

PROGRAMS FOR FAMILIES WITH CHILDREN

Provisions Passed by the Senate in 1972

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



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**PROGRAMS FOR FAMILIES WITH CHILDREN:
PROVISIONS PASSED BY SENATE IN 1972**

**(All Provisions Are Committee Amendments
Unless Otherwise Noted)**

I. Provisions Involving Substantial Cost

1. Test of Programs for Families

The Senate bill authorized \$400 million for each fiscal year for the Secretary of Health, Education, and Welfare to conduct three test programs. One program would be patterned after the Title IV program for families contained in H.R. 1 as it passed the House; one plan would be patterned after the program recommended by the Committee on Finance in Title IV of H.R. 1 as reported by the Committee; and the third plan would be patterned after the Title IV program for families contained in Ribicoff Amendment No. 1669. The three tests would begin at about the same time, would be conducted in reasonably comparable areas, would be of comparable size and duration (but not for less than 24 months or more than 48 months). During the period of these tests, individuals residing in the test area would not be eligible for Aid to Families with Dependent Children, and States would be protected from any increase in their welfare expenditures in the test area. Before the tests were begun, a complete and detailed description of the planned tests would be sent to the Committees on Finance and Ways and Means. The Secretary would report at least once every six months to the Congress on the test programs and would submit a full and complete report on the tests with recommendations for legislative action following the completion of the test programs. The Secretary would have to consult with the General Accounting Office, and GAO was directed to review the test programs; they would have to report to the Congress at least once every six months on the tests and submit a report following the completion of the tests. (Floor amendment by Senator Roth)

2. Work Bonus for Low-Income Workers

The Senate bill added a new provision to the tax laws providing that low income workers (physically present in the United States) who head families having one or more dependent children were to receive a nontaxable work bonus equal to 10 percent of their wages, up to a maximum wage of \$4,000, if they are subject to social security or railroad retirement taxes. In the case of married taxpayers, the bonus was to be computed on the basis of the combined earnings of both. The amendment provided a permanent appropriation for the payment of these bonuses. The work bonus was to be gradually reduced for income over \$4,000 a year by one-fourth of the income

(from whatever source derived) of the individual (and of the spouse in the case of a married taxpayer) over this amount. This would result in a complete phaseout of the bonus where the total income equaled \$5,600. Individuals who were eligible to receive the bonus could apply for advance payments on a quarterly basis throughout the year, but any payments made in excess of what the individual was entitled to receive would be subject to recapture. An individual could elect to take a credit against his income tax in lieu of the bonus.

It was estimated that the bonus payments and tax credits under this amendment would total approximately \$900 million for calendar year 1973.

3. Wage Supplement Program for Jobs Not Covered Under Minimum Wage Law

The Senate bill provided a Federal wage supplement for heads of families working in jobs paying no less than the applicable rate (if any) required under Federal, State, or local law, but paying at least 75 percent but less than 100 percent of the minimum wage as defined in the bill. The bill defined the minimum wage to be the amount provided for in the Fair Labor Standards Act (presently \$1.60 per hour) but not more than \$2.00 per hour. The amount of the wage supplement would be three-fourths of the difference between the wage paid by the employer and the minimum wage as defined in the bill. In general, the wage supplement would not be available if an employer reduced the rate of compensation during the three months before the individual took the job or within three months after he is in the job. The programs would be administered by the Secretary of Labor, presumably through the Employment Security Offices. The wage supplement would be available in the Virgin Islands and Guam, but not in Puerto Rico.

The cost of this provision was estimated at \$0.3 billion by Robert Myers and at \$1.7 billion by the Department of Health, Education, and Welfare.

4. Tax Credit for Employing Assistance Recipients

The Senate bill extended the application of the work incentive credit of present law. In general, the provision of present law allows an employer an income tax credit equal to 20 percent of the wages he pays to business employees employed under a work incentive program during the first 12 months of their employment. The total credit allowed is limited to the taxpayer's tax liability up to \$25,000 and to 50 percent of his liability over \$25,000.

