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H.R. 866, TO PROHIBIT THE PROVISION OF FINANCIAL ASSISTANCE BY THE FEDERAL GOVERNMENT TO ANY PERSON WHO IS MORE THAN 60 DAYS DELINQUENT IN THE PAYMENT OF ANY CHILD SUPPORT OBLIGATION

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 866

TO PROHIBIT THE PROVISION OF FINANCIAL ASSISTANCE BY THE FEDERAL GOVERNMENT TO ANY PERSON WHO IS MORE THAN 60 DAYS DELINQUENT IN THE PAYMENT OF ANY CHILD SUPPORT OBLIGATION

JUNE 6, 2001

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H.R. 866, A BILL TO PROHIBIT THE PROVISION OF FINANCIAL ASSISTANCE BY THE FEDERAL GOVERNMENT TO ANY PERSON WHO IS MORE THAN 60 DAYS DELINQUENT IN THE PAYMENT OF ANY CHILD SUPPORT OBLIGATION

WEDNESDAY, JUNE 6, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2154 Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn and Schakowsky.

Staff present: J. Russell George, staff director and chief counsel; Bonnie Heald, professional staff member and director of communications; Scott Fagan and Chris Barkley, staff assistants; Alex Hurowitz and Ryan Sullivan, interns; Michelle Ash, minority counsel, David McMillen, minority professional staff member; Jean Gosa, minority assistant clerk.

Mr. HORN. The Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Today's hearing will examine the merits and challenges of H.R. 866, sponsored by the gentleman from Florida, Representative Michael Bilirakis. This proposed legislation is designed to send a loud and clear message to all parents that regardless of means and despite other responsibilities, they must support the children they bring into this world.

In essence, this is a hearing about the family, the soul of society and the cornerstone of our Nation. As we are all aware, however, the nature and structure of today's family is vastly different from that of a century ago or even 50 years ago.

Today, 20 percent of all children live with only one parent, a mother or a father; more likely a mother. According to the 2000 census figures, 11 million American families are owed support and 7 million of them never receive any payment toward the cost of raising their children.

There are State and Federal laws to track down deadbeat parents and make them pay their delinquent child support.

The problem transcends economic status. Consider just three examples of several hundred deadbeat parents who were prosecuted by the Department of Justice and convicted of failing to support their children last year.

A plastic surgeon pled guilty to willfully failing to pay his child support, despite his yearly net income of more than $200,000. The physician still owes $50,000 for his two children.

A Florida chiropractor pled guilty to a felony for his failure to pay approximately $87,000 in delinquent child support. His income averaged about $100,000 a year.

A former NBA basketball player waited until he was arrested in an unrelated charge before paying the $173,000 he owed in five separate child support enforcement orders in five separate States.

As a father and grandfather, I cannot understand those who walk away from the fundamental responsibilities and true joy of parenthood.

As legislators, we cannot force these irresponsible parents to love and nurture their children. We can, and we must, however, do everything in our power to ensure that at a minimum they provide the financial support those children need and deserve.

Our witnesses today will present a variety of perspectives on H.R. 866 to help us in our examination of this bill. I welcome all of you and look forward to your testimony.

[The prepared statement of Hon. Stephen Horn and the text of H.R. 866 follow:]

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Subcommittee on Government Efficiency,
Financial Management and Intergovernmental Relations

H.R. 866, the "Subsidy Termination for Overdue Payments Act of 2001"
Opening Statement
Chairman Stephen Horn
June 6, 2001

A quorum being present, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Today's hearing will examine the merits and challenges of H.R. 866, sponsored by the gentleman from Florida, Representative Michael Bilirakis. This proposed legislation is designed to send a loud and clear message to all parents that -- regardless of means and despite other responsibilities -- they must support the children they bring into this world.

In essence, this hearing is about the family -- the soul of society and cornerstone of our nation. As we are all aware, however, the structure of today's family is vastly different from that of 100 years ago or even 50 years ago.

Today, 20 percent of all children live with only one parent -- a mother or a father. And more often it is the former rather than the latter. According to the 2000 Census figures, 11 million American families are owed support, and 7 million of them never receive any payment toward the cost of raising their children. That is despite numerous State and Federal laws to track down the deadbeat parents and make them support their children.

The problem transcends economic status. Consider just three examples of several hundred parents who were prosecuted by the Department of Justice and convicted last year for not supporting their children.

- A plastic surgeon pled guilty to willfully failing to pay his child support, despite a yearly net income of more than $200,000. The physician still owes $50,000 for his two children.

- A Florida chiropractor pled guilty to a felony for failing to pay approximately $87,000 in delinquent child support. His income averaged about $100,000 a year.

- A former NBA basketball player waited until he was arrested on an unrelated charge before paying the $173,000 dollars he owed for five separate child support enforcement orders in five separate states.

As a father and grandfather, I cannot understand those who walk away from the fundamental responsibilities and true joy of parenthood. As legislators, we cannot force these absentee parents to love and nurture their children. We can -- and must -- however, do everything in our power to ensure that, at a minimum, they provide the financial support their children need and deserve.

Our witnesses today will present a variety of perspectives on H.R. 866 to help us in our examination of this bill. I welcome all of you and look forward to your testimony. I am especially pleased to welcome as our first witness, my colleague from Florida, Mr. Bilirakis who will speak on behalf of his legislation.

I

107TH CONGRESS
1ST SESSION

H. R. 866

To prohibit the provision of financial assistance by the Federal Government to any person who is more than 60 days delinquent in the payment of any child support obligation.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2001

Mr. BILIRAKIS introduced the following bill; which was referred to the Committee on Govenment Reform

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A BILL

To prohibit the provision of financial assistance by the Federal Government to any person who is more than 60 days delinquent in the payment of any child support obligation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Subsidy Termination for Overdue Payments Act of 2001".

SEC. 2. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS REQUIRED AS A CONDITION OF RECEIVING FEDERAL FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), an agency or instrumentality of the Federal Government may not provide financial assistance to an applicant therefor unless the agency or instrumentality has obtained from the applicant a certification that the applicant is—

(1) not more than 60 days delinquent in the payment of any child support obligation imposed by a court or an order of an administrative process established under State law; or

(2) if so delinquent, in compliance with a plan or agreement entered into between the applicant and the person to whom the payment is to be made or a State providing services to the person with respect to the collection of the support.

(b) EXEMPTION FOR FINANCIAL ASSISTANCE THAT IS SUBJECT TO GARNISHMENT FOR FAILURE TO PAY CHILD SUPPORT.—Subsection (a) shall not apply to an amount of financial assistance to be provided to an applicant to the extent that the amount is subject to garnishment by reason of the failure of the applicant to pay a child support obligation.

1 (c) GOOD CAUSE EXCEPTION.—Subsection (a) shall
2 not apply to an applicant for financial assistance with re-
3 spect to any period for which the applicant has good cause
4 (as determined by the agency or instrumentality involved)
5 for having failed to pay a child support obligation de-
6 scribed in subsection (a)(1), or having failed to enter into
7 or comply with a plan or agreement described in sub-
8 section (a)(2).

9 (d) REGULATIONS.—Within 6 months after the date
10 of the enactment of this section, each agency or instru-
11 mentality of the Federal Government that provides finan-
12 cial assistance shall prescribe such regulations as may be
13 necessary to comply with this section.

○

Mr. HORN. I am especially pleased to welcome as our first witness my colleague from Florida, Mr. Michael Bilirakis, who will speak on behalf of his legislation.

Without objection, I would like to have Mr. Bilirakis join us on the dais after his testimony so we can have a useful dialog. Without objection, that will be done.

I am delighted to have you here. Thank you very much. Please proceed in any way you would like.

STATEMENT OF HON. MICHAEL BILIRAKIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. BILIRAKIS. Thank you very much, Mr. Chairman, for your interest in this legislation, as much as your interest in doing what is really best for the children out there who have been the innocent of wayward fathers.

I do want to apologize for coming in a little late. I don't really know what transpired, but we were advised that 2247 was going to be the hearing room. That is where we went. I appreciate you waiting for me.

Mr. Chairman, you have basically said it. Child support is certainly a very critical problem in this great country. Our system for enforcing child support orders has failed miserably. We all have to realize that. By current estimates, at least 30 million children are now owed $50 billion in unpaid child support.

Payment is received, we know, in less than a quarter of all cases. Even though the government spends nearly $4 billion per year, and employs more than 50,000 people, to collect child support, billions and billions remain uncollected. I would like to think that we all would agree, that this certainly cannot be tolerated.

Individuals who neglect their parental obligations simply transfer the costs to the rest of society. They should not be rewarded for such action. That is the point behind the legislation. It is designed to deny a broad range of Federal benefits to individuals who willfully refuse to pay child support.

It requires applicants to sign an affidavit to certify, applicants for Federal financial assistance, to certify that they are not more than 60 days delinquent in the payment of any child support obligation or if so delinquent, that they are in compliance with an approved repayment plan. It is really quite simple, maybe a little too simple.

It is intended to encourage payment of child support and to preclude the use of Federal taxpayers dollars to assist individuals who neglect their children.

Mr. Chairman, back in the 103d Congress I introduced a piece of legislation which was enacted into law to amend the Small Business Reorganization Act to deny small business loans and loan guarantees to individuals who refuse to pay child support. My prepared remarks say that the Small Business Administration has implemented these provisions. We should have said that the Small Business Administration should have implemented these provisions because it is our understanding that they have not done so. We can talk about that later, if you would like.

Mr. Chairman, failure to pay child support is not merely being late or forgetful of one's obligation. It is a violation of a lawful court

order. It is considered contempt of court. It is not unreasonable, I submit, to require applicants for Federal assistance to comply with their legal duties. There is precedent for that.

I would like to clarify a few points on this legislation. The Federal agency involved is not required to research the applicant's status. Rather, an applicant for assistance must make a simple, affirmative statement of compliance. This requirement will be enforced through existing provisions of Federal law, which establish penalties for fraud in obtaining Federal financial assistance.

We are talking about a line on a form, an affidavit line on a form when they apply for some sort of Federal assistance. The agency is not required to research the applicant's status. But if it turns out downstream somewhere that there is a determination that the applicants have lied under oath, then the fraud provisions come into play and the applicant could be hit over the head.

I think just the fact that they would have to certify, by an affidavit, that they are in compliance would if nothing else, play a terrific role psychologically.

The bill does include a good cause exception to avoid penalizing parents who are unable to satisfy their child support obligations due to factors beyond their control. It is necessary, I think, to avoid penalizing parents in situations where, despite a good faith effort, they are unable to modify the terms of their child support obligation or obtain a repayment agreement.

This is designed to emphasize that the payment is a fundamental civic responsibility. I think it is going to help to ensure that individuals who fail to satisfy their most basic parental obligation are not rewarded for such action.

Sir, I know that in your mind and certainly in our minds, we don't want to do something where the consequences would turn out to be worse than the intent of the legislation. We don't intend to prevent parents from obtaining Federal benefits that directly aid children or that provide a subsistence level support to parents.

Family programs, such as Medicaid and the Temporary Aid to Needy Families program provide assistance that may be necessary for the well being of other children currently living in the household or of the parent's own survival.

I have not included a list of all Federal programs. There are hundreds of Federal programs, although we have not included a list of programs to be exempted in the bill text. We really believe that each Federal agency can best determine which types of assistance should be excluded.

However, direction from Congress in report language, can guide the rulemaking process regarding necessary exemptions to the act. We are very much aware of that particular concern. We have been working with the Office of Legislative Counsel to discuss possible modifications. We want to work with the various organizations, such as the Children's Defense Fund, to try to work out language if it is felt by this committee that it is necessary.

There is no pride in authorship. I wish to make clear, Mr. Chairman, that I am not concerned about having my name on anything at all. I am concerned about the fact that bad parents, mostly fathers, are out there taking advantage of the system and being re-

warded by the Federal Government in spite of the fact that they are not doing what they should do for the benefit of their children.

That is really all I am concerned with. If we could only do something that would be consistent with trying to reach that goal, then we can call it whatever we want to call it. It can be part of the basic legislation or whatever the case may be.

[The prepared statement of Hon. Michael Bilirakis follows:]

Statement of the Honorable Michael Bilirakis
H.R. 866, the Subsidy Termination for Overdue Payments (STOP) Act
Committee on Government Reform
Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations
June 6, 2001

Mr. Chairman and distinguished Members of the Subcommittee, I appreciate the opportunity to appear before you this morning to testify on the critical issue of child support enforcement and in support of my bill, H.R. 866, the Subsidy Termination for Overdue Payments or "STOP" Act.

Unpaid child support is a critical problem in the United States. Our nation's system for enforcing child support orders has failed miserably. By current estimates, at least 30 million children are now owed $50 billion in unpaid child support. Payment is received in less than a quarter of all cases. Even though the government spends nearly $4 billion per year and employs more than 50,000 people to collect child support, billions remain uncollected. This simply cannot be tolerated.

Mr. Chairman, we must recognize that any delinquency in child support ultimately hurts innocent children. Individuals who neglect their parental obligation simply transfer the costs to the rest of society. They should not be rewarded for such action.

That is why I have introduced the bill before you today. The STOP Act is designed to deny a broad range of federal benefits to individuals who willfully refuse to pay child support. Specifically, H.R. 866 would require applicants for federal financial assistance to certify that they are not more than 60 days delinquent in the payment of any child support obligation, or if so delinquent, that they are in compliance with an approved repayment plan.

The intent of my legislation is twofold: first, to encourage payment of child support; and second, to preclude the use of federal taxpayers' dollars to assist individuals who neglect their children.

I first introduced this bill in the 103rd Congress, following a successful attempt to amend the Small Business Reauthorization Act (Public Law 103-403) to deny small business loans and loan guarantees to individuals who refuse to pay child support. Since then, the Small Business Administration has implemented these provisions.

Mr. Chairman, failure to pay child support is not merely being "late" or "forgetful" of one's obligations. It is a violation of a lawful court order. It may also be considered contempt of court. It is not unreasonable to require applicants for federal assistance to comply with their legal duties.

Let me clarify a few points about my legislation. Under H.R. 866, the federal agency involved is not required to research the applicant's status. Rather, an applicant for assistance must make a simple affirmative statement of compliance. The requirement will be enforced through existing provisions of federal law which establish penalties for fraud in obtaining federal financial assistance.

