent with the Social Security Act, we in California had a similar law. Cooperation of the custodial parent under that law was never a problem. Even without such a law, the problem has proved to be of minimal significance.

(2) Federal wages and benefits are reachable for child support under S2081. This provision will go a long way towards solving the problems encountered with military employees and persons living on a federal allotment or pension.

S2081 contains two provisions which are incompatible with a fiscally responsible child support program. No person, to my knowledge, who has first-hand experience in child support matters endorses these measures.

(1) First is the disregard provision of S2081—Cooperation of the custodial parent is necessary only at the outset of the support action, that is in supplying the information on identity and perhaps the absent parent's last known address. The custodial parent often plays a minor role in the actual court proceeding and subsequent collection activity. This role is closely defined by rules of court. The disregard provision offers a remote and uncertain incentive at best as the need for cooperation has long since passed by the time support payments are received. Conditioning eligibility on cooperation, however, supplied a timely impetus to cooperate—that is cooperation during the application process. Cooperation in California never became a problem until it ceased to be a condition of eligibility. In our opinion the disregard is a reward coming long after the fact of cooperation and is in fact unrelated to the cooperation. The conditioning of eligibility on cooperation solves the problem fully as shown by the California experience.

The disregard provision is also discriminatory as it relates to child support payments actually received, not cooperation in attempting to obtain them. Thus, the marginally cooperative mother receives a reward which would be denied the fully cooperative, but unsuccessful, mother.

In summary, we strongly oppose the disregard provision as it is not related to, nor productive of, cooperation and it is discriminatory in effect. Our fiscal estimates reveal it would cost nearly $6.5 million per year to fund in California alone. This is far too high a price to pay for cooperation which can be readily obtained by conditioning eligibility upon cooperation. We are joined in this opinion by the National Association of Attorneys General, the National Conference on URESA, and the California District Attorney's Family Support Council.

(2) We also oppose the charging of child support fees to non-welfare mothers. Such a provision causes the welfare cycle. That is, as soon as a fam-

ily goes off aid due to receipt of child support payments, monitoring on these payments ceases, the payments often cease, and the family is forced to return to the welfare rolls. We submit that the 75% administrative cost matching and the 25% Support Incentive Fund provide adequate resources to enable a child support unit to handle both welfare and non-welfare cases. The California experience bears this out as we have several counties which more than break even on their entire child support programs. These counties collect child support for $.15–$.20 on the dollar, and receive enough reimbursement for welfare related child support activity to fully fund the equally important non-welfare function

WILLIAM R. KNUDSON,
Executive Secretary.

X. RESOLUTION ON FEDERAL CHILD SUPPORT LEGISLATION

Whereas, the Senate Finance Committee is considering legislation to assist the states and local communities in collecting child support obligations in both public assistance and other cases; and

Whereas, prior proposals of the Senate Finance Committee concerning the enforcement of child support obligations have evidenced understanding and concern for the problems of the states in this area; and recognition of the primary responsibility of parents for the support of their children.

Whereas, the provisions of any such legislation would have an important impact on the states in financial return, in the administration of the public assistance program and in local law enforcement responsibilities;

Be it resolved that, the National Association of Attorneys General expresses its appreciation for the interest of the committee and its recognition of state concerns in the problems of public assistance and the enforcement of child support obligations.

The Association strongly approves inclusion in such legislation of provisions which:

1. Permit the garnishment attachment and assignment of federal pay and allowances including military;
2. Increase the utilization of federal sources for location services.
3. Provide for retention by the states of a portion of the federal share collected as an incentive to effective enforcement.
4. Condition eligibility of the family for aid on the cooperation of the caretaker parent in identifying and obtaining support from the absent parent.

The Association does not approve a provision which would permit a portion of the child support collected to be disregarded in determining the amount of assistance to be paid. It is considered that such an incentive is inappropriate because cooperation in developing potential parental income sources is to be a legal obligation of the recipient and the use of a disregard greatly increases the cost of providing public assistance.

RESOLUTIONS: WESTERN REGIONAL CONFERENCE, DENVER, COLO.

RESOLUTION I

Whereas, the Senate Finance Committee is considering legislation in SB 2081, to be incorporated in HR 3153, to assist the states and local communities in collecting child support obligations in both public assistance and other cases; and

Whereas, these proposals of the Senate Finance Committee concerning the enforcement of child support obligations evidence understanding and concern for the problems of the states in this area; and recognition of the primary responsibility of parents for the support of their children; and

Whereas, the provisions of this legislation will have an important impact on the states in financial return, in the administration of the public assistance program and in local law enforcement responsibilities;

Be it resolved that, the National URESA Conference be requested to express appreciation for the interest of the committee and its recognition of state concerns in the problems of public assistance and the enforcement of child support obligations.

Be it further resolved that, the Conference express its strong approval of the inclusion in such legislation of provisions which:

(1) Permit the garnishment attachment and assignment of federal pay and allowances including military;

(2) Increase the utilization of federal sources for location services.

(3) Provide for retention by the states of a portion of the federal share collected as an incentive to effective enforcement.

(4) Condition eligibility of the family for aid on the cooperation of the caretaker parent in identifying and obtaining support from the absent parent.

(5) Establish regional blood laboratories to assist in the determination of paternity.

BE IT FURTHER RESOLVED THAT, the Conference express its disapproval of provisions which:

(1) Would permit a portion of the child support collected to be disregarded in determining the amount of assistance to be paid. It is considered that such an incentive is inappropriate because cooperation in developing potential parental income sources is to be a legal obligation of the recipient and the use of a disregard greatly increases the cost of providing public assistance.

(2) Require more than a nominal fee for collection of support in non-welfare cases, and establish a time limit on such services.

RESOLUTION OF DISTRICT ATTORNEY'S ASSOCIATION, FAMILY SUPPORT COUNCIL

WHEREAS, the Senate Finance Committee has before it legislation concerning a Federal Child Support program parallel to the system currently in use in California; and

WHEREAS, the California system which utilizes immediate referral and the law enforcement approach has clearly demonstrated its effectiveness;

BE IT RESOLVED, that the Family Support Council expresses its support for this federal child support legislation with the exception of certain provisions; and

BE IT FURTHER RESOLVED, that the Family Support Council express its opposition to the provisions of the legislation which require fees of the nonwelfare parents for child support collection activity as they promote welfare dependency; and

BE IT FURTHER RESOLVED, that the Family Support Council express its strong opposition to the disregard provision of the legislation as it is an expensive solution to a problem which will cease to exist if eligibility for assistance is conditioned on eligibility.

[From the Sacramento Union Day Weekender, Mar. 27, 1971]

FAMILY ON WELFARE—U.S. PROTECTING NONSUPPORT AIR BASE DAD

(By Mike Otten)

The federal government takes better care of its employes than it does the taxpayer, a Sacramento County Superior Court contempt hearing showed Friday.

The hearing revealed how one federal regulation helped a McClellan Air Force Base employe avoid paying more than $10,000 in child support payments.

But another regulation requires federal, state and county governments to pick up the tab for the welfare support of the employe's four children.

Deputy Dist. Atty. Michael Barber, who brought the contempt action against the employe, charged that the federal government is "working at cross purposes" with the taxpayer being the loser.

He said regulations help the absent father avoid making child support payments while allowing his family to go on welfare. This happens because the U.S. won't permit wage assignments to collect child support.

Divorcee Doris Andrews, 32, testified that while she and her four children get by on $131.50 in welfare every two weeks, her ex-husband drives "a big Cadillac" and earns $9,000 to $10,000 a year.

Barber asked if her ex-husband had a "gambling problem."

"Yes, gambling, drinking, women, you name it. That was the cause of the divorce," she replied.