The Senate bill made this credit available for nonbusiness as well as business employees. It also revised the rules with respect to the credit in several respects. Under the amendment the 20-percent credit (in the case of both business and nonbusiness employees) was to apply only with respect to so much of an individual's wages as did not exceed \$4,000. For the business or nonbusiness employer to be eligible for the credit the employees had either to be registered for employment under the manpower services and training program or placed in employment under a work incentive program. Generally, the credit was not to apply to more than 15 percent of the aggregate wages paid during the year by the employer to all employees (taking into account only the first

\$4,000 of wages paid any employee). This limitation was to be applied separately in the case of business and nonbusiness employees. In addition, each taxpayer was to be permitted to take a full credit with respect to the wages paid to at least one employee. Taxpayers who elected to take the credit with respect to nonbusiness employees were not to be eligible, in the same taxable year, to also take the deduction for expenses for household and dependent care services (sec. 214 of the Code.)

The revenue effect of this provision is difficult to estimate because the incentive effect of this amendment is difficult to measure. However, any revenue loss involved should be offset by savings resulting from reductions in welfare rolls.

5. Grants to States for Child Care

The Senate bill authorized \$800 million in each of the two fiscal years 1973 and 1974 for grants to States for child care services (limited to child care needed to enable a member of the family to work or to take job training or to provide necessary supervision for a child whose mother is dead or incapacitated). Half of the funds would be allotted among the States on the basis of population, and half on the basis of the number of children receiving Aid to Families with Dependent Children; funds not required by one State could be reallocated by the Secretary to other States. The Secretary of Health, Education, and Welfare was directed to insure that no child was the subject of any research or experimentation (other than routine testing and normal program evaluation) unless the child's parent or guardian was informed and given an opportunity to except his child from the research or experimentation. The Senate amendment provided that nothing in the Social Security Act may be construed or applied so as to "infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional or physical development of their children" or to permit any invasion of privacy otherwise protected by law. (Floor amendment by Senator Mondale)

II. Child Support

1. Desertion: Criminal Offense

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

2. Administration of Child Support Program

Continues the basic provisions of existing law but puts their administration and supervisory responsibility under the Attorney General rather than the Secretary of Health, Education, and Welfare. The Attorney General (or his State or locality delegate) shall, to the extent required, locate absent parents, determine paternity in order to estab-

lish a duty to support, obtain support orders, collect support payments by use of voluntary agreements or other means and enforce the "residual monetary obligation" owed the United States and the criminal provisions for nonsupport by such parents. The separate administering unit of the State or locality delegate would not have to be in the welfare agency as required by present law and the House bill. Requires each U.S. attorney to designate an assistant who would be responsible for child support and he would assist and maintain liaison with the States in their support collection efforts and would undertake Federal action if necessary. He would also be required to prepare for submission to Congress quarterly reports on all his activities in his area. Requires the States and political subdivisions to keep full records of their collections and disbursements and to provide such information as will enable the Attorney General to evaluate the effectiveness of their programs. The Attorney General will submit an annual report on his activities in carrying out the program.

3. Assignment of Support Rights

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

The assignment of support rights will continue as long as the family continues to receive AFDC. When the family goes off the welfare rolls, the deserting parent will continue for a three-month period to make payments to the government collection agency (which will pay the money over to the family at no cost to them). If by the end of the three-month period the father has met his support obligation for at least 24 consecutive months, he will begin making payments directly to the family. But if the father has not made payments for 24 consecutive months, the mother would have the election of continuing to assign her rights and to utilize the governmental mechanisms for collecting support for an additional period until the father has met his support obligations for 24 consecutive months. If she does so elect, the cost of collection will be deducted from the amount collected and the net balance will be sent to the mother.

The assignment of family support rights would be to the Federal Government, and the Department of Justice would be authorized to delegate these rights to those States which have effective programs of determining paternity and obtaining child support. The Attorney General would also be authorized to delegate such collection rights to counties that have effective programs, but only if the State as a whole did not.