The STOP Act also includes a "good cause" exception to avoid penalizing parents who are unable to satisfy their child support obligation due to factors beyond their control. This exception is necessary to avoid penalizing parents in situations where, despite a good faith effort, they are unable to modify the terms of their child support obligation or obtain a repayment agreement.

Finally, H.R. 866 is designed to emphasize that the payment of child support is a fundamental civic responsibility. Passage of the STOP Act will ensure that individuals who fail to satisfy their most basic parental obligation are not rewarded for such action.

Mr. Chairman, my bill is not intended to prevent parents from obtaining federal benefits that directly aid children or that provide subsistence-level support to parents. Programs such as Medicaid and the Temporary Aid to Needy Families program provide assistance that may be necessary for the well-being of other children currently living in the household or of the parent's own survival. I have not included a list of all federal programs to be exempted in the bill text, because I believe that each federal agency can best determine which types of assistance should be excluded. However, direction from Congress in report language can guide the rulemaking process regarding necessary exemptions to the STOP Act.

My staff has been working with the Office of Legislative Counsel to discuss possible modifications to this legislation to delineate the specific types of federal assistance which should be exempted. If this Subcommittee chooses to move forward to markup, I will be happy to work with you to amend the bill to exclude those federal benefits that clearly have a direct benefit for another child in the household or that provide subsistence-level support for the parent.

Mr. Chairman, my legislation sends a clear message that the federal government will not reward parents for ignoring their financial responsibilities to their children. No child should be forced to suffer because of unpaid child support, and we must use all the tools available to get deadbeat parents to meet their child support obligations. It is my sincere hope that I can work with this Committee to improve the lives of our nation's children through passage of the STOP Act.

Mr. HORN. I agree with the gentleman. I think all of us who try to legislate feel exactly as you do, let us get the job done and we don't care who takes credit for it.

You mentioned yourself, before I yield to the ranking member, that the Small Business Administration delegates the task of the SBA loan applicant's child support certifications to the financial institutions handling the loan and that these certifications are not being checked against a Federal registry such as the Federal Parental Locator Service, unless someone makes a request to do so.

According to the Small Business Administration's Inspector General, that simply has not occurred. What is your feeling and the intention you have on the self-certifications?

Mr. BILIRAKIS. Well, Mr. Chairman, I think the intent of the legislation back in the 103d Congress was clear about what should have been done. We went into this. When we have our oversight hearings, we sometimes find that agencies just don't follow through with what we mandated them to do.

I am very disappointed to see that the SBA apparently, and I say this only because I have not really seen their forms, does not even include the line on the form to the effect that certification that we insist be in there. This means there are an awful lot of bad parents out there who are taking advantage of taxpayers' dollars and still not complying.

Do you think it is the best thing to leave it open to the Secretary or the Administrator, or would you want to make it very clear in this current bill what should be done?

I have found that legislative intent doesn't mean a thing around here when they all go to court. If we are going to do it, we ought to stick it in the law and follow up on it.

I believe that we have to mandate that the certification and affidavit language has to be on the Federal form. Now insofar as the exceptions are concerned, that is the will of this committee.

I should think that because it is so complex with so many government programs out there we probably ought to leave it to the discretion of the particular agency whether exceptions should apply in certain cases.

There is language that exempts programs that directly aid children in the household, "or to provide subsistence level assistance for the parent." In other words, if the agency determines that programs fall within those types of categories, they could make that decision or we could leave it up to them completely.

We are all human beings, and we know when we put up our hand swear to or certify something, it is very meaningful. I think that psychologically, certification could really play a role.

Mr. HORN. Well, I thank you.

I now yield to the ranking member. I am delighted to have you here.

Ms. SCHAKOWSKY. Thank you so much, Mr. Chairman. Mr. Chairman, I want to thank you for holding this hearing. It is vitally important that Congress continually review opportunities to strengthen our child support system. I support using a strong hand to ensure that deadbeat parents pay the child support they owe their children.

This hearing can demonstrate how seriously all of us regard a parent's responsibility to support his or her children. In 1997, there was an estimated 11.8 million single-parent families, 9.8 million maintained by the mother. Of that 11.8 million, about 40 percent of those families had incomes below the poverty threshold.

When a poor family receives child support, the child support amounts to about 26 percent of the family's budget. There is evidence that fathers who pay support are more involved with their children, providing them with emotional support as well as financial support.

Of the total $29.1 billion owed for child support in 1997, $12 billion was not paid. Among those due support, 40.9 percent received the full amount, 26.5 received partial payment, and 32.6 percent received nothing.

In 1997, the Urban Institute, using the assumption that all custodial parents had child support orders and that all orders were paid in full, estimated that $51 billion should be collected in child support each year, compared to the $18 billion that was collected in 2000, we have a long way to go.

Although these numbers are startling, I do not think we can understate how far we have come. State agencies have been given a number of tools to enforce child support orders. For example, agencies can garnish IRS refund checks, strip a parent of his or her professional licenses, report delinquency to credit reporting bureaus, take away drivers licenses and deny passport requests.

Progress has been made. Identification of the non-custodial parents has increased dramatically. In the year 1994, 676,000 paternities were established and acknowledged. In the year 2000, 1,600,000 paternities were established and acknowledged.

In addition, collections have increased. In 1995, 34 percent of custodial parents received some child support when an order was in place. In 2000, 68 percent of custodial parents received some child support when an order was in place.

Today, we are here to discuss whether a parent should be denied Federal financial assistance if he or she is delinquent in child support payments.

I want to commend the author of this legislation for highlighting the need for strong child support enforcement. I have been talking with some of the child advocacy groups who have some concerns about this particular proposal, but I would really like to work with the sponsor, because I think we absolutely share the same goal here.

So, I am eager to hear from our witnesses. I want to thank them for being here today. Perhaps our witnesses can help us understand whether Congress should be increasing the number of punitive tools available and also to see if there are other alternatives such as working with parents, giving them the support systems they need to find and keep jobs.

In Illinois, we have had a persistent problem. There have been a number of different proposals that have been made, but yet we still continue to be, in my State, one of the worst in terms of our record in child support collection.

So, I really appreciate this effort. There is a growing public awareness of the problem of nonpayment of child support. I am very hopeful that this hearing will shed more light on the issue.

Thank you.

[The prepared statement of Hon. Janice D. Schakowsky follows:]

STATEMENT OF REPRESENTATIVE JANICE D. SCHAKOWSKY
LEGISLATIVE HEARING ON H.R. 866, the "SUBSIDY TERMINATION FOR OVERDUE PAYMENTS ACT OF 2001"
JUNE 6, 2001

Mr. Chairman, I want to thank you for holding this hearing. It is vitally important that Congress continually review opportunities to strengthen our child support system. I support using a strong hand to ensure that dead-beat parents pay the child support they owe their children. This hearing can demonstrate how seriously all of us regard a parent's responsibility to support his or her children.

In 1997, there were an estimated 11.8 million single-parent families; 9.8 million maintained by the mother. Of that 11.8 million, about 40% of those families had incomes below the poverty threshold. When a poor family receive child support, the child support amounts to about 26 percent of the family's budget. There is evidence that fathers who pay support are more involved with their children, providing them with emotional support as well as financial support.

Of the total 29.1 billion owed for child support in 1997, $12 billion was not paid. Among those due support, 40.9% received the full amount, 26.5% received partial payment and 32.6% received nothing.

In 1997, the Urban Institute, using the assumption that all custodial parents had child support orders and that all orders were paid in full, estimated that $51 billion should be collected in child support each year. Compared to the $18 billion that was collected in 2000, we have a long way to go.

Although these numbers are startling, I do not think we can understate how far we have come. State agencies have been given a number of tools to enforce child support orders. For example, agencies can garnish IRS refund checks, strip a parent of his or her professional licenses, report delinquency to credit reporting bureaus, take away drivers' licenses, and deny passport requests.

Progress has been made. Identification of the non-custodial parents has increased dramatically. In 1994, 676,000 paternities were established and acknowledged. In 2000, 1,600,000 paternities were established and acknowledged. In addition, collections have increased. In 1995, 34% of custodial parents received some child support when an order was in place. In 2000, 68% of custodial parents received some child support when an order was in place.

Today we are here to discuss whether a parent should be denied federal financial assistance if her or she is delinquent in child support payments. Although I commend the author of the legislation for highlighting the need for strong child support enforcement, I am not sure whether more punitive tools are needed at this time.

Therefore, I am eager to hear from our witnesses and I want to thank them for being here today. Perhaps our witnesses can help us understand whether Congress should be increasing the

number of punitive tools available or if there are other alternatives such as working with parents and giving them the support systems they need to find and keep jobs.

Mr. Chairman, there is a growing public awareness of the problem of nonpayment of child support. I am hopeful that this hearing will shed still more light on the issue. Thank you.

Mr. HORN. We thank you. Would you have some questions of Mr. Bilirakis now? He is going to join us up here, as we do with all authors. So, without objection, you can come up to the dais, if you were like.

Mr. BILIRAKIS. May I, Mr. Chairman, respond very briefly? First of all, you are right. There are an awful lot of loopholes, and a lot of questions, and changes that need to be made. We are not really talking only about our legislation, although we are very grateful that it is the subject of this hearing. It is a subject we have to address.

You have talked about the improvements in collections. But we are told, and Ms. Jensen will testify to this later on and do a much better job than I could, that a lot of the money is collected, is not being distributed to the kids.

That is another point that the committee may want to address.

Ms. SCHAKOWSKY. Let me just ask you, are you talking about the percent of those that are receiving any kind of assistance? It goes to the States rather than to the families?

Mr. BILIRAKIS. I am talking about child support collections.

Ms. SCHAKOWSKY. Yes. I fully agree with you.

Mr. BILIRAKIS. Thank you, Mr. Chairman.

Mr. HORN. Thank you.

We will now have the second panel join us. That is Mr. Fuentes, Mr. Penn, Mr. Hatcher, Mr. Primus and Ms. Jensen.

Let me go through the ground rules on this. This is an investigating unit under the Government Reform Committee. We do swear in all witnesses except Members of Congress. I realize that some of you have not had a chance to really be in your own position in these agencies and we appreciate your coming here to give us some views on this—realizing this is all that you are going to do.

So, now, if you will stand and raise your right hands, and if there are any assistants who are going to assist, please get up. The clerk will take your names. So, the people back of you, let us do it once and not have to swear everybody in individually.

[Witnesses sworn.]

Mr. HORN. The clerk will note that all five witnesses and five assistants have affirmed the oath.

We will go down in the agenda that is before us. We are delighted to have Mr. Frank Fuentes, the Acting Commissioner, Office of Child Support Enforcement, Department of Health and Human Services. I assume, Mr. Fuentes, you are new to this role, with another administration.

Dr. J.B. Penn, Under Secretary for Farm and Foreign Agricultural Services, Department of Agriculture. Have both of you been confirmed by the appropriate people in the Senate or is that currently underway?

Mr. Penn. I have.

Mr. HORN. Mr. Fuentes, has the Senate confirmed you or is that a secretarial appointment?

Mr. FUENTES. I am the senior civil servant in the Office of Child Support Enforcement. My regular position is that of Deputy Commissioner. Until someone is appointed, I am the Acting Commissioner.

Mr. HORN. Well, maybe in the year 2002 we will have these confirmations. Be of good cheer until then.

Then we have Mr. Primus, director of Income Security Center on Budget Policy Priorities. That is a nonprofit, I believe, is that correct?

Mr. PRIMUS. That is correct.

Mr. HORN. Is that funded by HHS, essentially?

Mr. PRIMUS. No. We receive no government moneys.

Mr. HORN. I see. OK. President Jensen, Association for Children for Enforcement of Support, Inc. Is that a nonprofit also?

Ms. JENSEN. Yes, it is.

Mr. HORN. Who funds that?

Ms. JENSEN. We are mainly privately funded but we do receive $15,000 through the city of Toledo block grant program, which is a Federal program.

Mr. HORN. That is interesting. So, one city has decided you are a good place to get some things done. That is fascinating.

Ms. JENSEN. ACES was founded in Toledo, OH, and we have an office there.

Mr. HORN. That is interesting.

So, let us go now with Frank Fuentes, the Acting Commissioner, Office of Child Support Enforcement, Department of Health and Human Services.

May I say, don't read it to us. I have stayed up most of the night reading it all. I have read every sentence. But what we would like you to do in the 5 to 10 minutes you have is to talk from the heart as to what the key things are and the rest we can bring out in the questions by the Members here and also some of your colleagues here. So, go ahead.

STATEMENT OF FRANK FUENTES, ACTING COMMISSIONER, OFFICE OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF HEALTH AND HUMAN SERVICES; HON. J.B. PENN, UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES, DEPARTMENT OF AGRICULTURE; DANIEL L. HATCHER, SENIOR STAFF ATTORNEY, CHILDREN'S DEFENSE FUND; WENDELL PRIMUS, DIRECTOR OF INCOME SECURITY, CENTER ON BUDGET POLICY PRIORITIES; AND GERALDINE JENSEN, PRESIDENT, ASSOCIATION FOR CHILDREN FOR ENFORCEMENT OF SUPPORT, INC.

Mr. FUENTES. Thank you, Mr. Chairman. Good morning. Distinguished members of the subcommittee, it really is a wonderful opportunity to share with you what we have been doing in the Office of Child Support Enforcement. So, we very much appreciate the opportunity to come before you.

As I stated before, my name is Frank Fuentes. I am the Acting Commissioner for the Office of Child Support Enforcement.

The program has been truly successful in its Federal-State partnership effort fostering family responsibility and promoting the well-being and self-sufficiency of children and their parents, especially by providing the financial and emotional support children need in order to thrive.

The goals of the program are to identify and locate custodial parents, establish paternity, establish child support obligations and

then to enforce those support orders so that children receive what they need.

The welfare reform legislation, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, gave us some very effective tools that we have been using to produce significant improvements and achievements.

My purpose in being here is to share that information with you, but then, as requested, to also share some initial thoughts on Mr. Bilirakis' proposal to further strengthen our child support enforcement efforts. This, of course, is a goal that we all share.

But to give a little background on what we have been doing with the tools that Congress provided, in fiscal year 2000, we collected a record $17.9 billion in support of children. In addition, this number of child support cases with collections rose to 7.2 million. I think you would agree that those are impressive results.

To add to the magnitude of the improvement, if you look over the history of the Child Support Enforcement Program, $100 billion has been collected in that 25-year period. Approximately 20 percent of that was collected just last year. So, we are seeing progress your tools have allowed us to use.