In 1966, Mrs. Andrews obtained a divorce on the grounds of extreme cruelty, ending a marriage of more than 10 years.

Superior court Judge Mamoru Sakuma then ordered that Andrews pay $1 a month alimony and $50 for each of his four children.

Since then, domestic relations investigator John Lai said, Andrews has paid a total of $170. As of the end of February, he was $10,230 behind in his support payments.

On Feb. 3, 1970, Superior Court Judge Joseph A. DeCristoforo found Andrews guilty of six counts of contempt for non-payment of his child support.

Sentence was suspended, and Andrews was placed on probation for a year with the condition he start making child support payments.

"Andrews knew he had a problem with dissipating his salary so he agreed to a wage assignment of $85 a month from his salary at McClellan," said Barber.

C. H. Sjolund, chief of the civilian pay section at McClellan, was called during the hearing before Superior Court Judge Oscar A. Kistle Friday morning.

His records showed that Andrew, 38, of 3938 Haywood St. earned a total of $9,542.30 last year and contributed $318.75 to buy government bonds.

Sjolund testified that even if Andrews wanted to, a federal regulation forbids assigning any of his wages to support his children.

Andrews didn't show up for the hearing, though an assistant public defender appeared in his behalf.

Kistle found Andrews guilty of nine counts of contempt and continued the proceedings until Monday, asking that Andrews be there.

Barber and Lai said they have no problem working out wage assignment agreements with private employers, the city, county or state—just with the federal government.

"It's kind of a sad situation where our hands are tied," Barber said.

Barber said he is now compiling figures on how much money the federal government is helping absent-fathers avoid paying in child support.

[From the Sacramento Union, Apr. 29, 1971]

FIVE DAYS FOR NONSUPPORT—EX-MAJOR'S KIDS ON AFDC

(By Mike Otten)

Retired Air Force Maj. William C. Tiernan told a court Wednesday morning he allowed most of his seven children to go on the welfare rolls at taxpayers' expense because he had too many bills to pay to support them.

He got no sympathy from the judge: just five days in jail.

He told Sacramento County Superior Court Judge Oscar A. Kistle:

He received more than $700 a month retirement pay.

He picks up a $65-a-week unemployment check.

He earned about $200 doing a painting job.

In January and February, he took two ski trips to the Tahoe area.

In December, with an assist from Uncle Sam, he took a plane trip to Milwaukee, Wis., to visit his mother, then flew to Miami, Fla., to visit a sister and back home to Sacramento.

To top it all off, Deputy Dist. Atty. Michael Barber said, he testified he has been living rent-free since February at 3377 Barberry Lane with a Phyllis Baker and his 17-year-old daughter.

Additionally, said Barber, Tiernan can buy his groceries and other items at the Air Force base commissary and exchange at substantially reduced prices.

Barber said Tiernan's wife and his six other children went on welfare last August when the couple split up after 21 years of marriage.

Judge Kistle took a dim view of the whole situation and sentenced Tiernan after finding him guilty of five counts of contempt for failing to make his court-ordered child support payments.

Kistle suspended an additional 20-day sentence for a three year probationary period with conditions that Tiernan make the $200-a-month payments, plus $25 a month on the $1,200 he has failed to pay in the past. At that rate it will take at least four years to catch up on the interest-free debt.

Barber cited the case as just another example of how federal regulations make things miserable for the taxpayer by refusing to allow the attachment of federal wages and retirement pay for the support of children. He also noted that the unemployment pay cannot be attached either.

Eighty per cent of the fathers of children on welfare do not pay a penny toward their support, according to studies. And the federal government is one of the big-

gest employers of these absent daddies as well as the biggest contributor to the AFDC (Aid to Families with Dependent Children) program.

To determine how monumental the problem is, Barber began keeping score. He said from March 11 to April 11, seven federal employes were brought into court for civil contempt proceedings.

He said the total delinquency in child support payments was $20,342, yet federal regulations prohibit the attaching of any portion of these employes' paychecks.

Barber said just giving these absent daddies jail terms does not help the taxpayer and, in some cases, increases the burden because the absent daddy loses his job if he spends too much time in jail, and then has to go on the relief rolls himself.

He said wage attachment agreements have been worked out with just about every other type of employer

REPORT ON FIRST 6 MONTHS OF SACRAMENTO COUNTY DEMONSTRATION PROJECT

Cost breakdown

Staff costs of 26 additional employees	$101,000
Child support collected	456,089
Reimbursement:	
State (21.25 percent SEIF)	96,912
Federal (50 percent matching)	50,500
Return to governmental levels:	
County (SEIF + Federal + county share of AFDC 16.25 percent cost)	120,526
State (State share of AFDC 33.75 percent—SEIF)	57,018
Federal (Federal share of AFDC 50 percent—Federal fund)	177,545
Total taxpayer savings	355,089

CIVIL CODE SECTION 246

Facts to be considered in determining amount due for support. When determining the amount due for support the court shall consider all relevant factors including but not limited to:

(a) The standard of living and situation of the parties;
(b) The relative wealth and income of the parties;
(c) The ability of the obligor to earn;
(d) The ability of the obligee to earn;
(e) The need of the obligee;
(f) The age of the parties;
(g) The responsibility of the obligor for the support of others.

PACIFIC LEGAL FOUNDATION,
Sacramento Calif., September 24, 1973.

Re absent parent child support.

Hon. RUSSELL B. LONG,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR LONG: As you may recall, as a result of a discussion between yourself and California Governor Ronald Reagan during February, 1972, I have been in periodic contact with the U.S. Senate Finance Committee on the subject absent parent child support. As requested, we have tried to share with you and the Committee as much of the California experience on this subject as possible.

It is my understanding that your Committee is conducting hearings on absent parent child support beginning September 25, 1973. Earlier this month I had an opportunity to address the Conference of Assistant Attorney Generals and Attorney Representatives for Welfare Departments, Southeastern Region of the American Public Welfare Association, in Charleston, South Carolina, on the subject of absent parent child support, which resulted in a current compilation

of the California experience. I thought you would be interested in receiving a copy of this presentation for the purpose of including it with the materials pertaining to the scheduled hearings.

Very truly yours,

RONALD A. ZUMBRUN.

Enclosure.

CALIFORNIA WELFARE REFORMS ABSENT PARENT CHILD SUPPORT*

(By Ronald A. Zumbrun)†

On March 3, 1971, California's blueprint for welfare reform was presented by Governor Ronald Reagan to the California Legislature.[1] Since that month, Californians have witnessed a truely remarkable effort that has far exceeded all expectations.[2] As found by a study initiated within the Executive Office of the President during the fall of 1972, by the most conservative estimates, California's welfare reform savings exceeded one billion dollars for the two-year span ending June 30, 1973. Simultaneously, the majority of the nearly two million recipients on California's welfare rolls have been provided grant increases of a magnitude unprecedented in the State's history—increases amounting to over 30 percent or more for most welfare families and substantial increases to the adult categories.[3] The decisive welfare reform program thus succeeded in affording some measure of fiscal relief to millions of Californians whether they have been on the paying or receiving end of the tax dollar.

FAMILY RESPONSIBILITY

One of the important themes of California's welfare reform program was the need to establish and enforce the principle that family members are responsible for the support of relatives. In its simplest form, the argument was that every dollar contributed by the relative of a person on the welfare rolls was a dollar saved the taxpayer. However, the welfare reform goals went farther and identified the family as the basic unit in society, emphasizing increased dependence upon the family and eliminating aspects of the welfare system that constituted incentives to break up the family unit.