If the Attorney General finds that a State does not have an effective program, the collection rights would remain with the Federal Government. OEO lawyers would be made available to assist Justice Department attorneys in carrying out their responsibilities.

4. Obligation of Deserting Parents to Federal Government

Past and continuing AFDC payments would serve as a "residual monetary obligation" of the absent parent to the United States. The obligation would generally be the cumulative amount derived from monthly amounts which would be based on the lesser of the welfare

assistance paid the family, or 50 percent of the absent spouse's income (but not less than \$50 a month). The obligation would accrue interest at a rate of 6 percent. Would limit the accumulation of further obligations when the absent parent makes support payments. All or part of the obligation to the Federal Government might be suspended or forgiven by the Attorney General upon a finding of good cause.

5. Enforcement and Collection of Support Liability

Provides that the Attorney General shall, in accordance with procedures applicable to the recovery of obligations due the United States, using where appropriate voluntary agreements, collect amounts owed under assigned support obligations and the "residual monetary obligation."

Provides that the Attorney General (or his State or local delegate) may enter into voluntary agreements with deserting parents if (1) there is no court order or (2) there is a court order that cannot reasonably be expected to be enforced or collected. Any such voluntary agreement must provide that support payments will not cease if the family goes off AFDC. If a State or locality utilizes voluntary agreements it must provide an administrative mechanism for the enforcement of the agreements.

Provides that the Attorney General is authorized to bring civil action in any court of competent jurisdiction (including State courts) against an absent parent to secure (1) the support obligations assigned to him as a condition of AFDC eligibility and (2) the "residual monetary obligation" owed to the United States. State and local delegate agencies which are assigned support rights through the Attorney General would use their normal judicial and administrative processes.

The Attorney General will be able to use the IRS collection procedures under section 6305 of the Internal Revenue Code by certifying the amount necessary for collection. States may also use this procedure through the Attorney General but they must have made reasonable efforts in utilizing their own collection mechanisms before the use of the Federal collection facilities would be authorized. If the IRS mechanisms are used, it would have to be reimbursed on a cost basis.

6. Distribution of Collections

The first \$20 of any support collected in a month will be disregarded and the remainder will be used to offset or reduce the AFDC payment to the family for the month. If the support payment is sufficient to entirely offset the family's AFDC eligibility for the month, the entire support payment up to the amount of the family's support needs under a court order or voluntary agreement will go to the family and any excess will be returned to the State (or the political division delegated support collection functions by the Attorney General), as a reimbursement for past AFDC payments. Any collections in excess of that needed to offset past AFDC payments will go to the Federal Government (that portion of collections retained by the Federal Government and those retained by States and localities to offset past AFDC payments will reduce the deserting father's residual monetary obligation to the Federal Government). If collection is made by the Attorney General, collections in excess of current support requirements of the family will be retained wholly by the Federal Government.

7. Parent Locator Service—Access to Records

Requires Attorney General to establish a Parent Locator Service within the Department of Justice which, upon request of (1) a local, State, or Federal official with support collection responsibility under this provision, (2) a court with support order authority, or (3) a deserted spouse not on welfare or her agent, will make available the most recent address and place of employment which can be obtained from Justice Department files or the files of any other Federal agency, or of any State. Priority in requests will be given to locating deserting fathers of families on welfare. Attorney General will be reimbursed by State and local collection agencies for the cost of his services and nonwelfare cases will pay fees for these services.

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

8. Federal Child Support Fund

Establishes in the Treasury a revolving fund to be known as the Federal Child Support Fund which shall be available to the Attorney General to enable him to carry out his responsibilities under the support program. All amounts collected by the Federal Government from absent parents would be deposited in the Fund. Other receipts to the Fund would include reimbursement by the States or political subdivisions for the cost of using Federal location and child support collection facilities, and fees collected from those individuals not on welfare who may use Federal location and child support collection services. The moneys in the Fund would be used for support payments to the families when these payments are made by the Federal Government, and to meet the Federal expenses of location and support collections efforts including the reimbursement of OEO for the services of its attorneys. Appropriations into this Fund would be authorized as necessary to meet any costs not otherwise covered by receipts into the Fund. The Fund would not be used for the 75 percent Federal matching of State or political subdivision expenses nor for the expenses of establishing blood typing laboratories.