In addition to collections, we have had similar success in the establishment of paternity. The numbers there have also increased in the voluntary acknowledgement of paternities. We have now reached in fiscal year 2000, 1.6 million voluntary paternity establishments. Of these, over 688,000 were done through in-hospital acknowledgement programs and another 867,000 were done through the establishment by State Child Support Enforcement Programs.

The interesting part of this, of course, and the most exciting, is that in addition to being the first step in collecting child support, it is also through the establishment of paternity the first opportunity to engage dads in the lives of their children, create the kinds of emotional bonds, and the security, that are really crucial to the continued emotional and financial support of their children.

Some of the tools we have utilized have been the National Directory of New Hires, Automatic Wage Withholding, the streamlining of paternity establishment, creating uniform interstate child support forms, computerizing statewide collections, and authorizing tough new penalties for nonpayment of support; such as the revocation of drivers' licenses.

We are excited about the dramatic results we have seen and the changes that have been generated by the use of these tools. OCSE and the States are convinced that as we mature in the use of these tools that future child support enforcement will continue down a successful path.

At this point, I would like to turn to a brief discussion of H.R. 866. First, I would like to acknowledge the importance, again, of the bill's goal which is the improvement of child support and to strengthen our abilities to enforce it.

While we are proud of the inroads we have made there is no question there is still room for improvement. We certainly realize there are areas that by working with the Congress we can continue to improve and build on the record we have already achieved.

The administration has not taken a formal position on H.R. 866 at this time; however, I would like to share some serious technical

concerns of this bill. As we understand it, the intent of H.R. 866 is to help improve the collection of support.

The bill would provide some limited exceptions requiring applicants for any form of Federal financial assistance to certify they are not more than 60 days delinquent in their child support obligations. If the applicant is delinquent, they would be required to comply with a repayment plan or an agreement as conditioned by the Federal agency administering that benefit.

The bill provides exceptions if assistance is subject to garnishment for payment of overdue support or if the assistance agency determines that the applicant has good cause, for failing to pay the support or entered into or complying with a repayment plan.

Our comments focus on two concerns. The first is what we believe are structural difficulties that would impede the effectiveness of the bill. Second is questions on the efficacy of potentially targeting the low-income population for nonpayment of child support.

With respect to the first issue, the sole enforcement tool envisioned is self-certification of compliance. That is, there would be no mechanism to verify an applicant's certification of payment of child support. While this might serve as an incentive for some to become current in their support, or enter into a payment agreement, the value of this approach without subsequent verification seems unclear. Further, if verification were required, its effectiveness would be hampered by the fact that many cases remain outside of the Title IV-D Child Support Program.

On the other hand, modification of a child support order following a change in a particular non-custodial parent's circumstances, such as the loss of a job, can take significantly longer than 60 days. Arrearages often buildup during that time period.

Withholding of Federal financial assistance at this point may only worsen the impact of the change that necessitated the modification request. Now, we note that the bill provides for good cause exemptions, presumably to address situations like these and others. However, these provisions are currently undefined and therefore ambiguous. Also undefined is the broad reference to Federal financial assistance programs. There is a wide range of such programs and the implementation and impact of the bill would vary greatly depending on the breadth of that definition.

With respect to the second broad issue, the lack of clarity in the bill raises the potential of focusing on applicants for basic Federal assistance. In potentially targeting those parents who themselves are impoverished and least able to pay child support, rather than those who can provide the support but refuse to, the result could be denying assistance to destitute individuals without increasing the payment to the children who are owed the support.

The administration is committed to supporting efforts to improve the Child Support Program; however, we are concerned about whether the approach taken in H.R. 866 will accomplish its intended goal.

In closing, I would like to reiterate the positive impact that the existing enforcement tools are having in helping to improve the lives of the Nation's children. We look forward to building on these successes with the Congress and with the State to ensure that the

program is most effective in addressing the needs of children and families.

Thank you, Mr. Chairman. I would be pleased to answer any questions that you may have.

[The prepared statement of Mr. Fuentes follows:]

DEPARTMENT OF HEALTH & HUMAN SERVICES

Washington, D.C. 20201

STATEMENT

OF

FRANK FUENTES

ACTING COMMISSIONER

OFFICE OF CHILD SUPPORT ENFORCEMENT

BEFORE

HOUSE GOVERNMENT REFORM COMMITTEE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL

MANAGEMENT AND INTERGOVERMENTAL RELATIONS

JUNE 6, 2001

Mr. Chairman and distinguished members of the Subcommittee, thank you for giving me the opportunity to testify on the child support enforcement program. I am Frank Fuentes, the Acting Commissioner of the Office of Child Support Enforcement. The Child Support Enforcement program is a very successful Federal/State partnership effort aimed at fostering family responsibility and promoting self-sufficiency by ensuring that children are supported financially and emotionally by both parents.

To accomplish this goal, we work in partnership with States in providing four major services: locating non-custodial parents, establishing paternity, establishing child support obligations, and enforcing child support orders. Welfare reform made dramatic improvements in our ability to achieve these goals and I would like to take this opportunity to share with you the promising results we are witnessing. As you requested, I would then like to share our initial thoughts on Mr. Bilirakis's proposal to further strengthen child support enforcement, H.R. 866, the Subsidy Termination for Overdue Payments Act of 2001.

Child Support Enforcement Program Record

In FY 2000, a record $17.9 billion in child support was collected. In addition, the number of child support cases in which collections were made rose to 7.2 million. I think you will agree that these results are impressive.

The record is similar with respect to establishment of paternity. The number of paternities established or acknowledged reached a record of 1.6 million in FY 2000. Of these, over 688,000 paternities were established through in-hospital acknowledgement programs. An additional 867,000 paternities were established through the Child Support Enforcement program. In addition to being the first step in collecting child support, paternity establishment engages fathers in the lives of their children, creating the emotional bonds and security that are crucial to their children's health and well being.

Through enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), unprecedented tools have been provided to the child support enforcement program. The legislation strengthened and improved child support collection activities by establishing a national new hire and wage reporting system, streamlining paternity establishment, creating uniform interstate child support forms, computerizing statewide collections, and authorizing tough new penalties for non-payment of support, such as driver's license revocation.

These tools promise to secure for many of our nation's children the emotional and financial support that they need and deserve and they are having a dramatic impact. For example, using the expanded Federal Parent Locator Service we were able to provide States information on 3 million interstate cases, and using the Passport Denial Program, we have collected over $7 million in lump sum child support payments in the last year. Further, the Federal Tax Refund and Administrative Offset programs collected over $1.4 billion in calendar year 2000.

We are excited about the dramatic results these changes are generating and are convinced that the future of child support enforcement will continue on this successful path.

I would like to turn now to a brief discussion of H.R. 866. First I would like to acknowledge the importance of the goal of the legislation -- to strengthen child support enforcement. While we are proud of the inroads we have made on this issue for America's children, we certainly realize that there is room for improvement and look forward to working with Congress on possible avenues to build on our record.
The Administration has not taken a formal position on H.R. 866 at this time, however I would like to share some serious technical concerns with the bill.

The Subsidy Termination for Overdue Payments Act of 2001 - H.R. 866

As we understand it, the intent of H.R. 866 is to help improve our record in collecting support. The bill would, with some limited exceptions, require applicants for any form of Federal financial assistance to certify that they are not more than 60 days delinquent in payment of child support in order to qualify for the benefit. If applicants were delinquent, they would be required to be in compliance with a repayment plan or agreement as a condition of receiving other Federal benefits. The bill provides exceptions if the assistance is subject to garnishment for payment of overdue child support or if the assistance agency determines the applicant has good cause for failing to pay the support or enter into or comply with a repayment agreement.

Our comments focus on two concerns -- first, what we believe are structural difficulties that would impede the effectiveness of the bill and second, questions on the efficacy of potentially targeting the low-income population for nonpayment of child support. With respect to the first issue, the sole enforcement tool envisioned is self-certification of compliance. That is, there would be no mechanism to verify an applicant's certification of payment of child support. While this might serve as an incentive for some to become current on their support or to enter into a payment arrangement, the value of this approach without subsequent verification seems unclear. Further, even if verification were required, its effectiveness would be hampered by the fact that many cases remain outside of the title IVD child support system. On the other hand, modification of a child support order following a change in circumstances, such as job loss, can take significantly longer than 60 days, and arrearages often build up during this time period. Withholding federal financial assistance at this point may only worsen the impact of the change that necessitated the modification request. We note that the bill provides "good cause" exemptions, presumably to address issues like these, however these provisions are currently undefined and thus ambiguous. Also undefined is the broad reference to "federal financial assistance programs." There are a wide range of such programs and the implementation and impact of this bill would vary greatly depending on the breadth of this definition.

With respect to the second broad issue, the lack of clarity in the bill raises the potential of focusing on applicants for basic federal assistance. In potentially targeting those parents

who themselves are impoverished and least able to pay child support rather than those who can provide support but refuse to do so, the result could be denying assistance to destitute individuals without increasing payments for children who are owed support.

The Administration is committed to supporting efforts to improve the child support program. However, we are concerned about whether the approach taken in H.R. 866 will accomplish its intended goal.

In closing, I would like to reiterate the positive impact existing enforcement tools are having in helping to improve the lives of our Nation's children. We look forward to building on these successes with Congress and the States to ensure that the program is most effective in addressing children's and families' needs.

Thank you. I would be pleased to answer any questions you may have.

Mr. HORN. We are going down the line first and then we will come back to ask questions generally.

Dr. J.V. Penn is the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture. Like Mr. Fuentes, you are both new on the job, but you have now been confirmed by the Senate. So, you can say what you want now.

Proceed and just give us the overview of it for 5 to 10 minutes.

Mr. PENN. Thank you very much, Mr. Chairman. I, too, am very pleased to be here today to share the Department of Agriculture's views on H.R. 866. Also, like the previous witness, we also very much support the goals of this legislation, but we, too, have some serious concerns about the impact that it might have on the programs we operate at the Department of Agriculture.

Now, in terms of the applicability of this legislation to USDA programs, I want to note at the outset that 43 percent of the total budget of the Department of Agriculture is for food assistance programs that are primarily administered through the States.

Second, another 36 percent of the Department's budget provides a host of program benefits to farmers and rural communities all across the country. Some of our programs are for emergencies in response to natural and other disasters such as hurricanes, floods and droughts. Thus, we are a bit concerned at the outset that H.R. 866 doesn't define the term, "financial assistance."

That is important to us, as you will note, when I describe some of our programs. First, addressing our food assistance programs, strictly speaking, these programs provide nutrition assistance rather than financial assistance. We do this through the use, as everyone knows, of Food Stamps, coupons or vouchers or through actual service of meals in school daycare homes, or through the distribution of commodities themselves.

So, if H.R. 866 is intended to apply to these programs, then we would have the following observations: The first is that these programs need to be implemented by the States or by local governments acting in their role as partners with Federal agencies. That is certainly the case for the Food Stamp Program.

We already have an enormous amount of complaints and criticism from the States in that these programs are terribly complex and that they are not being reimbursed properly for their administration.

Our fear would be that enactment of this legislation might further complicate the administration of the program and make it even more costly and more difficult, and provide an even greater burden on the States.

Second, I would like to note that the Food Stamp Act of 1977 already allows the States the option to disqualify individuals from receiving Food Stamp benefits if they are delinquent in court-ordered child support payments or they fail to cooperate with child support enforcement programs in establishing paternity and obtaining child support.

So, we are not certain of our further ability to promote personal responsibility that would be needed for the Food Stamp Program.

I would like to note it is unclear from this legislation whether the disqualification would apply just to the individual who is delin-

quent in payments or to other members of the household living with that individual.

Our department in the past has not supported penalizing entire households where only one member of the family failed to comply with some program rule.

So, any legislation that would potentially deny food assistance to low-income households needs to be very carefully considered because, I want to note, 50 percent of the Food Stamp recipients are children and the Food Stamp Program, we think, already has existing authority that encourages personal responsibility.

So, we think any modifications to this authority might be more appropriately considered when the Food Stamp Act comes up for reauthorization in fiscal year 2003.

Now, turning to the Child Nutrition Programs, H.R. 866, as introduced, we think presumes that the benefits denied are those to which the applicant alone is entitled. But in almost all cases, the benefits under the Child Nutrition Program are intended for someone other than the applicant and so, as with the Food Stamp Program, we think it would be counterproductive to deny benefits to others who may be associated with the individual who is not in compliance.

So, benefits under both the Child Nutrition Program and the Special Supplemental Nutrition Program for Women and Children, the WIC Program, and our commodity distribution programs are provided by local schools, childcare centers, health clinics and similar entities under arrangements with the States.

We think any additional responsibilities for collecting, monitoring and carrying out the administration of this process could prove to be extremely burdensome and costly and would have a negative impact on the overall administration of the program.

One other point, Mr. Chairman, we think is important is the exemptions already made for means-tested programs. The Debt Collection Improvement Act of 1966 has uniformly included language that exempts benefit payments made in means tested programs or it allows the delegation of authority to make such exemptions.

We would suggest that just to be in conformance with the existing legislation H.R. 866 might include similar language.

I just talked about the food assistance programs and now want to note the impact on the farm programs.

We are troubled by the lack of a clear definition of the term "financial assistance," because without it we don't know how broadly H.R. 866 might apply to these programs.

We operate a host of programs that provide assistance to farmers and rural communities, as well as farm loan and debt restructuring programs. We certainly think that H.R. 866 would apply to the farm loan and debt restructuring programs and we are not certain how that would affect co-obligors if there is more than one borrower and only one borrower was in default. How would that affect the other parties?

Also, we are concerned that the certification process might add to delays in making these loans to farmers. As we know, there is a seasonal element involved here and loans have to be timely or otherwise the season moves along.

We are also concerned about the direct payments made to farmers. The payments made under the marketing loan programs and a whole variety of other programs as well as the loan and loan restructuring programs—how all of those might be affected without a clear definition of the term "financial assistance."

Finally, Mr. Chairman, let me end by saying again, USDA strongly supports the intent of the legislation, but we would like to see further analysis to ensure that administrative costs and processes don't inadvertently reduce benefits to children and others in need.

I would note that the bill touches on some very complex issues such as cause and effect, State versus Federal roles, and we have some serious concerns about those issues. Additional concerns include the denial of financial assistance benefits to children and diminishing the applicant's subsequent earnings and thus the means to pay the child support payments.

With that, I will stop. Thank you.