ABSENT PARENT CHILD SUPPORT

In July 1972, 1,272,151 persons, or 62.7 percent of California's statewide welfare population of just over two million cash grant recipients, were enrolled under the Aid to Families with Dependent Children (AFDC–FG) welfare category. There were 302,880 AFDC–FG welfare cases in that month. This is the largest single public welfare program in the State of California and provides cash assistance for over 900,000 children.[4]

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*For a more complete discussion of California's welfare reform effort see "Welfare Reform: California Meets the Challenge" published in July, 1973, by the Pacific Law Journal. That article discusses all aspects of California's successful welfare reform efforts and was authored by Ronald A. Zumbrun, Raymond M. Momboisse and John H. Findley of the Pacific Legal Foundation, Sacramento, California.

†Formerly Deputy Director—Legal Affairs, California State Department of Social Welfare; Special Counsel to the U.S. Department of Health, Education, and Welfare, Washington, D.C.; and presently Executive Director—Legal, Pacific Legal Foundation, 455 Capitol Mall, Sacramento, California.

[1] Governor Ronald Reagan's message to the California Legislature, "Meeting the Challenge: A Responsible Program for Welfare and Medi-Cal Reform", March 3, 1971, contained in *Journal of the California Assembly*, pp. 699–880 (Reg. Sess. 1971).

[2] For a short interesting but accurate description of the California effort see "California Cleans Up Its Welfare Mess" by William Schultz, *Reader's Digest*, August, 1973, pp. 67–70; "Lightening the Welfare Load," an interview with U.S. Commissioner of Welfare Robert B. Carleson, *Nation's Business*, August, 1973, pp 17–19; and *Government Executive*, July, 1973, an interview with California Governor Ronald Reagan.

[3] Cal. State Dep't of Social Welfare, *Welfare Reform in California . . . Showing The Way*, 1 (1972) [hereinafter cited as *Welfare Reform in California*]. In September 1972 the Office of Management and Budget of the Executive Office of the President undertook an extensive study of California's Welfare Reform Program. The study team, composed of representatives of the Office of Management and Budget, U.S. Dept. of Health, Education, and Welfare, U.S. Dept. of Labor, State Dept. of Social Welfare, and the State Dept. of Finance, spent several weeks identifying and analyzing California's Welfare Reform Program. Utilizing the work of the team, the State Dept. of Social Welfare prepared the cited document which summarizes the problems and efforts to reform welfare in the State of California.

[4] *Id.* at 38 and 90 n. 7.

A major eligibility requirement for the AFDC–FG program is that the child or children in the family unit must be deprived of at least one parent.[5] It is usually the father who is absent from the family group. Although a small percentage of the absent fathers in this caseload are dead, incapacitated, imprisoned, or deported, about 80 percent, or 314,000, are absent because of divorce, separation, or desertion, or because they were never married to the mother of the AFDC child.[6]

During the fiscal year 1969–70, less than 15 percent of the absent parents contributed to the support of children enrolled in AFDC.[7] The average monthly payment for those who did contribute amounted to $74.95.[8] More astounding was the fact that a majority of the absent fathers were employed and capable of providing some support.[9]

In California, primary responsibility for child support enforcement activities rests with local administrations and county agencies.[10] Basic statutes establishing the authority of county welfare departments and district attorneys—which designated the latter as primarily responsible for child support enforcement—were enacted in 1951.[11] By 1965 county welfare departments had been given responsibility for identifying and locating absent parents, determining the ability to pay child support, obtaining voluntary support agreements, and exploring possibilities of family reconciliation.[12] The system was apparently based on the principle that if an absent father voluntarily cooperated in establishing how much he was able to pay and then actually paid, it was unnecessary and inappropriate to refer the case to the district attorney as a law enforcement matter. In only about one-third of the welfare cases was there a court order for child support, but social workers were reluctant to refer even these cases to the district attorney as long as the father paid something, or looked like he might eventually be convinced to pay something.[13] The statute which required referral of recalcitrant cases to the district attorney within 45 days [14] was more often that not ignored. Many and perhaps most district attorneys looked upon child support cases as low priority matters when compared to their criminal caseloads. In many cases they completely abdicated their statutory duty to collect child support, viewing the welfare program as a relief mechanism for absent parents, many of whom had their own financial problems with second families.[15]

A critical element of the reform package was to convince county authorities and the public that enforcing child support obligations is a law enforcement function rather than social case work. The Welfare Reform Act of 1971 shortened the time limit for mandatory referral of cases to the district attorney from 45 to 30 days,[16] and gave district attorneys authority to demand immediate referral of all absent parent welfare cases, thus placing full responsibility for child support in the law enforcement office.[17]

Failure to provide support has long been cause for criminal action in California.[18] District attorneys, however, were now encouraged to look toward civil remedies as well as the traditional criminal one.[19] The goal was to establish in each of the counties a program centralized in the district attorney's office and tailored to provide the appropriate remedy for each nonsupporting absent parent case. Those who were regularly employed in good jobs could be reached through a civil judgment or through a stipulated judgment which can be enforced by means of a wage assignment or attachment proceeding.[20] Those who willfully refused to provide support could be prosecuted criminally for failure to provide.[21]

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[5] *Id.*
[6] *Id.*
[7] Cal. State Social Welfare Board, *Final Report of the Task Force on Absent Parent Child Support*, 12 (Jan. 1971).
[8] *Welfare Reform in California*, 38.
[9] Cal. State Social Welfare Board, *Final Report of the Task Force on Absent Parent Child Support*, Appendix 3c.
[10] *Welfare Reform in California*, 39.
[11] *Id.*
[12] *Id.*
[13] *Id.* at 40.
[14] Cal. Welf. & Inst. Code § 11476, as enacted, Cal. Stats. 1965, c. 1784, at 4016.
[15] *Welfare Reform in California*, 40.
[16] Cal. Welf. & Inst. Code § 11476.
[17] *Id.*
[18] Cal. Pen. Code § 270.
[19] *Welfare Reform in California*, 40.
[20] *Id.*
[21] Cal. Pen. Code § 270.

The objective in such cases is to obtain a judgment and a suspended jail sentence; the absent father would stay out of jail only so long as he paid the child support ordered by the court.[22]

The Welfare Reform Act provided an incentive to induce district attorneys to take an active part in pursuing absent parents. Welfare AIDC cash grants are funded 50 percent by the federal government, 34 percent by the state and 16 percent by the county.[23] Since child support payments to families on welfare are treated as income, cash grants are reduced in a like amount. Formerly, counties received only 16 percent of such recoveries, notwithstanding the fact that all administrative and enforcement costs had to be paid for at the county level. This made an already unpopular program costly. The Welfare Reform Act established the Support Enforcement Incentive Fund (SEIF) which appropriates state funds to the extent of 21.25 percent of the amounts collected from absent parents which reduce a welfare grant.[24] The county may now receive 37.25 percent (21.25 percent and 16 percent) which equals 75 percent of the nonfederal share of the amounts of current child support collected from absent parents.[25] The Act also provided that the state would pay one-half of the nonfederally funded, reimbursed administrative costs.[26] Since the costs of collection on the average represent only 10–15 percent of the support payments,[27] there is a significant incentive to improve collections. This has been reinforced by efforts of the Department of Social Welfare to have all SEIF payments allocated to the district attorney's office and to other county offices directly involved in tracking and collecting from absent parents. In addition, California State Welfare Director Robert B. Carleson[28] distributed a monthly report on all SEIF collections in all counties to all district attorneys, county welfare directors, and the chairman of each county board of supervisors. Also, the Welfare Reform Act makes a deserting parent liable in the form of a civil debt for the cost of welfare furnished his family in his absence to the extent he is reasonably able to pay.[29] Counties are allowed to retain 50 percent of all such back support collected.[30]