9. Incentives for State and Local Effort to Enforce Child Support

Same as House bill but with a proviso that there be no Federal participation in State programs which do not meet the Attorney General's standards of effectiveness. If actual collection is made by local authority, an amount equal to 25 percent of the Federal share would be paid to the local authority. States and localities which are delegated collection rights by Attorney General will retain their matching share of past AFDC payments after current support needs of deserted family are met.

In States which do not meet the Attorney General's standards no return for past payment will be made and the bill requires that the full amount of AFDC payments which would have been made on behalf of the deserted family will be subtracted from HEW's AFDC grant to the State. (The amendment was technically deficient as a

result of a floor amendment; only a subtraction in an amount equal to the non-Federal share was intended.)

10. Other Requirements on State and Local Child Support Programs

In addition, requires that State (or subdivision delegate) establish a parent locator service utilizing all sources of information available and the Parent Locator Service in the Department of Justice; provide that a father not married to the mother of his child would sign a court recorded affidavit of paternity if he agreed to make support payments voluntarily in order to avoid court action; under standards prescribed by the Attorney General, cooperate with the State or subdivision of another State or with the Attorney General in establishing paternity and in locating an absent parent residing in that State and in securing compliance with a voluntary agreement or court order with respect to a child provided assistance in such other State; and comply with such other requirements as the Attorney General determines to be necessary for the establishment of an effective program.

11. Blood Typing Laboratories

Provides that Department of Health, Education, and Welfare will establish or arrange for regional laboratories that can perform the blood typing work necessary for purpose of establishing paternity for the Attorney General, State and local delegate agencies and the courts. The services of the laboratories would be available with respect to any paternity proceeding not just a proceeding brought on behalf of a welfare recipient. Services will be provided by the Department of HEW to courts and governmental collection agencies without cost.

12. Garnishment and Attachment of Federal Wages

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

13. Child Support Services for Families Not on Welfare

In addition to the provisions which extend locator services and (through the courts) blood typing services to families not on welfare (see items 7 and 11 above) the Senate bill extends child support and paternity determination services to any deserted family. Cost incurred by the Attorney General (or his State or local delegate) shall be paid by deducting such costs from the amount of any recovery made. (Floor amendment by Senator Bellmon.)

III. Other AFDC Amendments Added by Senate Bill

1. General Administrative Provisions

Social security numbers.—Requires applicants, as a condition of eligibility for assistance, to furnish their social security numbers to

the welfare agency and requires welfare agencies to use social security numbers in addition to other means of identification in administering their welfare plans.

Limitation on authority of Secretary with respect to advisory councils.—Precludes the Secretary of Health, Education, and Welfare from requiring States to establish or pay the expenses of advisory councils to advise the State on any of the cash assistance programs.

2. Eligibility for Welfare

Residency provision.—Prohibits States from furnishing assistance under the program to any individual until he has resided in the State for at least 90 consecutive days. (Omits, apparently by inadvertence, that aspect of the Committee provision under which, Federal matching would not be denied in cases where State law does not in fact impose a duration of residency provision.) Also requires States to continue to provide assistance to individuals who move out of the State until they have been out of the State for a period of 90 days provided that they continue to be eligible for such assistance and are not getting aid in the State to which they have moved on account of the residency requirement. Requires States to enter into reciprocal arrangements for the administration of assistance payments during the 90-day period.

Assistance for aliens.—Makes ineligible for assistance individuals who are neither citizens of the United States nor aliens lawfully admitted for permanent residence (nor otherwise permanently residing in the United States under color of law). Under another provision, this would be denied specifically to make Cuban refugees eligible.