[The prepared statement of Mr. Penn follows:]

STATEMENT OF
J.B. Penn
Under Secretary for Farm and Foreign Agricultural Services
U.S. DEPARTMENT OF AGRICULTURE

Before the House Committee on Government Reform
Subcommittee on Efficiency, Financial Management
and Intergovernmental Relations

on H.R. 866
Subsidy Termination for Overdue Payments Act of 2001

June 6, 2001

Introduction

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to share with you USDA's views on H.R. 866, the Subsidy Termination for Overdue Payments Act of 2001. USDA supports the goals of this bill; however, we do have serious concerns about the impact of this legislation on the administration of certain USDA programs.

H.R 866 provides that the Federal Government (and its partners) may not provide financial assistance to an applicant unless the agency or instrumentality obtains from the applicant a certification that the applicant is not more than sixty (60) days delinquent in child support payments or is in compliance with a plan or agreement between the applicant and the person to whom payment is to be made or a state providing services to the person to whom the payment is owed with respect to the collection of the support.

Applicability to USDA Programs

Approximately 43 percent of USDA's budget funds food assistance programs primarily administered through the States. Over 36 percent of USDA's budget provides a host of program benefits to farmers and rural communities. Some of our financial assistance is for emergency programs in response to natural and other disasters, such as hurricanes and floods. H.R. 866 does not define the term "financial assistance," and as written appears to be applicable to most, if not all, USDA programs.

Food Assistance Programs - certification a burden on the states.

Strictly speaking, our domestic food assistance programs provide *nutrition* assistance rather than financial assistance. This is done through the issuance of limited-use coupons or vouchers or through the actual service of meals in schools or daycare homes or through the distribution of commodities. However, if HR 866 is intended to apply to these programs, I would make the following observations.

A number of USDA and other Federal programs are implemented by States or local governmental units acting in their role as partners with Federal agencies.
An example is the Food Stamp Program, where States administer the Program and pass through benefit payments to Program recipients. The Department is already hearing loud criticism from States, advocacy groups, and some Members of Congress about the

complexities of the Program, and the length of States' application forms necessary to certify individuals. Enactment of this legislation would likely complicate administration of the Program, as obtaining such information may prove to be costly and difficult, potentially creating an unreasonable burden on the States and local governments.

It should be noted that the Food Stamp Act of 1977 already allows States the option to disqualify individuals from receiving food stamp benefits if they are delinquent in court-ordered child support payments or fail to cooperate with the Child Support Enforcement Program in establishing paternity and obtaining child support. Consequently, further authority to promote personal responsibility is not needed for this Program.

Additionally, it is unclear from H.R 866 whether the disqualification would apply just to the individual who is delinquent in payments or to other household members living with the individual. USDA in the past has not supported penalizing entire households when only one member fails to comply with Program rules. Any legislation that would potentially deny food assistance to low-income households needs to be carefully considered, especially since approximately 50 percent of food stamp recipients are children. Because the Food Stamp Program already has existing authority that encourages personal responsibility, modifications to this authority would more appropriately be examined when the Food Stamp Program is reauthorized for fiscal year 2003.

With regard to the Child Nutrition Programs, H.R. 866 as introduced presumes that the benefits denied are those to which the applicant alone is entitled. In almost all cases,

benefits under the Child Nutrition Programs are intended for someone other than the applicant. As with the Food Stamp Program, it would be counterproductive to deny benefits, particularly essential nutritional benefits, to children because of the failings of a parent. We have concerns that the bill may not ensure that only benefits for which the applicant is the sole recipient are affected and, to the extent possible, applicable only where denial of benefits will not be harmful to anyone other than the individual who is delinquent in payments.

Benefits under the Child Nutrition Programs, the Special Supplemental Nutrition Program for Women and Children (WIC) and the Commodity Distribution Programs are provided by local schools, child care centers, and health clinics and similar entities, under agreement with State agencies. Any responsibilities for collecting, monitoring and generally carrying out the administration of this process and information would be extremely burdensome and costly and could negatively impact the overall administration of these programs, particularly at the local level.

Exemptions made in means-tested programs.

Existing law (e.g., the Debt Collection Improvement Act of 1996) has uniformly included language that exempts benefit payments made in means-tested programs from such efforts (or at the least has included language which delegates the authority to make exemptions in such cases). We suggest that H.R. 866 include similar language to bring it into conformance with the other current laws.

Impact on Farm Programs

The legislation would also impact eligibility for farm loans as well as assistance for debt restructuring. In both cases, existing regulations require the applicant/borrower to be current on all Federal debts (including non-farm loan debt) once the loan/restructure is closed. If enacted, HR 866 would require that defaulted child support payment would cause the applicant/borrower to be ineligible for Government loan assistance. There could also be an impact on co-obligors. The bill is silent on whether all parties to a loan are denied assistance if one co-borrower on the loan is delinquent on child support.

The certification process required by H.R. 866 may add delays to the loan-making and assistance process. Applications for assistance by borrowers in the farming community are always time sensitive. Delays in processing applications could adversely affect crop production and management for these farmers, which would adversely affect earnings that might otherwise be put towards payment of child support. We note that the bill does contain an exemption clause, but it does not take into consideration whether withholding such assistance will put at risk other children living with the individual or make it less likely that the individual would be able to meet child support obligations.

Summary

While USDA supports the intent of H.R. 866, we believe that further analysis is needed to ensure the administrative costs and processes do not inadvertently reduce benefits to children and others in need. The bill touches on very complex issues, including cause and

effect relationships, and State versus Federal roles. We have serious concerns that in some cases the denial of financial assistance benefits will actually diminish the applicant's subsequent earnings and thus the means to pay child support payments.

Once again, thank you for the opportunity to share our comments.

Mr. HORN. Thank you.

We now have Daniel L. Hatcher, the senior staff attorney for the Children's Defense Fund. Mr. Hatcher, we are glad to have you here. We know of a lot of the work of the Children's Defense Fund. That, too, is an NGO, or a nonprofit.

Mr. HATCHER. It is. We receive no government funds as well.

Mr. HORN. We would like you to summarize your statement and then get to the key things.

Mr. HATCHER. Thank you, Mr. Chairman, and good morning. We also commend the subcommittee for holding this hearing on H.R. 866 and the very important issue of child support enforcement. We appreciate the opportunity to testify.

Children need support from both parents, both financial support, and when possible, emotional support. The Children's Defense Fund applauds Representative Bilirakis for introducing H.R. 866 and making an important statement about parent's responsibility to support their children.

However, we do have a number of reservations about this legislation. Everyone agrees that the continued improvement of child support enforcement is vital. The question really begins to come down to the focus. With State programs facing limited resources, how should those resources be best used to best help children, especially low-income children?

Rather than implementing a new set of penalties at this time, we believe that the limited resources of the State child support programs can be better used to continue improvements to existing enforcement tools, including the tools already mentioned that came out of the 1996 Welfare Reform Law, to reform child support distribution rules to get more child support that is already being collected to the families with children, especially those families that are now leaving welfare for work, and to provide supportive services to both low-income custodial and non-custodial parents to be better equipped to better support their children.

First, turning to the issue of child support distribution, I would like to spend just a couple of minutes discussing what we believe to be the most important issue. Reform to the Child Support Distribution rules is needed to help low-income children.

The reform that is included in the Johnson-Cardin Child Support Distribution Act of 2001 and also incorporated into the act, to leave no child behind, an omnibus bill for children, is crucial for several reasons. Families that receive welfare under current law have to assign their child support benefits to the government.

When families leave welfare, they often end up in a situation where some of the child support is owed to the government and some is owed to the children, which then creates a very complex set of distribution rules to decide when the money comes in how much goes to the government, to the State, the Federal Government and when and how much goes to the children.

Child support that is owed to the government rather than children can work against families, where non-custodial fathers can become more alienated from their families when they struggle to pay child support that they know is being taken from the children and kept by the government. Poor mothers and fathers that reunify are

often still forced to pay child support arrearages that are owed to the State government even though the children are now with them.

Now, the States do have the option to give some of this assigned child support back, but only after they pay the Federal Government its share. So, they don't have the option to give it all back at this point.

The Child Support Distribution Act would change this to give States the option to pass through all assigned child support to children with Federal participation in the pass-through.

Also, another troubling aspect of the current child support distribution rules is that the most effective means of collecting child support arrears for low-income families, those families who have received or are receiving TANF tax intercepts, is often not available to low-income families.

Now, changing the child support distribution rules, the reason I am spending time on this is that it is so important. It would take some funding from State child support programs that are already facing limited resources, which adds to our concern of adding a new set of administrative burdens on the Child Support Program.

It is clear, it is very clear that H.R. 866 has the obvious intent to serve the best interests of children. But in addition to some of these concerns we have with the limited resources, there are concerns that have already been mentioned with some of the language in H.R. 866.

I won't spend a lot of time, since some of these items have already been discussed. We do have concerns with the fact that financial assistance is not defined and that the failure to adequately define "financial assistance" could lead to the unintended result of denying benefits when in some circumstances they could actually help children. They could help low-income non-custodial parents work toward self-sufficiency and then be better able to help their children.

Some good examples could be legislation which is introduced in the Senate and House now for Federal funding for fatherhood programs, to provide assistance to low-income, non-custodial parents in the form of responsible fatherhood programs, job training, parental counseling, domestic violence counseling and the like; all geared toward the goal of helping these low-income, non-custodial parents be more involved with their families when appropriate and provide better support to their children.

Also, we take concern with the good cause exception, although it is clear the good causes exception is there with the intent to take into account these situations where it might be better for the non-custodial parent to get the benefits to help the children. As has already been said, the exception is not defined.

We also have concerns about who would make the decision on good cause, what would be the procedure? There are no provisions for protecting against due process concerns, for providing the right to contest and appeal the good cause decisions.

It seems most likely that the place where the decision would fall for determining good cause would end up on the child support programs, otherwise there would be great difficulty if each agency was making the decision about what is good cause in those cir-

cumstances without really having a lot of information about the personal facts of these families and children.

Possible modifications to H.R. 866 could definitely be made to improve upon some of these concerns. For example, changes could be made to clarify which specific types of financial assistance would be targeted. Rather than adding a growing list of exemptions of programs that would not be denied, it would likely be a better approach to only add those programs that would be specifically targeted and only after very careful consideration is given to those specific programs to ensure that their denial would actually encourage more child support payments rather than in some circumstances hurting the situation further, as has already been discussed.

Also, changes to the good cause exception could be made to better indicate what factors are going to be considered on good cause. Is it the best interest of the children that is the over-riding standard? Specific examples could be listed as examples of what meets good cause such as when a family reunifies and the non-custodial parent now lives with the children for whom child support is owed.

It would also be important to add in the right to contest and appeal good cause decisions, both to protect against due process concerns and to better ensure that when a good cause determination is made that it is not made in error. Again, as I have already said, it would be important to decide where that decision is made and come up with the structure for that decision.

That leads me to some of the concerns on the additional administrative burdens that this could have on the child support programs. Even with these potential changes to the legislation, the Children's Defense Fund fears that H.R. 866 could place an undue administrative burden on State Child Support Enforcement Offices.

Now, I am aware that the idea is that this would be through self-certification, but it does seem difficult that the self-certification would, when carried out, not include significant involvement from the child support enforcement agency, either in tracking a situation where reports are made where there may have been false certification filed and looking at situations where the parent was at first not in compliance but then came into compliance.

The self-certification does allow for working out an agreement even if the parent is behind on child support but questions can come up about who would they work out the agreement with. It seems like it would have to be with the child support enforcement offices.

Initial conversations with some child support IV-D Directors confirm these concerns, that the serious funding difficulties that the State child support enforcement programs are facing, at the same time that they are trying to step up enforcement activities and really get up to speed on all the existing child support tools that are now available, including those new tools that were made available through welfare reform.

They are providing new services to both custodial and non-custodial parents to really look at the holistic approach to serving low-income families and to helping both custodial and non-custodial parents better serve their children and have more involvement with their children when appropriate.

In developing and implementing State-wide computer systems, there is concern that implementing this new set of penalties could require some very complicated interaction between the child support enforcement agencies and several different Federal and State agencies in determining when parents are or are not in compliance.

So, again, rather than adding the burden on State programs at this time to implement this new set of penalties, we believe that a better use of the limited funds available to child support programs at this time is to continue improvements to the existing tools, to continue reform of child support distribution to get that child support that is already being collected to these families with children, and to provide additional supportive services both to custodial and non-custodial parents so they can better provide for their children.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Hatcher follows:]

Testimony of the Children's Defense Fund

before the

Subcommittee on Government Efficiency, Financial Management,
and Intergovernmental Relations
Committee on Government Reform
United States House of Representatives

H.R. 866, the "Subsidy Termination for Overdue Payments Act of 2001"

Presented by:

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June 6, 2001

Mr. Chairman and Members of the Subcommittee:

The Children's Defense Fund (CDF) commends the Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations for holding this hearing on H.R. 866. We appreciate the opportunity to testify about the important issue of child support enforcement. CDF is a private, nonprofit advocacy organization whose mission is to Leave No Child Behind®. We receive no government funds. CDF provides a strong, effective voice for all the children of America who cannot vote, lobby, or speak for themselves.

Children in families striving to become or stay self-sufficient need support from both parents, and strong penalties for failure to pay support are crucial. The effectiveness of the child support program is now steadily improving, but continued improvements are vital to the well-being of children with absent parents, especially low-income children. The child support program can have a significant anti-poverty effect – when it is successful in getting support payments to families. Among custodial parents receiving none of their ordered child support, the poverty rate was 35.7 percent, whereas for those receiving all the support due, the poverty rate was 15.2 percent.[1] CDF applauds Representative Bilirakis for introducing H.R. 866, the "Subsidy Termination for Overdue Payments Act of 2001," and thereby making an important statement about parents' responsibility to support their children. However, CDF has a number of reservations

[1] U.S. Census Bureau, Child Support for Custodial Mothers and Fathers, P 60-212 (October 2000).

about this legislation, and we believe the limited resources of state child support programs can be better used to continue improvements to existing enforcement tools, to reform child support distribution rules to get all collected child support to children and their families, and to provide supportive services to both low-income custodial and noncustodial parents to assist them in supporting their children.

H.R. 866 may have unintended negative impacts on low-income children

H.R. 866 makes a strong statement about the responsibility of noncustodial parents to support their children. Strong enforcement tools, and strict penalties for noncompliance with court orders play a critical role in effective child support enforcement. However, the language in H.R. 866 may be too broad and actually have a negative impact on some low-income children.