Other changes in the law required an absent parent to file a complete financial statement with the county when an application for welfare is submitted on behalf of his children[31] and required social security numbers of both parents to be entered on birth certificates.[32] Social security numbers were also required on the statement of facts supporting eligibility for welfare payments.[33] Technical changes provided for more effective use of procedures by which the earnings of an absent parent can be attached,[34] and child support payments were given a "preferred creditor" classification, which takes precedence over other court attachments.[35] The amount of earnings that are exempt from attachment was reduced.[36] In addition, the California Civil Code was amended to permit the courts to order absent parents to enter into a wage assignment[37] and to pay to the county reasonable attorneys' fees and court costs arising out of any child support proceeding.[38]

In order to bring pressure to bear on county welfare departments and especially on district attorneys, where the primary obligation rests, drafters of the Welfare Reform Act included a provision which requires the grand jury in every county to appoint an auditor to conduct an annual review of the county's child support collection program.[39] The auditor must file a copy of his annual report with the county's board of supervisors and with the State Department

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[22] *Welfare Reform in California*, 40.
[23] *Id.* at 41.
[24] Cal. Welf. & Inst. Code § 15200.1.
[25] Cal. Welf. & Inst. Code § 11457.
[26] *Id.*
[27] *Welfare Reform in California*, 41.
[28] Director Carleson was the principal architect of California's Welfare Reform Program and is now the U.S. Commissioner of Welfare and Special Assistant for Welfare to Dept. of Health, Education, and Welfare Secretary Caspar Weinberger.
[29] Cal. Welf. & Inst. Code § 11350.
[30] Cal. Welf. & Inst. Code § 11457.
[31] Cal. Welf. & Inst. Code § 11353.
[32] Cal. Health & S.C. § 10125. See also § 137 Pub. L 92–603 (H.R. 1).
[33] Cal. Welf. & Inst. Code § 11265.
[34] Cal. Welf. & Inst. Code § 11489.
[35] *Id.*
[36] *Id.*
[37] Cal. Civ. Code § 4701.
[38] Cal. Civ. Code § 248.
[39] Cal. Welf. & Inst. Code § 10602.5.

of Social Welfare. Since district attorneys are elected officials responsible to the taxpayers, the grand jury auditor requirement has particular significance.[40] District attorneys are also required to submit monthly and annual statistics on their absent parent support collection efforts to the state.[41]

On March 7, 1973, the Family Responsibility Act of 1972,[42] authored by Senators Howard Way and Clair W. Burgener,[43] became effective. This act includes needed child support changes which were originally proposed at the time of the Welfare Reform Act of 1971, but were not included in the final version.[44] The 1972 Act represents a continuation of the original reform effort and includes the following provisions:

1. Priority to child support over debts to other creditors;[45]
2. Award of attorneys' fees and court costs to the prevailing party in a modification proceedings;[46]
3. The county of residence of an illegitimate child is proper venue for trial of a paternity or child support action;[47]
4. A California child support order may be transferred from the original county to any county in California where the plaintiff has moved and a child support enforcement action initiated thereon;[48]
5. Any agreement for support between an absent parent and the welfare department is void to the extent it is not consistent with an existing court order;[49]
6. A financial referee may be appointed to make recommendations to the court as to proper amount of child support.[50]

In fiscal year 1969–70 the California State Social Welfare Board conducted a child support survey in welfare cases in California. They found that 14.7 percent of absent parents contributed $36.5 million during that period. Conducted pursuant to Section 18 of the Welfare Reform Act of 1971,[51] the first annual grand jury audit revealed that for fiscal year 1971–72, after only nine months of the Welfare Reform Act provisions being operative, child support was being collected in 24.1 percent of the cases, reflecting almost a 40 percent improvement, and the collections for that period had risen to in excess of $50 million. During the first year of the operation of the Welfare Reform Act, child support staffs were increased statewide by nearly 300 positions, and numerous counties converted to the immedate referral system. At this writing, Los Angeles, with over 40 percent of the caseload, is undergoing a conversion to the immediate referral as a direct result of the incentives in the Welfare Reform Act.[52]

In addition, the successful family responsibility effort, together with other reforms, has had a significant impact on California's welfare caseload and has served as a deterrent to those families who are not truly dependent on welfare but have resources of their own. Since March 1971, there are 352,000 fewer Californians on the welfare rolls[53] which represents substantially more than 785,000 fewer persons on the rolls than had been projected without reforms, by even the most conservative estimates.[54] During 1972, 42 of California's 58 counties, because of welfare reform, were able to reduce their property taxes.[55] As of July 1973, the previously bankrupt State Treasury had a surplus of $850 million and legislation was enacted returning this surplus to the taxpayers.[56]

Statistics alone are not the entire story of welfare reform. Also of significance is the psychological effect that the reform has had on the nation's welfare

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[40] *Welfare Reform in California*, 43.
[41] Welf. & Inst. Code § 11478.5.
[42] S.B. 184, Cal. Stats. 1972, c. 1118.
[43] Clair W. Burgener is now Congressman for the 42nd District of California.
[44] Family Responsibility Act of 1971, S.B. 544, 1971 Reg. Sess.
[45] Cal. Civ. Code § 4700.
[46] *Id.*
[47] Cal. Code Civ. Proc. § 395.
[48] Cal. Code Civ. Proc. § 1681.
[49] Cal. Welf. & Inst. Code § 11476.
[50] Cal. Code Civ. Proc. § 1769.
[51] Cal. Welf. & Inst. Code § 10602.5.
[52] Interview with William R. Knudson, Secretary, Social Welfare Board, California State Department of Social Welfare, July 20, 1973.
[53] Cal. State Dep't of Social Welfare, *Public Welfare in California*, Table 1 (Mar. 1971); Table 1 (Mar. 1973); Table 1 (June 1973).
[54] *Welfare Reform in California*, 22.
[55] *Welfare Reform in California*, 23.
[56] S.B. 90, 1973 Reg. Sess.

system itself. It has been clearly demonstrated that, even under the present welfare system, a state has the flexibility to make significant reform if it is willing to take on the task.

UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN,
COLLEGE OF LAW,
Champaign, Ill., September 25, 1973.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: While I had hoped to be able to be in Washington today to testify on S. 2081 (and had written to Mr. Vail to that effect on September 18th), the short notice for the hearing made it impossible for me to find a substitute to take over my teaching commitments here.

The following points of information may be of interest to your Committee:

1. At its annual meeting in July, the National Conference of Commissioners on Uniform State Laws approved the "Uniform Parentage Act" which was prepared by a Committee to which I served as "reporter-draftsman". The Act is now being submitted to the American Bar Association for endorsement and will be available for enactment by interested states in the immediate future. In my view, the Act will lend itself well as the basis for federally approved state programs for the ascertainment of paternity, as contemplated by S. 2081. The new Act moves well beyond current state law by offering a combination of broad presumptions of parentage and a novel approach to the paternity action. The paternity action envisaged under the Act will heavily rely on informal pre-trial proceedings which, in turn, will be based largely on scientific evidence of paternity or nonpaternity. This approach is expected to result in the consensual settlement of a large volume of paternity claims without full trial thereby saving cost and delay. A copy of the Act, as approved, is enclosed as Appendix "A".[1]

2. Despite what some skeptics may say, the regional laboratories contemplated by § 458 of S. 2081 are feasible, although some changes in state laws of evidence probably will be required to allow them to operate efficiently. Laboratories of this sort have been operating in Scandinavia for decades. (See pp. 133–137 of my book, Illegitimacy: Law and Social Policy (Bobbs-Merrill, 1971), enclosed as Appendix "B" and cf. S. Rep. No. 92–1230, 92d Cong., 2d Sess., pp. 516–17, Appendix "C".)[2] In 1972 I visited the Scandinavian laboratories, and Dr. Gürtler of the Copenhagen laboratory summarized for me the methods there employed in a memorandum dated January 10, 1972. (Enclosed as Appendix "D").