Assistance to persons outside the United States.—Makes ineligible for assistance an individual who is outside the United States during all of any month (once an individual has been outside the United States for 30 days he would have to return to the United States for a period of 30 consecutive days before assistance would again be payable).

Unborn children.—Makes ineligible for assistance children who have not yet been born.

Drug addicts and alcoholics.—Makes ineligible for AFDC an individual who is medically determined to be a drug addict or an alcoholic. (Instead, such an individual would be eligible for treatment under a new title XV established by the bill.)

Individuals absent from a State.—Permits a State to suspend assistance to an individual who is absent from a State for more than 90 days even if he maintains his official residence in the State. Such suspension can continue until he is back in the State for 30 days.

Home visits.—Permits States to deny eligibility to recipients or applicants who refuse to permit inspection of their homes at reasonable times and with reasonable notice by duly authorized persons in connection with the administration of the welfare program.

3. Determining Eligibility and Amount of Benefits

Declaration method prohibited.—Prohibits use of the declaration method in determining AFDC eligibility and requires maximum feasible verification of eligibility factors from independent sources.

Earned income disregard.—Under present law, States are required under the AFDC program to disregard the first \$30 earned monthly by an adult plus one-third of additional earnings; work expenses are also deducted from earnings in calculating the amount of welfare benefit. The Senate bill eliminates the requirement that States deduct work expenses (except for a reasonable amount for child care expenses). Instead, it requires States to disregard the first \$60 earned monthly by an individual working full time (\$30 in the case of an individual working part time) plus one-third of the next \$300 earned plus one-fifth of amounts earned above this.

4. *Provisions Affecting Statutory Rights of Applicants for and Recipients of Assistance*

Limit on requirement that aid be furnished promptly.—Section 402 (a) (10) requiring welfare agencies to furnish assistance promptly to all eligible applicants would be amended to make this requirement subject to the new provisions relating to use of social security numbers, the assignment of support rights and the requirement of cooperation on the part of the mother in seeking support payments.

Hearings process.—The requirement under present law that an opportunity for a hearing be given to individuals whose claims for AFDC are denied or not acted upon promptly would be replaced by a provision under which State welfare agencies under any of the welfare programs (or local welfare agencies, if the program is locally administered) would be required to reach a final decision after an evidentiary hearing on the appeal of a welfare recipient within thirty days following the day the recipient is notified of the agency's intention to reduce or terminate assistance. The Senate bill would also require the repayment to the agency of amounts which a recipient received prior to the appeal decision if it is determined that the recipient was not entitled to them. In addition, the Senate bill stipulates that the recipient has a right to appeal at a higher administrative level in States which provide for such an appeal, but that payments need not be continued once an initial adverse determination has been made on the local level at a hearing in which evidence can be presented. Also provides that no appeal need be provided where a State limits the duration of eligibility for assistance on the basis of an application and the assistance is terminated because of the expiration of the period specified. In such cases the recipient could reapply and would be entitled to an appeal if his reapplication were denied.

Safeguarding information.—Makes clear that the provisions of present law restricting the disclosure of information do permit disclosure to public officials for purposes connected with their official duties.

5. *Community Work and Training*

Community work and training programs.—When the Work Incentive Program was enacted as part of the Social Security Amendments of 1967, the community work and training provisions of the Aid to Families with Dependent Children program (which permitted States to make AFDC payments in the form of payments for work performed meeting certain statutory criteria) were deleted. The Senate amendment permits States to have community work and training programs

as in prior law, in addition to work and training under the Work Incentive Program.

6. *Emergency Assistance*

Emergency assistance for families of migrant workers.—Requires States to provide emergency assistance to needy migrant workers with children on a statewide basis.

7. *Grants for Model Day Care*

Model day care.—Authorizes grants of up to \$400,000 per year during fiscal years 1973, 1974 and 1975 to each State to pay all or part of the cost of developing model child care through the establishment and operation of a child care center or system and to provide training for individuals in the field of child care.