H.R. 866 would prohibit the Federal Government from providing "financial assistance" if certification is not obtained that the applicant is not more than 60 days delinquent in the payment of any child support obligation (unless in compliance with a payment plan/agreement or meets a good cause exception). "Financial assistance" is not defined and wide discretion would be given to each federal agency to develop regulations. CDF is concerned that the legislation, although clearly possessing the important intent to help children by increasing child support payments, may be too broad and lead to denial or termination of assistance to low-income noncustodial parents, when the provision of such assistance may in some cases be in the children's best interests.

There is an increasing recognition of a population of low-income noncustodial parents with barriers to employment and an inability, as opposed to unwillingness, to comply with child support orders. State and federal programs are developing to provide forms of assistance, job training, counseling and support services in order to help these absent parents become better equipped to provide financial support, and, if possible, increased emotional support for their children. Legislation has been introduced in the House and Senate this year that include provisions to provide federal funds for states to create such programs to help noncustodial parents. The Child Support Distribution Act of 2001 (H.R. 1471) contains provisions for funding responsible fatherhood programs, the Responsible Fatherhood Act of 2001 has been introduced in the House (H.R. 1300) and Senate (S. 653), and funding for fatherhood programs is included in the omnibus bill for children introduced by Representative George Miller and Senator Dodd, the "Act To Leave No Child Behind" (H.R. 1990 and S. 940). President Bush also includes funding for such programs in the Administration's budget.

Programs receiving federal funds could be designed to provide assistance to noncustodial parents who face barriers to employment and are not able to keep up with their child support orders. The funds could even be used to forgive child support arrears in a method designed to encourage payment of current support. For example, a pilot program that has already been developed in Baltimore forgives an increasing amount of state-owed child support as noncustodial parents participate in job training programs and make steady current child support payments. If these programs are considered a form of

financial assistance, H.R. 866 could deny such assistance to the very individuals the assistance would be designed to help.

Questions also exist as to whether several other current and possible future forms of assistance would be considered "financial assistance" under H.R. 866. The following examples illustrate additional situations where the denial of assistance may not be in the children's best interests.

1. H.R. 866 contains an "Exemption for Financial Assistance that is Subject to Garnishment for Failure to Pay Child Support." This exemption would allow garnishable federal benefits, such as Social Security Disability Insurance benefits (SSDI), to continue so that child support payments can be collected through forced garnishment. However, other forms of assistance based on financial need or disability cannot be garnished and therefore would not meet this exemption. A disabled father[2] may have Supplemental Security Income (SSI) as his only form of income – and still make small child support payments to his child (although not enough to meet current ordered payments and accumulated arrears). SSI cannot be garnished for child support payments, so it does not fall within H.R. 866's exemption. If SSI is considered "financial assistance" under H.R. 866, the benefit payments would cease and the disabled father would lose his ability to make the small child support payments.

2. When a custodial parent applies for welfare, the children's child support rights must be assigned to the state. A significant percentage of noncustodial parents therefore have child support arrearages that are state owed. It is not at all uncommon for a noncustodial parent to reunify with his family, or for custody of the children to change from the mother to him. In such circumstances, the parent may still have substantial child support arrearages owed to the state although the children now reside with him. That parent would then not be eligible for any programs considered to be "financial assistance" under H.R. 866.

3. When a child enters the foster care system due to abuse or neglect, the child's parents may be ordered to pay child support while the child is in the system. Federal funds may be used to provide assistance to one or both of the parents as they work towards possible reunification with their child. Reunification with a parent may be the best option for the child, and the parent could greatly benefit from reunification services and assistance. However, if the assistance is considered "financial assistance" under H.R. 866, and the parent has not been able to make all child support payments, the parent may be denied the needed reunification services even though reunification is in the child's best interests.

H.R. 866 does contain a good cause exception, and it is conceivable that the above situations could meet such a good cause exception. However, no guidance is

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[2] This testimony often refers to noncustodial parents as fathers for purposes of simplicity, and because the majority of noncustodial parents are men. We recognize there are also many female noncustodial parents and male custodial parents.

provided as to defining good cause, the procedure for determining good cause, or whether any ability to appeal exists.

Therefore, without further clarification, H.R. 866 could inadvertently deny or terminate beneficial forms of assistance such as those described above. If these and other forms of assistance based on financial need or disability are terminated, the chances of low-income noncustodial parents improving their situations and providing more support to their children may be seriously reduced.

Possible modifications to H.R. 866.

To address concerns with the possible over-reaching aspects of H.R. 866, various changes could be made to clarify which specific types of financial assistance are being targeted. Either a specific list of targeted forms of financial assistance could be included, or in the alternative, a specific list of exempted forms of assistance. It would likely be a better approach to list those specific forms of assistance that will be denied - after careful consideration of whether denying specific forms of assistance would serve the purpose of encouraging child support payments without causing unintended harm to the children.

Changes to the good cause exception could also be made to better indicate factors and procedures for determining good cause. For example, good cause could be defined to include situations where the noncustodial parent will utilize the assistance to try to improve his economic situation so he can better support his children, and other situations that are in the best interests of the children. Specific circumstances could be listed as automatically meeting a good cause exception, or added to a list of exemptions – such as situations where a parent has reunified with his children but still owes child support arrears. Also, it would be important to provide for the right to contest and appeal determinations in order to address constitutional due process concerns and reduce the number of denials of assistance made in error.

Administrative burden of H.R. 866 on state child support enforcement offices.

Even with modifications such as those discussed above, the timing may not be good for implementing the penalties proposed in H.R. 866. State child support programs are facing serious funding difficulties at the same time as they are stepping up enforcement activities, providing new services and counseling both to custodial and noncustodial parents, and developing or improving statewide computer systems. The addition of a new set of penalties to implement, that would require coordination with multiple federal and state agencies and additional difficulties in automation, could impose an undue burden on state child support programs. Despite improvements in the performance of the child support programs, continued efforts to get more child support to children are critical. Limited resources should not be diverted from improving the use of existing enforcement tools, reforming child support distribution rules, and providing supportive programs likely to have the maximum benefit for children.

Performance of the child support program is improving.

Child support enforcement tools have been strengthened in recent years. Wage withholdings were made mandatory in 1988, and then were made more effective when the National Directory of New Hires was established in the 1996 welfare reform law, the Personal Responsibility and Work Opportunity Reconciliation Act ("PRWORA"). Employers must now report all new hires to state agencies that then transmit the information to the National Directory of New Hires. Child support offices can then check the directory against a list of noncustodial parents with overdue child support. After a match is made, a wage withholding order is issued to deduct automatically child support payments from the noncustodial parent's paychecks.

PRWORA also required each state to implement centralized computer systems for collections, made improvements to paternity establishment, and provided uniform interstate child support laws to address enforcement complications that exist when multiple states are involved. Other enforcement tools now available include suspending driver's, professional, occupational, and recreational licenses, seizing assets in financial institutions, placing liens on real or personal property, and incarceration.

With the strengthening of enforcement tools and increased recognition of the importance of child support for child well-being, the performance of the child support program has improved. $15.8 billion in child support was collected in 1999, a 10 percent increase over fiscal year 1998, and according to a press release from the U.S. Department of Health and Human Services, that number reached $18 billion in fiscal year 2000. Paternities were established and acknowledged for 1.5 million children in 1999, about a 220 percent increase over fiscal year 1992. The child support collection rate has doubled since 1995.[3]

Continued improvements are needed to help low-income children.

Despite the progress being made in the child support programs, millions of children are still not receiving adequate support. A 1998 U.S. Census Bureau study about child support found that 44 percent of all custodial parents had no child support orders or agreements, and another 33 percent of parents did not receive payments despite agreements. State child support agencies have high caseloads, and need to concentrate as many resources as possible on making use of the new enforcement tools now available.

Low-income children of current and former welfare recipients have the greatest need for the additional family income possible through the receipt of child support payments. Unfortunately, the bulk of the collections are not reaching those children with the greatest needs. Almost two-thirds (63 percent) of the IV-D child support caseload is

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[3] Data is from U.S. Department of Health and Human Services press release, "HHS Announces New Record Child Support Collections" (January 17, 2001), the U.S. Department of Health and Human Services, Child Support Enforcement FY 1999 Preliminary Data Report (September, 2000), and an analysis by Vicki Turetsky, "Families Participating in the State Child Support Program," (Center for Law and Social Policy, 2001).

made up of current and former welfare recipients, but the majority of the funds collected in FY 1999 were for families who have never received welfare assistance. Of the small percentage of child support collected for current TANF recipients (9.3 percent), very little actually gets to the families – the government kept $1.3 of the $1.5 billion collected in 1999. Former TANF recipients are getting more of the child support collected on their behalf ($3.8 billion out of the $4.83 billion collected), but still over $1 billion of the amount collected did not get to these children in families struggling to leave welfare for work.[4]

Improvements in the child support program should focus on child support distribution reform.

The current child support system was not really set up to provide support for children. Rather, the child support system was created for the federal government and the states to recoup the costs of providing welfare benefits under the old Aid to Families with Dependent Children program (AFDC). The AFDC welfare program was reformed in 1996 to encourage poor families to work and to provide temporary assistance to help them become self-sufficient. Welfare reform has caused the child support program to begin to shift from a purpose of recovering welfare costs to encouraging both parents to support their children and getting more child support to the custodial families. However, additional changes are needed to encourage states to pass through more child support to families, and to reform the complex child support distribution rules.

Families receiving welfare must assign their rights to child support to the government. The effect is that child support collections are then taken from the children, kept by the state governments, who in turn pay a share to the federal government. The children often get nothing.

Children in low-income families experiencing separation or divorce need emotional and financial support from both parents. Child support that is owed to the government, rather than children, can work against families. Poor non-custodial fathers can become more alienated from their families when they must struggle to pay child support they know the government is keeping. Some poor fathers will risk incarceration by not paying government-owed support payments so they can try to help their children directly. Poor mothers and fathers that reunify are often still stuck with paying child support arrears to the government after they get back together.

After child support payments have been taken from children through required assignment, the states do have the option to give some back, but only after they pay the federal government its share of the takings. Under the current structure, only a small amount of the child support is given back. In 1999, a total of $1.48 billion in child support was collected for the 3.6 million families in the child support caseload receiving TANF assistance. Of that amount, only $113 million (7.65%) was given back to the

[4] Paula Roberts, "The Performance of the Child Support Enforcement System: Two Points of View," (Center for Law and Social Policy, November 2000).

children and their families. For families who had formerly received TANF assistance, over $1 billion of the child support collected in 1999 was not given back to the children.[5]

Former welfare recipients receive little of back child support collected. According to the U.S. Department of Health and Human Service's Child Support Enforcement FY 1999 Preliminary Data Report, $12.9 billion in child support arrears was owed for families receiving public assistance, and $34.5 billion in arrears was owed for families who formerly received public assistance. Intercepting federal tax refunds is an increasingly successful method in collecting this past due child support. Tax intercepts amount to the majority of back support collections made on behalf of families receiving public assistance. For many low-income families, where non-custodial parents' work is intermittent and child support payments irregular, intercepting federal tax refunds may be the only real chance they will have of getting past due child support.

Unfortunately, the most effective way of collecting past due child support is often not available for poor children. When families are able to leave welfare for work, the assignment of their child support stops but past due child support is still often owed in part to the government and in part to the family. Under current law, past-due child support collected by federal tax intercept is kept by the government to pay itself first - even when most of the child support is owed to the children.

Last year, the House of Representatives overwhelmingly passed the Johnson-Cardin Child Support Distribution Act of 2000 (H.R. 4678) by a vote of 405-18. The Act would have changed the child support distribution rules to help families leaving public assistance – including paying child support collected through tax intercepts to families first, not requiring families to assign child support that accrued before they started to receive public assistance, and allowing states to pass through all assigned child support back to the families. Billions of dollars in child support would have been directed to children. H.R. 4678 was referred to the Senate, and a similar Senate bill (S. 3189) was introduced. Unfortunately, the Senate never acted on these measures.

The Johnson-Cardin bill has been reintroduced this year as the Child Support Distribution Act of 2001 (H.R. 1471), which is also incorporated in the Act To Leave No Child Behind (H.R. 1990 and S. 940). Similar legislation has also been introduced in the Senate.

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[5] U.S. Department of Health and Human Services, Child Support Enforcement FY 1999 Preliminary Data Report (September, 2000)

In summary, H.R. 866 possesses the obvious intent to serve the best interests of children – by adding further penalties for failure to pay child support. However, even if the clarifications discussed above can be made to the legislation, we believe a better use of limited state program resources is to continue improvements to automation and existing enforcement tools, to reform the child support distribution rules to get all collected child support to children and their families, and to provide supportive services to both custodial and noncustodial parents to assist them in providing financial and emotional support for their children.

Further, the risk of error is high due to the problem of poor records.[10] Even when formal records exist, they may not be accurate. For example, a non-custodial may have made direct payments to the custodial parent that are not reflected in the records. This is a significant problem in states that do not serve income withholding orders on employers as soon as a support order is entered. During the interim between issuance of the order and imposition of income withholding, the non-custodial parent may make direct payments to the custodial parent and these will not be captured in the state's records. In addition, in interstate cases, payments may have been made in one state but credit for those payments may not be reflected in the records of another state. Timely communication is another problem. What would happen in the case of an NCP with arrearages who came into compliance after having been cut off from federal financial assistance for a period of time? How quickly would a given agency be able to reinstate benefits?

Providing the certification that H.R. 866 would require would create a substantial administrative burden for state child support enforcement agencies, and would be likely to take away from the time that staff spends collecting child support. Even if the legislation could be implemented, it is unclear whether it would prevent non-custodial parents who are delinquent in their child support payments from receiving federal benefits. H.R. 866 would require applicants for federal financial assistance to provide certification that they are "not more than 60 days delinquent in the payment of any child support obligation. . . [or] if so delinquent, in compliance with a plan or agreement entered into between the applicant and the person to whom the payment is to be made. . ." Because this certification is only required at the time that the non-custodial parent applies for assistance, a non-custodial parent who did not have a child support arrearage at that time could accumulate an arrearage at a later date and continue to receive federal financial assistance.