Interesting progress also is being made in other European countries. A recent visit to England produced much helpful information, including the report of the Law Commission on "Blood Tests and The Proof of Paternity in Civil Proceedings". (Enclosed as Appendix "E".)[3] West Germany has developed standardized, governmentally approved procedures for blood testing. (Unfortunately, I do not yet have these standards available in English translation.) Some more details on European work in this area are given in footnote 23 at pp. 384–86 of a paper I prepared for the Joint Economic Committee last year. (Appendix "F")

I am currently engaged in a study of the whole matter under a grant from the Office of Child Development, H.E.W., and hope to complete my report within a year. An outline of the project is attached as Appendix "G". I also am working (as co-chairman from the A.B.A. side) with a joint Committee staffed by experts from the American Medical Association and the American Bar Association that is charged with investigating current and potential capabilities in this area.

I have limited myself in these comments to points of information that I thought might be of interest to the Committee and to others concerned with this proposed legislation. If you should consider it useful, please feel free to include this letter and the appendices in the record of the hearing. I am not commenting here on the substance of the Act which I had occasion to consider in detail in a lengthy paper on last fall's bill which I submitted in April to Mr. Fred Arner's Congressional Research Service. I should like to say, however, that I find the

[1] The act is printed in this volume as an attachment to a communication received by the Committee from the Child Welfare League.
[2] See Senate Report 92–1230.
[3] Appendix E was made a part of the official files of the Committee.

current version of the proposed legislation a substantial improvement over last fall's bill.

Please let me know if there is any other information you wish to have.

Sincerely yours,

HARRY D. KRAUSE,
Professor of Law.

Enclosures.

APPENDIX "B."

* * * * * * *

The chance of error—indeed the likelihood of error—if blood grouping tests are conducted inexpertly, makes it imperative that courts be warned not to accept blood typing evidence unless there is assurance that the tests have been conducted in accordance with the highest standards of care. Dr. Wiener, a pioneer in blood research, cautions that "there has been an unfortunate tendency to assume that these tests can be done by any blood bank or laboratory where clinical blood grouping tests are carried out. . . . This false belief has been fostered by the ready availability commercially of the antisera needed for conducting such examinations. This has led individuals with little or no experience in the field to accept the assignment from a court to conduct these examinations. . . ." [28] On the basis of specific case studies, Dr. Wiener makes a convincing case in favor of stringent quality control of blood grouping tests.[29] He reports that, while checking blood test reports as an independent expert in a sizable series of cases, he found wholly one-third of them to be in error! [30]

It is submitted, however, that the possibility of error can be all but eliminated if appropriate and well-known medical procedures are followed by experts. It would obviously not be possible or practical to do this on a local level. Nor would that be necessary. Adequately packaged blood specimens can be shipped by air and could reach a specialized, central blood typing laboratory within hours from any part of the country.[31] Such a laboratory could assure itself of the highest professional standards and expertise, and could maintain at all times an adequate supply of fresh testing sera of vast variety, so that the most sophisticated blood tests could be executed routinely and accurately.[32] Nor would such

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[28] Wiener, *Blood Grouping Tests in Disputed Parentage, Qualifications of Experts*, 13 Acta Geneticae Medicae et Gemellologiae 340 (1964).

[29] Wiener, *Blood Grouping Tests in Disputed Parentage, Qualification of Experts*, 3 J. Forensic Med. 139 (1956); Wiener, *supra* note 28. *See also* Sussman, *Titration and Scoring in Disputed Parentage*, 5 Transfusion 248 (1965); Unger, *Blood Grouping Tests for Exclusion of paternity—Results in One Hundred Eight Cases*, 152 J.A.M.A. 1006, 1007 (1953); Groulx v. Groulx, 98 N.H. 481, 103A.2d 188 (1954).

[30] Wiener, *Foreword*, L. Sussman, Blood Grouping Tests—Medicolegal Uses, ix (1968).

[31] Such a central laboratory has been in use in Denmark for decades:

"Detailed rules as to how the blood samples are to be obtained and posted for testing at the University Institute of Legal Medicine, Copenhagen, are contained in a circular letter from the Ministry of Justice of December 21, 1937.

"In this connection it is worth emphasizing the practical significance of the organization of Danish legal medicine. Here, we are only concerned with the laboratory tests, although the same basic idea applies to the legal autopsies.

"In Denmark, all medico-legal laboratory tests are performed at the University Institute of Legal Medicine in Copenhagen—with the exception of the actual toxicology analyses, which are done at the University Institute of Pharmacology. This means that all tests are performed in an institution, economically as well as administratively independent of law courts and police." Andresen at 73.

See also Henningsen, *supra* note 21; Sussman, *Blood Groupings Test—A Review of 1000 Cases of Disputed Paternity*, 40 Am. J. Clin. Pathology 38 (1963).

[32] Dr. Sussman recommends these procedures be followed:

The necessity for the correct identification of each blood sample demands a step-by-step foolproof system. In actual practice this means:

1. Identification of the persons being tested
   (a) Mutual identification by the involved parties
   (b) Objective proof of identity: driver's license, auto registration, social security cards, draft board registration
   (c) Signatures
   (d) Fingerprinting
   (e) Group photographs at time of the testing, if possible
2. Identification of specimen in the laboratory
   (a) Sequential numbering system of original specimen tubes and subsequent test tubes used in the procedures
   (b) "double testing"—all tests are done in duplicate by separate technicians working independently. The results are read utilizing "blind" technique (meaning the identity of the specimen is not known to the examiner). All tests are controlled by known testing cells.
   (c) Comparison of the two sets of findings made by a third observer to insure independent agreement in the results.
   (d) Final classification as to blood groups and conclusions reached by the expert. L. Sussman, Blood Grouping Tests—Medicolegal Uses 7 (1968).

a procedure be unduly expensive. Air transportation would add only a nominal amount and is now available almost anywhere. Where there are court facilities, airports are rarely far away. Whatever the cost of procuring reliable blood grouping tests, it will always be negligible in comparison with the large amounts at stake in the paternity action—a support judgment involving only $25 per week will run up to $23,400 in 18 years!

Scandinavian countries have employed central forensic institutes for some time and have been entirely successful.[33] In the United States, the military now maintains such central facilities for its own use.[34]

Another type of error occurs on a more mundane level. Blood specimens may be wrongly identified by mistake or by intentional deception, as by impersonation of father, mother or child by someone else.[35] To avoid error in identification, appropriate safety measures must be employed in connection with each set of blood tests. For example, there might be mutual visual identification of all parties involved at the time the blood sample is taken. If a joint appointment is not possible, or even in the case of a joint appointment, identities should be assured by the taking of photographs, fingerprints (or footprints of the child), signatures and in other ways.[36] Because of the absence of photographic identification on drivers licenses, social security and credit cards, these should not be viewed as adequate.

RECOMMENDATIONS

1. In all paternity matters, in disputed cases and undisputed settlements, compulsory blood typing tests should be a *pre-trial* (or pre-settlement) routine. Initially, these tests should be at public expense, regardless of the mother's or alleged father's means, in recognition of the fact that it is in the social and economic interest of the public that the paternity of children be established accurately and efficiently. Moreover, public assumption of these costs would recognize the fact that the child is the primary party in interest in the paternity action and that the child, certainly where its interests oppose those of its parents, is indigent. If paternity is ultimately established, the cost of the blood tests might then be charged to the father, along with other appropriate court costs.

2. If the pre-trial blood grouping tests show an exclusion of the man named as a possible father, the proceeding should be terminated forthwith. Where the tests indicate the possibility of the named man's paternity, the matter should proceed to trial or judicially approved settlement, with the blood grouping evi-

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[33] *Supra* note 31.