8. *Adoptions*

National adoption information exchange system.—Authorizes \$1 million for fiscal year 1973 and such sums as may be necessary for succeeding fiscal years for the Secretary of Health, Education, and Welfare to “provide information utilizing computers and modern data processing methods through a national adoption information exchange system to assist in the placement of children awaiting adoption and in the location of children for persons who wish to adopt children.”

IV. Other Amendments Related to Welfare Programs

Limitation of Regulatory Authority of the Secretary.—Limits the Secretary’s general regulatory authority under the cash assistance programs to rules or regulations related to specific provisions in the law and not inconsistent with any provision in the law.

Demonstration Projects to Reduce Welfare Dependency.—Requires that one-half of the funds appropriated under the cooperative research or demonstration project (Section 1110 of the Social Security Act) and one-half of the funds appropriated for demonstration projects under Section 1115 of the Social Security Act be used in projects relating to the prevention or reduction of welfare dependency, effective beginning fiscal year 1973.

Prohibition Against the Use of Federal Funds to Undermine Public Assistance Programs.—Prohibits the use of Federal funds to pay all or part of the compensation or expenses of any attorney or other person who engaged in any activity whose purpose is to nullify, challenge or circumvent through litigation any provision of the Social Security Act or any of the purposes or intentions of the Congress in enacting the Social Security Act. The Attorney General could waive this prohibition sixty days after he has provided the Finance and Ways and Means Committees with notice of his intent to make such a waiver.

Treatment of Rent Under Public Housing.—In 1971 a provision was included in the housing bill which in effect amends the welfare law to prevent any welfare agency from reducing welfare payments if there is a reduction in the cost of public housing rental for welfare recipients. A Committee amendment deleted this provision of the 1971 Act; a floor amendment by Senator Sparkman, however, provided instead a two-year phaseout of the provision.

Evaluation of Social Security Programs.—Assigns to the General Accounting Office the basic role of evaluating programs under the Social Security Act; precludes any Federal agency from entering into a contract to evaluate any program under the Social Security Act if an expenditure of more than \$25,000 is involved unless the Comptroller General approves the study in advance. His approval would be conditioned upon his determination that:

(a) The conduct of such study or evaluation of such program is justified;

(b) The department or agency cannot effectively conduct the study or evaluation through utilization of regular full-time employees; and

(c) The study or evaluation will not be duplicative of any study or evaluation which is being conducted, or will be conducted within the next twelve months, by the General Accounting Office.

Offenses by Welfare Employees.—Provides that it would be a crime punishable by a fine of up to \$10,000 or imprisonment of up to five years, or both, in the case of a welfare employee who is found guilty of:

1. Extortion or willful oppression under color of law; or
2. Knowingly allowing the disbursement of greater sums than are authorized by law, or receiving any fee, compensation, or reward, except as prescribed, for the performance of any duty; or
3. Failing to perform any of the duties of his office or employment with intent to defeat the application of any provision of the welfare statute; or
4. Conspiring or colluding with any other person to defraud the United States or any local, county or State government; or
5. Knowingly making opportunity for any person to defraud the United States; or
6. Doing or omitting to do any act with intent to enable any other person to defraud the United States or any local, county or State government; or
7. Making or signing any fraudulent entry in any book, or making or signing any application, form or statement, knowing it to be fraudulent; or
8. Having knowledge or information of the violation of any provision of the welfare statute which constitutes fraud against the welfare system, and failing to report such knowledge or information to the appropriate official; or
9. Demanding, or accepting, or attempting to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation, or alleged violation of law, except as expressly authorized by law.

In addition to these penalties, the employee involved shall be dismissed from office or discharged from employment.

Report on Quality of Work Performed by Welfare Personnel.—Directs the Secretary of Health, Education, and Welfare to study and report to the Congress by January 1, 1974 on ways of enhancing the quality of work performed by individuals involved in the administration and operation of the cash assistance programs.