An Alternative for Increasing Child Support Payments by Low-Income NCPs

A basic reason why many low-income NCPs do not pay child support regularly is that they are unemployed or under-employed, and have only a limited income from which to pay child support. Over the last several years, the economy has been strong, labor markets have been tight, and unemployment has fallen to its lowest level in decades. Yet employment levels for young African American men have stagnated over the last few years and do not reflect this positive economic trend.

The current child support system does not do a good job of helping poor fathers meet their children's needs when they are unemployed or underemployed. It can and should be improved. The welfare reforms of 1996 encouraged more low-income mothers to enter the workplace so they can better support their children. Helping poor fathers become employed so

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[10] Paula Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents*, Center for Law and Social Policy, 2001.

they can take more financial (and emotional) responsibility for their children is the next step. Instead of creating another punitive tool that, I would suggest that we explore ways to help low-income non-custodial parents become more responsible and increase their ability to pay child support through employment and other services. The fatherhood demonstration projects that would be funded under the Child Support Distribution Act of 2000 (which passed the House by a vote of 405 to 18 last year) represent the best way to approach this issue given our limited knowledge about "what works" in terms of providing services to low-income NCPs.

The fatherhood provisions included in the Child Support Distribution Act would provide funding to community-based and state programs working directly with low-income non-custodial parents. These funds would be provided on a competitive basis to encourage the child support agency, the TANF program, workforce development organizations, and community-based organizations to work together in delivering a variety of services to non-custodial parents. The goal of these services for non-custodial parents would be to increase the employment rates of such parents, encourage them to become more involved in the lives of their children, assist these parents in meeting their parental responsibilities, and promote marriage.

There is much we need to learn about how government policies should be structured to assist low-income non-custodial parents successfully in becoming more responsible fathers, becoming employed, and paying child support. The fatherhood provisions in H.R. 4678 provide sufficient funds in selected localities to implement different approaches on a large enough scale to permit evaluation. This will enable other localities, as well as federal and state policymakers, to learn what works and what does not. The Bush Administration has proposed a similar approach.

Another important policy change to encourage the payment of child support by low-income NCPs would allow families to benefit from child support paid on their behalf while they are recipients of cash assistance through the Temporary Assistance for Needy Families (TANF) program. Under the current system, children generally do not benefit from child support paid on their behalf if they live in a family that is receiving cash assistance, and this policy can frustrate both custodial and non-custodial parents. In the majority of states, the government retains *all* child support paid on behalf of families receiving welfare. In these cases, all child support payments a non-custodial father makes are retained by the government, and none of his payments benefit his children. From the perspective of the fathers — and their children — this is effectively a 100 percent tax rate on the father's child support payments. In 1998, states collected $2.6 billion in child support for children in families receiving public assistance and passed along only $282 million — less than 11 percent of it — to the families and children for whom the money was intended.

The federal government should create incentives for states to change these policies by enacting child support disregards in calculating TANF benefits. The disregard refers to the amount of paid child support that is ignored, or disregarded, when welfare benefits are calculated. For example, with a 50 percent disregard, instead of reducing welfare payments

dollar-for-dollar, which is the current policy in many states, every dollar of child support would reduce welfare payments by 50 cents, thus ensuring that custodial families are better off when child support is paid. States could go further and build on the proven success and cost-effectiveness of the EITC by creating financial incentives similar to the EITC for the payment of child support. For example, a state could match the child support payments made by low-income fathers.

Conclusion

In conclusion, while I share Representative Bilirakis's concern about unpaid child support orders, other efforts — and not H.R. 866 — should be made first to collect this unpaid support. Before adopting a new enforcement tool, I think it is important to understand 1) why non-custodial parents with means are escaping the current system, and 2) how the new tool would affect low-income NCPs who are not able to pay enough child support to meet their children's needs. The current child support system has a number of tools to collect money from NCPs with child support arrearages. The state can seize assets in banks; intercept payments from public sources including unemployment compensation, lottery winnings, and tax refunds; suspend driver's, professional, occupational, and recreational (including hunting and fishing) licenses; report arrearages on a delinquent NCP's credit report; and in some cases states can use civil contempt procedures to incarcerate NCPs. The proposed legislation would disproportionately target low-income non-custodial parents, its implementation would prove problematic, and the legislative language is vague in a number of crucial areas. A more effective approach would be to improve the implementation of existing enforcement tools while exploring ways to help low-income non-custodial parents build their capacity to work and pay child support regularly.

Mr. HORN. Thank you very much. We now go to Wendell Primus, the director of income security, Center on Budget Policy Priorities.

Mr. PRIMUS. Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify today on H.R. 866. I will summarize my testimony and try not to repeat what has been raised by the three witnesses to my right.

We basically agree with the three previous statements and believe that H.R. 866 is flawed and could have a number of harmful and counterproductive effects.

We strongly agree with Representative Bilirakis that the payment of child support is a fundamental civic responsibility and parents who do not live with their children have an obligation to provide both financial and emotional support to them. Research also shows that strong child support enforcement programs reduce entrances into and hastens exits out of welfare and reduces divorce and out-of-wedlock childbearing.

I think the real issue is: Does the child support enforcement program need another tool or should we use the existing tools we have better? I think having watched this program over the last 25 years, we have given the program many more tools and the key ones were added in the Welfare Reform Act of 1966.

That was through the New Hire Directory. Every time a person is hired today in the United States, the employer must forward a form which is matched against a registry of all the child support orders. If there is a match, you can immediately order automatic wage withholding.

I think we are on the threshold of seeing enormous increases in performance and just in the last 5 years, the probability of collecting from someone with an order in the IV-D system hearings doubled from 34 percent to 68 percent. So, I think we have made enormous strides.

So, I think rather than adding another penalty, I believe our focus should be on ensuring that States use the tools they already have as effectively as possible.

Going through your two or three examples at the beginning of the hearing, Mr. Chairman, the question is, why didn't that NBA star get an automatic wage withholding so that his salary was reduced and sent to child support? I mean, why wasn't the State involved doing that?

In terms of the other two examples, the question was, you know, why didn't we take away their professional licenses? Those tools are available. It is not that we really want to take it away, because then we have destroyed probably his ability to earn a livelihood, but my point is that the system already has sufficient tools.

The question is: Should we be using those tools better and how can we help States utilize those tools better?

But I am also concerned that this bill could make it more difficult for low-income non-custodial parents to become employed and meet their parental responsibilities.

Many dads in the current IV-D system need support and probably need financial assistance such as job training and education programs. I think in the next round of welfare reform we have got to be more concerned about the non-custodial parents' involvement

in the lives of their children and helping them move into the labor force, retain employment and make payment.

As Dan has already indicated, I think the first step in that process is really passing H.R. 4678, a bill that passed last September by a margin of 405 to 18 in the House. The Senate, unfortunately, did not take it up. But this really was the first step. It would also have assured that more of the child support actually gets from the dads to the children.

Today, we have a 100 percent tax rate in the case of low-income dads where mothers are on welfare. The dad is ordered to pay. If he pays, all of the moneys accrue to the benefit of the State or Federal Government.

I know that Illinois has considered passing through. The problem is that the Federal Government doesn't help them in that effort. I know the bills have actually passed the House. I think the last one was vetoed by the Governor. My understanding of the situation is if you passed H.R. 4678 and had the Federal Government participate partially in getting those payments to the mother, many States would take advantage of that.

So, I share the concerns about the definition of good cause and what is financial assistance. I worry that might be applied to job training programs. Since my time is up, I do want to emphasize that this issue of arrearages is a big issue among low-income, non-custodial parents.

In Baltimore City, I have looked carefully at Maryland and the State did runs for me. The average arrearage for a low-income male in Baltimore City was $9,000. We are hearing lots of anecdotal evidence that is forcing them to go underground and is doing just the opposite of what we intended.

So, I think our emphasis has got to be on getting those low-income, non-custodial parents to meet their parental responsibility. That is different from the three examples that you cited earlier. I don't think another punitive tool is the right way of going about that.

Thank you.

[The prepared statement of Mr. Primus follows:]

TESTIMONY OF WENDELL PRIMUS
Director of Income Security, Center on Budget and Policy Priorities
Before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations of the Committee on Governmental Reform
June 6, 2001

Mr. Chairman and Members of the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations:

Thank you for the opportunity to testify today on H.R. 866, the Subsidy Termination for Overdue Payments Act of 2001. My name is Wendell Primus, and I am Director of Income Security at the Center on Budget and Policy Priorities. The Center is a nonpartisan, nonprofit policy organization that conducts research and analysis on a wide range of issues affecting low- and moderate-income families. We are primarily funded by foundations and receive no federal funding.

While I share Representative Bilirakis's conviction about the importance of timely child support payment and that dads should not get behind in their child support obligations, I believe that the approach in H.R. 866 is flawed and that it could have number of harmful and counterproductive effects.[1]

Child support data shows that there are many non-custodial parents who have accumulated substantial arrearages. If non-custodial parents with means are escaping the child support system, the analytical questions that should be answered are how, why, and what changes are needed to the child enforcement system to prevent this from occurring? I suspect that the answer to these questions is that the existing enforcement tools are not being fully utilized, and that some additional funding and staff are needed for the system. If the answer is that arrearages are primarily accumulating for dads without income, the issue becomes what can or should government do to assist those parents in meeting their parental responsibilities. I would argue that another punitive enforcement tool will hurt efforts to help these low-income non-custodial fathers become more responsible parents.

Finally, implementing this bill would require a substantial investment in child support agencies' time and effort. I believe that this time and effort would be better spent making more effective use of existing enforcement tools and providing services to help low-income NCPs increase their ability to pay child support regularly.

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[1] Since the majority of noncustodial parents are men and the majority of custodial parents are women, for simplicity I use the terms "noncustodial parent" and "noncustodial father" interchangeably. There are a number of male custodial parents and female NCPs.

Importance of a Strong Child Support System

I am a strong proponent of child support and believe that child support enforcement is a very important program, and agree with Representative Bilirakis that "payment of child support is a fundamental civic responsibility." Parents who do not live with their children have an obligation to provide both financial and emotional support to them. Besides directly benefitting the children who receive child support payments from their non-custodial parents, child support enforcement has a number of other positive effects. Strong child support enforcement reduces entrances into and hastens exits out of welfare and reduces divorce and out-of-wedlock childbearing.[2]

Child Support Enforcement Tools

Federal legislation strengthening the child support system was passed in all but three years between 1981 and 1999. This legislation transformed each of three key components of child support enforcement: paternity establishment, setting consistent child support orders, and obtaining child support payments. With the implementation of statewide computers and new data matching tools authorized by welfare reform in 1996, the child support collection rate has doubled since 1995. Once a child support order is in place, 68 percent of IV-D families can now expect to receive at least some child support.[3] The IV-D program has especially benefitted the lowest-income families, with never-married mothers experiencing a four-fold increase in their child support receipt rate since the programs inception.[4]

The current child support program has many tools at its disposal to enforce NCPs' responsibility to pay child support. In recent years, the program's enforcement activities have been strengthened at both the state and federal levels. The enforcement tools have become increasingly automated as well. Federal legislation passed in 1988 requires automatic withholding of child support obligations from the paychecks of non-custodial parents. To make wage withholding as effective as possible, legislation enacted in 1996 established the National Directory of New Hires which allows the child support office to closely track NCPs' employment. This directory contains information about all newly hired employees which the

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[2] See Irwin Garfinkel, *Assuring Child Support in the New World of Welfare*, presented at The New World of Welfare Conference, February 1-2, 2001.

[3] 1995 data is from the Office of Child Support Enforcement, Department of Health and Human Services, Child Support Enforcement: Twentieth Annual Report to Congress for Period Ending September 30, 1995. 2000 data is unofficial. Data analyzed by Vicki Turetsky, *Families Participating in the State Child Support Program*, Center for Law and Social Policy, 2001.

[4] Elaine Sorensen and Ariel Halpern, *Child Support Enforcement is Working Better Than We Think*, Urban Institute, 1999 cited in Vicki Turetsky, *Families Participating in the State Child Support Program*, Center for Law and Social Policy, 2001.

child support enforcement office then checks against a list of NCPs with outstanding child support orders. When a match is made, the child support office can issue a wage withholding order so that the current support owed by the NCP is automatically deducted from his wages before he receives a paycheck.

Once non-custodial parents fail to pay child support and amass child support debts, states are required to use a number of additional enforcement tools. States are required to seize assets held in financial institutions and intercept periodic or lump sum payments from public sources such as unemployment compensation or lottery payments. They must place liens against real or personal property and suspend driver's, professional, occupational, and recreational licenses. Other mandatory enforcement techniques include withholding state and federal tax refunds payable to a parent who is delinquent in support payments and performing quarterly data matches with financial institutions to track down assets of delinquent NCPs.[5] States must report the amount of overdue support to a consumer credit bureau on request. Finally, child support agencies are required to order NCPs to engage in work activities and can use civil contempt procedures to incarcerate NCPs who do not comply with court orders to pay child support.

In summary, if a dad with income is not paying, the child support agency can order wage withholding, can take his driver's, hunting, and fishing licenses away, can make sure he does not leave the country, and can revoke any professional license that he may need. In addition, liens can be attached to property or financial assets that he owns and his credit record can be affected. Given the existence of all these tools at the disposal of the child support agencies, the real question becomes is whether the additional tool mandated by H.R. 866 would be cost effective and whether it is a better use of government resources than increasing the effectiveness of existing child support tools.

While collections have improved significantly in the past few years, child support enforcement clearly still has a long way to go. Instead of adding another penalty for accumulating child support arrearages, however, I believe our focus should be ensuring that states use the tools that they already have as effectively as possible. These existing tools should be sufficient to collect child support from fathers with the means to pay it. Additional funding for these existing tools would be likely to improve the performance of child support performance even more: the research shows that child support performance and funding levels are directly related.[6] As I discuss below, the proposed legislation probably would be a counterproductive for low-income non-custodial parents who lack the resources to pay their child support orders regularly.

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[5] For a complete list, see U.S. House of Representatives, Committee on Ways and Means, *1998 Green Book*, Washington: U.S. Government Printing Office, 1998, pages 552 to 553.

[6] Vicki Turetsky, *You Get What You Pay For: How Federal and State Investment Decisions Affect Child Support Performance*, Center for Law and Social Policy, 1998; for additional citations see Vicki Turetsky, *Families Participating in the State Child Support Program*, Center for Law and Social Policy, 2001.

How Would Low-Income NCPs Be Affected by the Proposed Legislation?