[34] "There are three laboratories under Army control that do blood testing for use in paternity matters: (a) Blood Transfusion Research Division, U.S. Army Medical Research Laboratory, Fort Knox, Kentucky; (b) First U.S. Army Medical Laboratory No. 2, New York, New York; and (c) 406th Medical Laboratory, Camp Zama, Japan.

"The Fort Knox laboratory is responsible for standardizing blood serums throughout the Army. The immunologist there has been doing paternity blood tests for installations throughout the world. With a reference battery of anti-serums, including many rare ones, he is able to test for 23 blood factors.

"Lieutenant Colonel Camp, currently the Fort Knox laboratory immunologist, suggests the following directions for obtaining these tests:

"(a) Blood should be collected by a Medical Officer who personally verifies and identifies individuals concerned, collecting specimens of blood from all individuals in separate tamper-proof 13 x 100 mm test tubes to which the individual's name is affixed and to which the Medical Officer applies his signature as part of the tamper-proof seal.

"(b) Further identification is desirable in the form of fingerprints placed on a form to accompany blood samples. Continuity of handling, packaging, and mailing (by certified mail) is a responsibility of the Pathology Service of the local military hospital.

"(c) Package should be mailed to Director, Blood Transfusion Research Division, U.S. Army Medical Research Laboratory, Fort Knox, Kentucky 40121.

"(d) Opening and documentation of contents is the responsibility of the Director, Blood Transfusion Research Division, who will have officer and laboratory personnel witness and acknowledge specimens and condition of tamper-proof tubes by signature.

"(e) Custodial continuity of specimens will be maintained by the Director, Blood Transfusion Research Division, during complete testing period. All tests will be conducted by the Director, Blood Transfusion Research Division, and additional blind tests will be conducted by personnel of the Blood Transfusion Research Division Forensic Laboratory.

"(f) Reports will be made to responsible authorities by the Director, Blood Transfusion Research Division." Kiel, *supra* note 99 at 175.

[35] If the other parties' blood types are unknown, the father might send a friend whose blood type has a better statistical chance to result in an exclusion than does the father's, or the mother might substitute a baby whose blood type is more common than that of her own child so that the chance of an exclusion being established is decreased. If the blood types of the other persons involved are known, the opportunity for fraud is multiplied, because through carefully planned impersonation the result of the test can be manipulated either way. For a case history see Unger, *supra* note 29 at 1008, "case 4".

[36] *Supra*, note 32.

dence being considered for what it may be worth in the particular case, *the laboratory having indicated the degree of probability of paternity.*[37]

3. The taking of blood tests should be compulsory.[38] If the parties refuse voluntarily to submit to pre-trial blood tests, a formal action should be instituted in order to obtain the jurisdiction necessary to issue a court order. Compulsory blood testing would raise no question of infringement of constitutional protections.[39] The provision in the Uniform Act on Blood Test that sanctions refusal to submit to a blood test with the possibility of a negative decision is inadequate. It disregards that the child's interests would be jeopardized by the mother's refusal to submit to a test. Similarly inadequate is the provision in some statutes which allows a failure to submit to blood tests to be commented upon before the jury.

4. The performance of blood grouping tests at a local level or by anyone not specifically approved by appropriate accrediting authorities should be discouraged. Instead, blood samples of the parties involved should be air-shipped to a suitable national laboratory that is equipped to perform reliable and sophisticated tests. The results of the tests should be communicated directly to the court by means of an appropriately verified certificate. Verification may be obtained through a court at the location of the laboratory. In any event, at the pre-trial hearing formal evidence problems would be minimal and a specific statute could remove possible objections under the "hearsay rule" to the introduction of the certificate at the trial. Obviously, if the expert who performed the blood tests would have to travel to the place of trial solely in order to introduce the results formally in evidence, the cost would be prohibitive both in terms of limited available expert manpower and finances. Questions as the circumstances under which the tests were performed and other points that normally might be the subject of cross examination could routinely be answered in connection with the verified certificate.

5. Standards of accreditation of blood typing institutes should be promulgated. This might be done, for example, by the United States Department of Health, Education and Welfare in consultation with the American Medical Association or an independent panel of medical scholars. These standards should not stop at specifying procedures, but should involve continuing supervision of accredited institutes. In that manner it would be assured not only that safe procedures would continue to be followed, but also that facilities are provided and adequate stores of rare sera are maintained to allow sophisticated blood grouping tests (going far beyond the basic systems) to be carried out whenever indicated.

(*ii*) *Anthropological Evidence*

Blood testing is not the only means of converting the ascertainment of paternity from a matter of opinion into a matter of fact. Other distinguishing and inheritable human characteristics are under investigation.[40]

APPENDIX "D"

KOBENHAVNS UNIVERSITETS,
RETSMEDICINSKE INSTITUT,
October 1, 1972.

MEMORANDUM PREPARED BY DR. HANS GURTLER FOR HARRY D. KRAUSE, JANUARY 10, 1972

FORENSIC PRACTISE IN CASES OF DISPUTED PATERNITY IN DENMARK

Blood group determinations and other genetical examinations have been used as evidence in cases of disputed paternity in Denmark for more than 40 years.

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[37] *Supra* pp. 127, 131–32.

[38] Blood tests have long been compulsory in Denmark. *See* P. Andresen, at 71–72 (1952).

[39] *See* H. Clark, Domestic Relations 171 (1968); *Cf.* McIntyre, Jr. and Chabraja, *The Intensive Search of a Suspect's Body and Clothing*, 58 J. Crim. L. C., & P.S. 18 (1967).

[40] Concerning "secretors" and "nonsecretors" *see* P. Andresen, The Human Blood Groups (1952). Saliva and other secretions as indicators of blood types are discussed by L. Sussman, Blood Grouping Tests—Medicolegal Uses 15, 16, 25–26, 29–31, 78, 107–08 (1968). Certain blood types can be determined on the basis of bodily secretions other than blood. Furthermore, the quality of being a "secretor" is in and of itself an inheritable factor. Thus, two "non-secretor" parents can not have a "secretor" child. Nuzzo, Caviezel, deCarli, *Y Chromosome and Exclusion of Paternity*, 1966-II The Lancet 260 (1966).

The Universitute of Forensic Medicine, Copenhagen, is central laboratory for such investigations for Denmark including Greenland and Faeroe Islands.

At the present time three levels of genetical investigations are used in cases of disputed paternity in Denmark:

(1) A rutinary blood group determination involving the A_1A_2BO-, MN-, Rh (CDEce)-, P_1-, K-, Hp- and Gc-systems with exclusion of the paternity of about 70% of the non-fathers.

(2) An extended blood group determination involving also the S-, C^w-, Fy(a)- and Gm(axb)-types and the AP-, PGM-, AKA-, and PGD- erythrocytes enzyme type- systems increasing the frequency of exclusion of paternity to about 90% of all the non-fathers.

(3) An anthropological investigation involving some supplementary serological factors and also finger- and palmprints, iris-color and iris-structure and some physiognomical indices and also an examination for special traits.

BLOOD GROUP STATISTICAL EVALUATIONS

The exclusion of paternity by way of blood group determinations is by far the most powerful and most reliable genetical guidance which can be obtained in cases of disputed paternity. In cases in which sufficient guidance has not been obtained in this way a blood group statistical evaluation may however be useful.

So blood group statistical evaluations are performed:

(1) In cases which concerns the choice between two or more men who are possible as fathers according to the blood groups.

(2) Cases which concerns the choice between a man who is possible as father according to the blood groups and an unidentified man.

(3) Cases in which only one man is involved, but in which uncertainty concerning his paternity exists.

These are the cases in which the extended blood group determinations and the anthropological investigations are used. A blood group statistical evaluation is performed in all such cases.

The Danish population presents a nearly perfect approximation to homogenity with regard to the geographical distribution of the different blood group factors used in cases of disputed paternity and a Hardy-Weinberg equilibrium seems to exist within all areas of the country. Former isolates have been broken up within the last decades as far as young people are concerned. Conclusively the Danish population is suitable for blood group genetical calculations based on the fundamental laws of Hardy-Weinberg.

So for each possible type-constellation between a mother M, a child Ch and a man F it is possible to calculate the frequency P(Ch/MF) of a blood group like the one of Ch among children of parents like M and F.

In cases which concerns the choice between two men F_1 and F_2 it is possible to calculate $P(Ch/MF_1)$ and $P(Ch/MF_2)$. Let the ratio between those two be 100 to 1. We are then able to say that a blood group like the one of Ch occurs about a 100 times more often among children of parents like M and F_1 than among children of parents like M and F_2 and conclusively the blood group results tell for the paternity of F_1 rather than F_2 with an order of magnitude of 100 to 1 or in percent 99% against 1%.

It is also possible to caluculate the frequency P(Ch M) of a blood group like the one of Ch among children of mothers like M. Let the frequency of the blood group of M be P(M) and that of F be P(F).

It is then possible to calculate P(M) P(F) P(Ch/MF) which is the frequency of the observed blood group constellation between M, Ch and F among cases of disputed paternity in which the man is father to the child.

It is also possible to calculate P(M) P(Ch/M) P(F) which is the frequency of the observed blood group constellation between M, Ch and F among cases of disputed paternity in which the man is not father to the child.

Let the ratio between those two frequencies be 100 to 1. We are then able to say that a blood group constellation like the one observed between M, Ch and F occurs about a 100 times more often among cases of disputed paternity in which the man is father to the child than among cases in which he is not, and conclusively the blood group results tell for the paternity of F rather than an unidentified man from the Danish population with an order of magnitude of 100 to 1 or in percent 99% against 1%.

If the case concerns the choice between F and two unidentified men the order of magnitude will only be 100 to 2 or in percent 98% against 2% and so on. The order of magnitude with which the blood group results tell for the paternity of F will conclusively be decreasing as the number of non-identified men raises.

With the purpose to facilitate the necessary calculations an index of paternity I has been formed in the following way:

$$I = \frac{P(Ch/MF)}{P(Ch/M)}$$

Such indices of paternity have been calculated for all possible blood group constellations between mother, child and man within all the blood group systems used in cases of disputed paternity, and the results have been tabulated.

So for the blood group constellation observed between a mother, her child and the man in question and index of paternity may be extracted from the tables for each of the blood group systems used. These indices are multiplied to obtain the combined index of paternity for the man.

$$I = I_1 I_2 I_3 \ldots\ldots I_n$$

Now the order of magnitude with which the blood group results tell for the paternity of man A rather than man B will be I_A/I_B to 1 and the order of magnitude with which the blood group results tell for the paternity of man A rather than an unidentified man will be I_A to 1.

According to the official Scandinavian Guidence Concerning the Use of Blood group-Results in Cases of Disputed Paternity a blood group statistical information should only be ascribed an importance in its own right if it exceed an order of magnitude of 19 to 1 or in percent 95% against 5%.

It is stated in the guidence that the result of a blood group statistical evaluation should be considered together with other independant informations by the Court in order to obtain a final bases for the dicision of the Court.

It is also mentioned that the importance of a high index of paternity will decrease as the number of unidentified men in a case raises and also that a low index of paternity only will be of decisive importance if another possible father exists.

Finally it is mentioned that the result of a blood group statistical evaluation may be unreliable if there is a near relationship between the adult parties in a case or if some of the parties belong to a population in which the blood group distribution is different from the one which has been used for the evaluation.

So it may be noticed that the result of a blood group statistical evaluation refer to actual existing frequencies in the population to which the parties belong and no attempts are made to calculate something like a probability of paternity.

The method used for the blood group statistical evaluation in Denmark is based on principle which was first proposed by Essen-Möller in 1938. The index of paternity is nothing but the inverse value of the critical value y/x used by Essen-Möller.

ANTHROPOLOGICAL INVESTIGATION

The evaluation of the results of morphological investigations concerning traits like the total dermal ridge count, different alternative characteristics of the palmprints, the color of the iris, the structure of the iris and a few physiognomical indices is based on family-studies performed by the Anthropological Department of the institute. Correlation coefficients and other necessary data are available for all the traits used, permitting calculation of indices of paternity. So the anthropological investigation may be considered as an extended genetical investigation the results of which is evaluated in the same way as the blood group results. The efficiency of the morphological investigations is not very high in its own right, but the results are nevertheless important in many cases because they confirm the outcome of the blood group statistical evaluations to such a degree that the 95%- or the 99%-level of information is obtained. The 95%-level has been obtained in about 80% of the cases in which anthropological investigations have been performed within the last years, but the bulk of information has been the results of supplementary serological investigations and blood group statistical evaluations.

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APPENDIX "F"

EXCERPT FROM CHILD WELFARE, PARENTAL RESPONSIBILITY AND THE STATE, BY HARRY D. KRAUSE

Footnote 23

[23] In Scandinavia, for example, centralized blood typing facilities in Oslo, Conenhagen and Stockholm serve the whole of their respective countries and, over several decades, have

developed great expertise. [Information concerning Scandinavian practice was obtained through interviews with Professor Lundevall and Dr. Lie (University Institute of Forensic Medicine) and Judge Aubert (Paternity Court), Oslo; Drs. Henningsen and Gürtler, (University Institute of Forensic Medicine) Judge Mols (Paternity Court), Mr. Grønning Nielsen (Justice Minstry), and Mrs. Thaulow (Mother's Aid Center), Copenhagen; and Professor Vamosi (State Laboratory of Forensic Chemistry), Mr. Lind (Ministry of Justice), and Mrs. Traung (Social Welfare Department), Stockholm. Their most gracious and helpful cooperation is gratefully acknowledged. See generally, Henningsen, *Some Aspects of Blood Grouping in Cases of Disputed Paternity in Denmark*, 2 METHODS OF FORENSIC SCIENCE 209 (1963); K. Henningsen, *On the Application of Blood Tests to Legal Cases of Disputed Paternity*, 12 REVUE DE TRANSFUSION 139 (1969) 137 (1969); P. ANDRESEN, THE HUMAN BLOOD GROUPS 73 (1952); Henningsen, *Die Bewertung Blutgruppenserologischer Abstrammungsgutachten vor Gericht in Daenemark, mit Erfahrungsbericht ueber die Abgabe positiver biostatistischer Indizien zur Vaterschaft*, Paper delivered at meeting of Gesellschaft fuer Forensische Blutgruppenkunde, Travemuende 1969.] The Scandinavian laboratories are distinguished not only in terms of their use of complex and advanced blood typing systems, but also in terms of highly developed safety procedures which assure accuracy of the results they report. This latter point may be the most crucial element of blood typing. We can agree quickly that it would be better not to admit blood tests into evidence at all than to admit unreliable evidence under the halo of scientific truth—as often is done in the United States where a re-check of even relatively simple tests revealed about one-third of them to have been in error! [Wiener, *Foreword*, L. SUSSMAN, BLOOD GROUPING TESTS—MEDICOLOLEGAL USES, ix (1968); *See also* Wiener, *Problems and Pitfalls in Blood Grouping Tests for Non-Parentage*, 15 JOURNAL OF FORENSIC MEDICINE 106, 126 (1968).] Specifically, the safety procedures employed in Scandinavia include specialization of and close supervision over highly skilled laboratory personnel, "blind double testing of all samples with careful, independent re-checking by a third person of any discrepancies that are reported, careful maintenance and daily testing of testing agents, and tight control over the identification of samples and over other clerical aspects of the testing and reporting process. The Scandinavian laboratories distinguish themselves further in the efficiency with which they cooperate with the courts. Standardized routines govern the taking of blood samples, the transmission of samples to the laboratories and the reporting of findings to the courts. Most of this is accomplished by the use of well designed standard forms which keep the information compact and present it in a manner that is understandable to the court. The courts rely heavily on the medical evidence, and the reputation for accuracy of the laboratories is such that the parties and their lawyers usually rest their case with the medical evidence. Scandinavia also leads the way in terms of the variety of grouping systems used. Constant research seeks to develop new systems for practical use and years of testing precede the actual use of a new system. In contrast to the limited number of systems accepted for practical use in American courts, the Copenhagen laboratory (and the practice in Stockholm and Oslo is similar) employs two sets of systems in "layers":