The dad most likely to be affected by the legislation are dads in the IV-D system, many of whom are low-income. I am concerned that this bill could make it more difficult for these NCPs to become employed and meet their parental responsibilities. A recent report by Elaine Sorensen and Chava Zibman of the Urban Institute suggests that 2.5 million nonresident fathers who do not pay child support are poor themselves.[7] Among all poor noncustodial fathers who are not institutionalized, this study finds that many face potential barriers to employment: 43 percent laced a high school diploma, about one-third lacked recent work experience, and 39 percent reported at least one health barrier.

Many low-income NCPs have accumulated substantial arrearages. My research indicates that in Baltimore, a city where a significant proportion of the population is low-income, 83 percent of NCPs with a current child support order have accumulated an arrearage. These arrearages are, on average, very large. The average size of arrearages for NCPs residing in Baltimore City is $9,909.[8]

NCPs have accumulated these arrearages for a number of different reasons including periods of unemployment or low wages. In addition, many low-income NCPs begin owing a lump sum of arrearages at the same time that a current child support order is established. At the time that a child support order is set, many states establish retroactive obligations in addition to a current support order. This obligation may include payment for the child's health care coverage including prenatal, birthing, and newborn care costs paid by Medicaid. Once a low-income NCP has accumulated an arrearage, it can be very difficult to repay it. In many cases the current support orders themselves are high relative to the NCP's income, and money for arrearages is collected in addition to any current child support that the NCP pays Some states charge double-digit interest on payments missed after the date the order is established.[9]

Once NCPs have accumulated these large arrearage, they may feel they never will be able to pay off their child support fully even if they are working, these arrearages may actually deter some NCPs from making any child support payments or cause them to sever ties completely with their families. Arrearage policies also may deter NCPs from seeking stable employment, and very large arrearages may encourage some low-income NCPs to limit their employment to jobs that pay in cash or move into underground economies. This implication is supported by a

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[7] Elaine Sorensen and Chava Zibman, *Poor Dads Who Don't Pay Child Support: Deadbeats or Disadvantaged?* The Urban Institute, 2001.

[8] See Wendell Primus and Kristina Daugirdas, *Increasing Child Well-Being by Focusing on Low-Income Noncustodial Parents*, The Abell Foundation, 2000.

[9] Paula Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents*, Center for Law and Social Policy, 2001.

substantial amount of ethnographic research — several studies document that fathers may quit jobs when they discover how much of their income is garnished for child support.[10]

As a subsequent section will detail, federal policy should focus on helping these non-custodial parents manage their arrearages and pay the current child support that they owe rather than creating another punitive enforcement tool.

Implementing the Proposed Legislation

While I sympathize with the motivation for H.R. 866, I believe the bill reflects a seriously flawed approach. The first problem is that the key terms are not defined. What is included under the term "financial assistance"? In other contexts, most significantly, federal civil rights laws, "federal financial assistance" is interpreted very broadly to include a very wide range of nonmonetary assistance. In an earlier hearing about this bill, Representative Bilirakis indicated that the legislation refers to "a broad range of Federal benefits," and would include veterans' benefits, retirement benefits, and federally subsidized mortgages, among others. However, Representative Bilirakis also indicated that he did not necessarily intend to include SSI disability benefits, Medicare benefits, and some Social Security benefits. Terminating financial assistance to low-income non-custodial parents such as employment and training services would make it less likely, rather than more likely, that the non-custodial parent would be able to pay child support.

It is also unclear what would qualify as "good cause" under this legislation. Representative Bilirakis has explained that this provision is designed to "avoid penalizing parents where they are unable to satisfy their child support obligation due to factors beyond their control." The term "deadbroke" has become popular recently to describe low-income NCPs who want to help their children but have only limited financial means to do so and to distinguish these NCPs from "deadbeat" dads, who are characterized as NCPs capable of paying child support but unwilling to do so. Both of these terms represent oversimplifications of the circumstances and attitudes of NCPs. The vast majority of NCPs who do not pay child support fall somewhere between the extremes of "deadbeat" and "deadbroke." Low-income non-custodial parents are a heterogeneous group. They vary in their level of interest in their children and in their role as parents, the status of their relationships with custodial parents, and their employment histories and barriers to work. How would federal agencies determine whether a particular non-custodial

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[10] Achatz, Mary, and Crystal A. MacAllum, *Young Unwed Fathers: Report From the Field*, Philadelphia: Public/Private Ventures, 1994. Waller, Maureen R., Redefining Fatherhood: Paternal Involvement, Masculinity, and Responsibility in the "Other America," doctoral dissertation, Princeton University, 1996; Johnson, Earl S. and Fred Doolittle, *Low-Income Parents and the Parents' Fair Share Demonstration: An Early Qualitative Look at Low-Income Noncustodial Parents (NCPs) and How One Policy Initiative Has Attempted to Improve Their Ability and Desire to Pay Child Support*, Manpower Demonstration Research Corporation, 1996; Furstenberg, Frank F. Jr., "Daddies and Fathers: Men Who Do for Their Children and Men Who Don't," in Frank Furstenberg, Kay Sherwood, and Mercer Sullivan, *Caring and Paying: What Mothers and Fathers Say about Child Support*, report for the Manpower Demonstration Research Corporation, 1992, p. 39-64.

parent would qualify for a good cause exception? If an NCP had a large arrearage but paid his current child support order be eligible for a good cause exception?

Further, the risk of error is high due to the problem of poor records.[11] Even when formal records exist, they may not be accurate. For example, a non-custodial may have made direct payments to the custodial parent that are not reflected in the records. This is a significant problem in states that do not serve income withholding orders on employers as soon as a support order is entered. During the interim between issuance of the order and imposition of income withholding, the non-custodial parent may make direct payments to the custodial parent and these will not be captured in the state's records. In addition, in interstate cases, payments may have been made in one state but credit for those payments may not be reflected in the records of another state. Timely communication is another problem. What would happen in the case of an NCP with arrearages who came into compliance after having been cut off from federal financial assistance for a period of time? How quickly would a given agency be able to reinstate benefits?

Providing the certification that H.R. 866 would require would create a substantial administrative burden for both state child support enforcement agencies and all other federal and state agencies involved in implementing the proposed legislation. At the child support agencies, time spent complying with H.R. 866 would be likely to take away from the time that staff spends collecting child support. The total governmental cost could easily exceed any small amounts of collections the additional enforcement tool might secure for families.

An Alternative for Increasing Child Support Payments by Low-Income NCPs

A basic reason why many low-income NCPs do not pay child support regularly is that they are unemployed or under-employed, and have only a limited income from which to pay child support. Over the last several years, the economy has been strong, labor markets have been tight, and unemployment has fallen to its lowest level in decades. Yet employment levels for young African American men have stagnated over the last few years and do not reflect this positive economic trend.

The current child support system does not do a good job of helping poor fathers meet their children's needs when they are unemployed or underemployed. It can and should be improved. The welfare reforms of 1996 encouraged more low-income mothers to enter the workplace so they can better support their children. Helping poor fathers become employed so they can take more financial (and emotional) responsibility for their children is the next step. Instead of creating another punitive tool that, I would suggest that we explore ways to help low-income non-custodial parents become more responsible and increase their ability to pay child

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[11] Paula Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents*, Center for Law and Social Policy, 2001.

support through employment and other services. The fatherhood demonstration projects that would be funded under the Child Support Distribution Act of 2000 (which passed the House by a vote of 405 to 18 last year) represent the best way to approach this issue given our limited knowledge about "what works" in terms of providing services to low-income NCPs.

The fatherhood provisions included in the Child Support Distribution Act would provide funding to community-based and state programs working directly with low-income non-custodial parents. These funds would be provided on a competitive basis to encourage the child support agency, the TANF program, workforce development organizations, and community-based organizations to work together in delivering a variety of services to non-custodial parents. The goal of these services for non-custodial parents would be to increase the employment rates of such parents, encourage them to become more involved in the lives of their children, assist these parents in meeting their parental responsibilities, and promote marriage.

There is much we need to learn about how government policies should be structured to assist low-income non-custodial parents successfully in becoming more responsible fathers, becoming employed, and paying child support. The fatherhood provisions in H.R. 4678 provide sufficient funds in selected localities to implement different approaches on a large enough scale to permit evaluation. This will enable other localities, as well as federal and state policymakers, to learn what works and what does not. The Bush Administration has proposed a similar approach.

Another important policy change to encourage the payment of child support by low-income NCPs would allow families to benefit from child support paid on their behalf while they are recipients of cash assistance through the Temporary Assistance for Needy Families (TANF) program. Under the current system, children generally do not benefit from child support paid on their behalf if they live in a family that is receiving cash assistance, and this policy can frustrate both custodial and non-custodial parents. In the majority of states, the government retains *all* child support paid on behalf of families receiving welfare. In these cases, all child support payments a non-custodial father makes are retained by the government, and none of his payments benefit his children. From the perspective of the fathers — and their children — this is effectively a 100 percent tax rate on the father's child support payments. In 1998, states collected $2.6 billion in child support for children in families receiving public assistance and passed along only $282 million — less than 11 percent of it — to the families and children for whom the money was intended.

The federal government should create incentives for states to change these policies by enacting child support disregards in calculating TANF benefits. The disregard refers to the amount of paid child support that is ignored, or disregarded, when welfare benefits are calculated. For example, with a 50 percent disregard, instead of reducing welfare payments dollar-for-dollar, which is the current policy in many states, every dollar of child support would reduce welfare payments by 50 cents, thus ensuring that custodial families are better off when child support is paid. States could go further and build on the proven success and cost-

effectiveness of the EITC by creating financial incentives similar to the EITC for the payment of child support. For example, a state could match the child support payments made by low-income fathers.

Conclusion

In conclusion, while I share Representative Bilirakis's concern about unpaid child support orders, other efforts — and not H.R. 866 — should be made first to collect this unpaid support. Before adopting a new enforcement tool, I think it is important to understand 1) why non-custodial parents with means are escaping the current system, and 2) how the new tool would affect low-income NCPs who are not able to pay enough child support to meet their children's needs. The current child support system has a number of tools to collect money from NCPs with child support arrearages. The state can seize assets in banks; intercept payments from public sources including unemployment compensation, lottery winnings, and tax refunds; suspend driver's, professional, occupational, and recreational (including hunting and fishing) licenses; report arrearages on a delinquent NCP's credit report; and in some cases states can use civil contempt procedures to incarcerate NCPs. The proposed legislation would disproportionately target low-income non-custodial parents, its implementation would prove problematic, and the legislative language is vague in a number of crucial areas. A more effective approach would be to improve the implementation of existing enforcement tools while exploring ways to help low-income non-custodial parents build their capacity to work and pay child support regularly.

Mr. HORN. Thank you.

Our last presenter is Geraldine Jensen, president of the Association for Children for Enforcement of Support, Inc.

Ms. JENSEN. Thank you, Mr. Chairman, members of the committee and thank you, Representative Bilirakis, for introducing the STOP Act.

I am here today to represent ACES members who are typical of the over 20 million families who are now owed $71 billion in unpaid child support. The STOP Act will assist these children and it will send a strong message that child support is a fundamental responsibility.

Examples of Federal programs where parents who fail to pay child support can and do receive Federal grants and loans includes venture capitalists for high-risk technologies from the National Institute of Standards and Technologies, doctors who are remodeling their offices and receive money from HUD, sponsors of festivals and exhibits who receive funding from the National Endowment of the Arts.

We believe that the "good cause" provisions in the bill and the requirement to make arrangements for payments will improve child support collections and promote payment. Certification that one pays, done in the same way as one certifies that they have reported for the draft on a college loan is not burdensome.

The bill does, however, need the clarification to ensure that programs such as Food Stamps and Medicaid and TANF are exempted.

The STOP Act will increase collections, but it will be important that these payments as well as all child support payments be quickly and efficiently distributed to families. ACES is very concerned about a recent report from HHS which shows that at the end of 2000, $644 million in child support was collected, but not distributed to families.

States cite the lack of being able to locate the custodial parent and the complicated welfare distribution regulations as among the reasons that payments are not distributed.

California has the largest amount of undistributed funds at $176 million. They are currently surveying counties to validate this total.

In Illinois, the only State with the new State disbursement unit online, it was so plagued with problems and payments were so delayed that it shut the system down and returned payment distribution to the counties. They are currently rebidding the contract in Illinois to put a new system in place.

Michigan reports $26 million in undistributed payments. Problems with locating custodial parents in Michigan resulted in $300,000 being credited to unclaimed funds departments in 1999. After the State disbursement unit went online, undistributed payments more than doubled to $700,000 in 2 months, between October to December, and another $2.7 million has gone unclaimed this year.

Michigan received $327 million in Federal funding to computerize child support. At present, 13 counties, including Detroit, are still not on-line and the system does not meet Welfare Reform requirements.

Ohio, knowingly and purposely put a computer system on-line which miscalculates the amount of child support due to families leaving welfare. This has literally stolen $10 million from the State's neediest families. Ohio tries to justify this behavior by stating that they were trying to avoid Federal penalties for missing deadlines.

Ohio has received $250 million from the Federal Government for developing this broken system. The Ohio State Disbursement Unit is run by Bank One under a contract that pays them out of interest earned on collections and rewards them for slow distribution. Families report delays of weeks and months in receiving payments.

ACES recommends that the Federal law that would require States to notify parents about unclaimed funds, require them to use the Federal locator to find the custodial parent, and prohibit vendors from being paid out of the interest. In fact, all interest earned should go to the children. It requires State auditors to annually certify that the State is meeting its fiduciary responsibility in processing these payments.

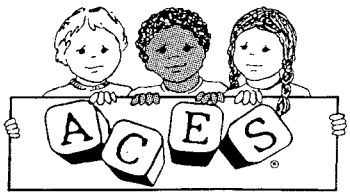
It recommends that the States return unclaimed funds when they can't find the custodial parent after 3 years, to the non-custodial parent, rather than to the State coffers, and setup a fair hearing process for parents so that if we have a dispute we can have a way to resolve the problems with payment distribution with the State.

New studies show that child support enforcement reduces the divorce rate, reduces the number of births of never-married parents, and reduces teenage premarital child bearing. Children who receive support are more likely to have contact with their fathers, have better grade point averages and significantly better test scores. They have fewer behavioral problems and remain in school longer.

Your support of the STOP Act will help children. We ask you to please act to ensure that the support paid reaches the children rather than enriching the State coffers.

Thank you.

[The prepared statement of Ms. Jensen follows:]



The Association for Children for Enforcement of Support, Inc.