"1) A routine blood group determination involving the A_1A_2B)- MN-, Rh,(CDEce)-, P 1-, K-, Hp- and Ge- systems resulting in exclusion of paternity for about 70 per cent of non-fathers;

2) An extended blood group determination involving the S-, Co-, Fy(a)- and Gm(axb)-types and the AP-, PGM-, AK-, ADA-, and PGD- erythrocytes enzyme type- systems which increases paternity exclusions to about 90 percent of non-fathers". [Memorandum prepared by Dr. Hans Gurtler, Copenhagen, for the author, dated January 10, 1972.]

An exclusion figure approximating 90 percent of men falsely named as fathers is an impressive figure. However, the Scandinavians go further. Cases which do not produce an exclusion are pursued on the basis of a "blood group paternity index" by means of which the "probability" of the named man's paternity can be estimated. [*See* Gurtler, *Prinoiples of Blood Group Statistical Evaluation of Paternity Cases at the University Institute of Forensic Medicine, Copenhagen*, 9 ACTA MEDICINAE ET SOCIALIS 83 (1956).] That index compares the frequency of a given father-mother-child blood constellation in a sample of actual fathers with the blood constellation in a sample of non-fathers and is related to the constellation obtained in the case in question. If he resemblance exceeds 95 percent or falls below five percent, the result is reported to the court. At the outer limits, this approach produces *de facto* inclusions or exclusions. In less extreme cases, it produces interesting circumstantial evidence. It is of particular value, of course, when the relative likelihood of paternity of several possible fathers is being compared. At this point it should be noted that these methods all but obviate whatever need there once may have been for the *exceptio plurium*.

The use of statistical methods to estimate probabilities of paternity is not limited to Scandinavia. For example, one West German case considered detailed blood tests to establish a 99.55 percent probability of paternity [L. G. Köhn, 13.10.1961, 16 MONATSSCHRIFT FUR DEUTSCHES RECHT 309 (1962).] and, in a case reviewed in 1964, the West German Supreme Court decided that a blood test taken nine years earlier that had failed to exclude defendant as a possible father was not conclusive in view of newly developed, more sophisticated methods of blood testing that now might result in excluding defendant as a possible father. [BGH, 5.2.1964, 11 ZEITSCHRIFT FUR DAS GESAMTE FAMILIENRECHT 251 (1964).]

In West Germany, the possibility of formulating a uniform method of using statistiscal computations in paternity cases is currently under review by the Federal Ministry of Health. Official standards may soon be formulated. While centralized laboratories following the Scandinavian model do not exist, a detailed set of regulations governs laboratory standards, the identification of subjects, taking and shipment of blood samples, the efficacy and maintenance of testing sera, other laboratory procedures, the typing systems that (as of early 1970) are deemed scientifically reliable, necessary qualifications of blood typing experts, and the proper evaluation of results. [*Richtli nien fur die Erstattung von Blutgruppengutachten*, 13 BUNDESGESUNDHEITSBLATT 149-53 (1970).] A recent summary of advances in blood grouping tests is provided by Hummel, Heutiger Stand der Blutgruppenbegutachtung zur Feststellung der Vaterschaft, 59 Zentralblatt fur Jugendrecht und Jugendwohlfahrt 137-46 (may 1972).

Blood testing is not the only means of converting the ascertainment of paternity from a matter of opinion into a matter of fact. Other distinguishing and inheritable human characteristics are under investigation. Given some time, research, the accumulation of information and the development of techniques, it may be fully expected that the way toward positive parent-child identification will be opened. Very good prospects seem to lie in the development of knowledge in connection with transplant immunology.

APPENDIX "G"

III. OBJECTIVES OF STUDY AND METHODOLOGY

Specfically, the proposed study will:

(1) Establish which scientific tests can now be considered reliable and which systems must still be considered to be experimental. This will deal principally with blood-based systems, including enzymatic and non-enzymatic proteins of both the red blood cells and the serum, and involve a search and analysis of recent and some older literature on all aspects of scientific ascertainment of paternity, including works published abroad. In many instances, it is expected that the study will have to go behind published results and evaluate the scientific adequacy of procedures used. In addition, unpublished evidence of practical testing experience (especially in the advanced laboratories of the Scandinavian countries) will be obtained, evaluated and utilized to the extent it can be verified.

(2) Review what laboratory facilities now exist in the United States in which sophisticated tests are or could be performed reliably. This would include concern with the question of how new facilities could be established or existing facilities improved or made more broadly accessible. (For example, it appears that the U.S. Army has maintained elaborate, centralized blood typing facilities at Fort Knox for years.)

(3) Consider whether paternity tests could and should be done on a centralized, regional basis with blood samples being (air) shipped to specialized laboratories that would take over the typing functions for large areas of the country. This would allow the use of specialized tests that are now out of practical reach. This is now done in the Scandinavian countries which report excellent results.

(4) Develop detailed, scientifically sound laboratory procedures and safety standards for the execution of paternity tests. This would include standards relating to typing procedures (for example, possibly a requirement that all tests be run twice and independently, that a new set of samples be obtained before an exclusion is finally reported to the court), standards that would govern the quality and freshness of anti-sera and other testing agents, and standards relating to the identification of subjects, for example:

(5) Evaluate the potential of automated blood testing equipment from the standpoint of cost and reliability of results. A number of American laboratories have begun to employ automated equipment which performs tests for at least the more basic typing systems.

(6) Arrive at a statistically sound approach to the statement of "probabilities" of paternity. This concerns the complex question of the extent to which blood typing evidence can and should be used as circumstantial evidence speaking for or against paternity in the absence of an absolute exclusion. (Very advanced work has been done in this area in European, especially Scandinavian laboratories and a substantial amount of theoretical literature and practical experience must be considered and evaluated).

(7) Develop appropriate standards by which scientific evidence of this nature can be safely introduced into the courts. The "packaging" of the evidence must be good enough to permit the average judge (who, of course, is not an expert in the evaluation of scientific evidence) to understand what the evidence means in his particular case and what legal weight he should give to it. Adjustments in the law of evidence (especially rules concerning the cross-examination of experts) would have to be considered here. Specifically, the use of a standard form must be considered which would be completed by the laboratory executing the tests and which would routinely answer all questions that under existing procedures would be the proper subject of cross-examination. (Obviously, aside from the prohibitive expense that would be involved, the shortage of qualified experts would make it impossible that the expert who performed the test be available personally at each trial for cross-examination.)

(8) Ultimately, the work product should be crystallized in a statement of suggested minimum standards on all or most of the above points. These standards would be submitted to the American Medical Association and the American Bar Association for joint approval and would thus obtain substantial authority. Legislative adoption of these standards would be recommended to the National Conference of Commissioners on Uniform State Laws and actively pursued on the State and national levels.

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