Testimony of
Geraldine Jensen, President,
Association for Children for Enforcement of Support, Inc.

House Committee on Government Reform
Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
June 6, 2001

ACES has 47,000 members and almost 400 chapters located in 48 states. We are representative of the families whose 20 million children are owed over $71 billion in unpaid child support. We have banded together to work for effective and fair child support enforcement. ACES believes that parents who fail to meet legal and moral child support obligations should not benefit from federal government funding. We support H.R. 866 which prohibits receipt of federal funds by those who fail to meet child support obligations unless they make arrangements to pay the child support due. The children of those who receive federal funding would then benefit too. This is similar to the federal law provision requiring registration for the draft to be eligible to receive college grants and loans.

There are 20 million U.S. children owed over $71 billion in unpaid child support

- State governments alone have been unable to collect a sufficient back-support due (see **Chart 1**).
- State governments have been unable to collect support in interstate cases (see **Chart 2**).
- State governments new central payment systems are failing to distribute all payments. States had over $634 million[1] in undistributed child support payments at the end of 2000 (see **Chart 4**).

[1] **Chart 4** shows $634 million in undistributed funds. $120 million of this could be due to the 2-day legal delay in distribution of funds ($18 billion in 260 workdays/year).

Children who receive child support:

- Are more likely to have contact with their fathers[2];
- Have better grade point averages and significantly better test scores[3];
- Have fewer behavior problems[4]; and
- Remain in school longer[2].

Receipt of child support is associated with significantly higher expenditures on children than from any other source of income.

About 20% of our nation's children have a parent living outside the household and are entitled to child support. They are four times more likely to be poor and five times more likely to receive food stamps than children who live with two biological parents. Child support, when received by low income families, accounts for 26% of the family's income.

Strong Child Support Enforcement:

- Reduces the divorce rate[6];
- Reduces the number of births to never married parents[7]; and
- Reduces Teenage Premarital Childbearing[8].

New studies show that strong child support enforcement programs have far reaching positive social impacts that will reduce the number of children living in fatherless households and promote marriage. Many recent studies have shown that strict establishment and enforcement of child support obligations is leading to a lower divorce rate and fewer illegitimate births. In "The Effect of Child Support Enforcement on Marital Dissolution," author Lucia A. Nixon found that strong child support enforcement reduces marital breakups, and in " The Effects of Stronger Child Support Enforcement on Nonmarrital Fertility," Anne Case found that anything which increases the cost of fatherhood reduces the probability of the children being born. "The Impact of Child Support Enforcement Policy on Nonmarital Child Bearing", showed that in states with a strong child support enforcement program non married women had fewer children.

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[2] Argys, Peter, Brooks-Gunn, and Smith, "Contributions of Absent Fathers to Child Well-Being: The Impact of Child Support Dollars and Father-Child Contact", University of Colorado (1996).

[3] Graham, Beller, and Hernandez, "The Relationship between Child Support Payments and Offspring Educational Attainment" in *Child Support and Child Well-being* (Garfinkel, MacLanahan, and Robbins (eds), Washington DC (1994).

[4]HMcLanahan, *et al*, National Survey of Families and Households (1994)

[6]Nixon, Lucia, The Journal of Human Resources, XXXII-1, Winter 1997,Vol. 32, No. 1 and Barnow, Burt S., et al "The Potential of the Child Support Enforcement Program to Avoid Costs To Public Programs: A Review and Synthesis of the Literature", U. S. Department of Health and Human Services, HHS 100-97-007 (2000)

[7]Case, Anne, Fathers Under Fire, Chapter 7, The Effects of Stronger Child support Enforcement on Nonmarital Fertility and Plotnick, Robert D., et al, "The Impact of Child Support Enforcement Policy on Nonmarital Childbearing" ,University of Washington(2000)

[8]Plotnick, Robert D., et al, "Better Child Support Enforcement: Can It Reduce Teenage Premarital Childbearing?", University of Washington(1998)

H.R. 866 would assist millions of children. The intent of the bill is to ensure that children benefit from federal assistance received by a low income non-custodial parent. Language needs to be added to the bill to make sure that receipt of food stamps, TANF, medicaid and other means tested programs needed for basic necessities are exempted. Other programs such as job training and college education should not be affected due to the good cause provision and the payment arrangement section.

Here are a few examples of federal programs where parents who fail to pay child support currently can and do receive federal funding which does not benefit their children. HR 866 is needed to prevent those who neglect their children from receiving these types of federal assistance.

Creation and Presentation Grants: Money to creators for literary publishing, cultural festivals, and various types of artistic or cultural exhibits funds given by National Endowment of the Arts.

Grants to Develop New Technology: Money to venture capitalists for the creation of high risk technologies' funds given by National Institute of Standards and Technology.

Business and Industry Loans: Money to developers for modernizing or purchasing land, building, machinery.

Heritage and Preservation Grants: Money to creators and inventors for projects that present to the public conservation of art or exhibits funds given by National Endowment for the Arts

Money to doctors for constructing medical facilities incorporating new construction concepts funds given by U.S. Department of Housing and Urban Development

Money to Create Recreation Areas: Money to families to buy their old farm for the creation of public recreation areas funds given by National Park Service.

States have more undistributed funds on hand than ever before, $634.8 million.

Undistributed funds are child support payments collected but not sent to families due to problems identifying payee or payor, location of payee, or problems determining how to distribute if the family was or is on public assistance. This means thousands of families leaving the welfare rolls are not receiving child support collected by the state. This undermines their self-sufficiency efforts.

In February, 2001, ACES filed a *Writ of Mandamus* in State Appeals Court against the Ohio Department of Jobs and Family Services (ODJFS). ODJFS ***knowingly*** brought online a computer system in October 2000 that ***miscalculates*** distribution of child support payments owed families in order to avoid further late penalties from being assessed against the State under Federal Law. The net effect is to reduce monthly payments to families under terms mandated by the 1996 welfare reform law. In doing so, ODJFS put the interests of the State ahead of those of affected children. Legal action was taken only after negotiations with ODJFS failed to produce an acceptable plan for fixing the problem.

Also, the Ohio State Disbursement Unit, (SDU) is operated under contract with Bank One, who is paid $125 million. The $125 million is generated out of interest collected on child support payments which accumulates during the two days they are legally allowed to hold money. Families throughout Ohio are experiencing delays much longer than two days. ACES believes families, not Bank One or ODJFS, are due interest on these delayed payments.

In Michigan, the failure of the state to identify valid addresses for custodial parents has led to $303,000 being sent to the state's coffers in 1999, then in 2000 after the State Disbursement Unit (SDU) was established, another $700,000 was sent to the state general fund between October and December 2000. An additional $2.75 million or more could go to the state coffers if not claimed by families for 2001.The SDU is only operational in some Michigan counties. The process used is for some employers in the state to send child support withheld from employees pay to the SDU, where it is recorded and then sent to the county Friend of the Court (the local IV-D agency) for disbursement to the family. This cumbersome process of transferring money between agencies rather than transferring records and sending payments directly to families is responsible for accumulation of some of the undistributed funds. Additionally the Michigan Statewide child support computer system, funded 90% by the federal government for $327 million, does not calculate family first disbursement as required under PRWORA. These distributions are being calculated manually on a case by case basis. This results in families receiving two checks for each payment made and further increases the distribution errors.

Texas failed to implement family first distribution until March 2001 even though the law was mandated by October 1, 2000. California reports the largest amount of undistributed funds at $176 million and the state has no SDU. Officials there tell us this amount is incorrect due to previous record keeping practices. They are in the process of surveying each of California's 58 counties to determine exactly how much there is in undistributed/unidentified funds. The state has expressed doubt in its ability to determine how much collected child support money may have escheated to the state general fund.

Many states have systems whereby undistributed and unidentified funds are sent to the state unclaimed funds, however IV-D child support recipients are not told of this process and it is not required to be publicized.

Our members in North Carolina reported delayed and missing payments since September 24, 1999 when the new State Disbursement Unit went into operation. Reasons cited are that Clerk of Courts bundled checks, money orders, and cash brought in by nonresident parents and mailed it to Raleigh without identifying information attached, and employers did not use the new case numbers assigned to them for income-withholding cases. Each case was given a new number in the distribution unit system. The number was neither parent's social security number nor the court docket number. Rather than obtaining a list of names and addresses from employers for whom the payments have been sent, the money was returned to the employers. Other families report massive problems because the statewide computer system cannot adequately interlink with the state distribution computer system to determine payment distribution in multi-family cases.

In Illinois, ACES members report the same type of problem as in North Carolina. County Clerks of Courts mailed checks and money orders paid to them by nonresident parents to the state with no

identifying social security numbers. The state canceled the contract with Dupage County for the SDU and hired a private contractor. They are in the process of replacing the current SDU and hiring a new vendor.

States chose to set up systems where all payments are sent to a central intake and then disbursed. This process has made it more difficult for parents to pay. The lack of adequate planning and testing has led to missing payments, long delays, and other problems for some of the poorest families in our nation. North Carolina made families pay back emergency aid checks out of the first child support check issued, after months of not receiving payments. This newest bureaucratic glitch has caused thousands of children to go to bed hungry.

In a survey done by the Inspector General, **the *percentage of states* that report the following *problems*** with implementation of SDU's are:

- 100% - distributing payments for interstate cases
- 86% - identifying poorly labeled payment
- 86% - identifying payments with no case in the system
- 60% - redirecting payments mailed to wrong place
- 71% - meeting customer service demands
- 60% - securing, training and retaining staff
- 31% - disbursing support within two days
- 40% - predicting volume for staffing purposes
- 34% - monitoring SDU performance

An Office of Inspector General recent report, "Child Support Enforcement State Disbursement Units", August 2000, reported that 38 states have fully implemented the federal law to centralize payment processing of most child support payments. Indiana, Wyoming, and South Carolina ask for waivers to link local disbursement units. Arkansas, Georgia, Kentucky and Oklahoma report they have central payment processing but are not yet using it for the federally required caseload. Michigan and Nevada were granted extensions to implement their SDU's until October 1, 2000 and October 1, 2001, respectively. Alabama, California, Kansas, Nebraska, Ohio and Texas report they have not yet begun central payment processing.

ACES recommends changes in the federal law which require:

- Written notification to parents about any unclaimed funds processes;
- IV-D agencies to use the Federal Parent Locator and State Parent Locator system to find addresses of custodial parents so they can be sent child support payments;
- Prohibition against paying vendors operating SDU's out of the interest earned on the money that is collected yet remains undistributed;
- State Auditor's each year to ensure that the IV-D agency is meeting its fiduciary responsibilities and adhering to generally accepted accounting principals;
- If a custodial parent cannot be located after three years of at least quarterly federal and state parent locators, child support payments should be returned to the non custodial parent; and
- States should set up a fair hearing process for custodial and non custodial parent to resolve payment distribution disputes.

Families Benefit from Effective Child Support Enforcement

ACES has been monitoring the current child support enforcement system since 1984. In addition to obtaining information about the child support enforcement system for our members, ACES operates a national toll-free Hot Line for families with child support problems, issues, and questions. We receive up to 100,000 calls per year from parents throughout the U.S. From these calls and our members, we gather statistics and data on the status of the current child support enforcement system.

The average ACES member is a single-parent, and she has two children. About 50% of ACES members are divorced, and the other half were never married. Members average income is $14,400 per year as of the end of 1999, and 85% have, in the past, received some form of public assistance. At present, about 33% of our membership receives public assistance. ACES members report that collection of child support, when joined with available earned income, allows 88% to get off public assistance. Collection of child support enables our low-income working poor members to stay in the job force long enough to gain promotions and better pay so that they can move their family out of poverty, and onto self-sufficiency. The collection of child support, when joined with earned income, means our members can pay their rent and utilities, buy food, pay for healthcare, and provide for their children's educational opportunities. Lack of child support most often means poverty and welfare dependency. At the very least it means having to work two or three jobs to survive. This leaves our children with literally no parent who spends time providing their children adequate nurturing, supervision, and the attention they need and deserve.

Parents have the ability to pay child support, 60% have an income of over $30,000,

"Characteristics of Families Using Title IV-D Services in 1995", a study by Matthew Lyon, shows that 1% of families using IV-D services had $0 income; 10% had an income of $1-$5,000; 18% had an income of $5,000-$10,000; 15% had an income of $10,001-$15,000; 10% had an income of $15,001- $20,000; 7% had an income of $20,001-$25,000; 8% had an income of $25,001-$30,000 and 30.5% had an income above $30,000. In the book, Fathers Under Fire, by Irv Garfinkel, data reported on the income of non-resident parents showed that 20% had an income under $6,000; 20% had an income of $10,000- $30,000; 10% had an income of $30,000-$40,000; 40% had an income of $40,000-$55,000 and 10% had an income over $55,000 **(Chart 3)**.

Data from the 1997 National Survey of America' Families showed that of the 11 million fathers that weren't living with their children about, 4 million paid formal child support while the other 7 million did not. Of these 7 million fathers, 4.5 million have sufficient income to pay support. 2.5 million were poor and probably unable to contribute significant child support.

Government Child Support Enforcement Avoid Costs to Public Programs

The principal finding of the U. S. Department of Health and Human Services study, " The Potential of the Child Support Enforcement Program to Avoid Costs to Public Programs: A Review and Synthesis of the Literature", was that child support payments can decrease TANF participation and increase labor participation. For example, a $1,000 increase in child support payments received by woman on TANF, conditional on remaining unmarried, will decrease TANF participation among these households and will increase the average hours worked. Part of this change is mechanical (61%), but 39% is a behavior change.

The Study also finds child support payments could have a long term cost avoidance and tax revenue implications because of it impact on increasing the number of children who have access to higher education. Education attainment is a leading indicator of future financial and social success. Individuals who attain higher levels of education have a higher income more stable family life. Child support enables families to afford to send children to private schools, purchase tutoring services, and to invest money into a college fund. Also, it allows families to purchase goods and services that increase cognitive stimulation in the home and thus indirectly affects educational attainment.

Other studies outlined in the report find that collection of child support avoids costs in the Title XX Child Care Program. For every $1,000 in child support received, it is estimated that a low income single mother would reduce work hours 22 to 25 hours and with each additional $1,000 received, work hours would be reduced by 54 hours. Since almost one half of single parents who do not receive child support work two jobs to support their family, this would also have a very beneficial effect for children of having at least one parent being able to spend more time with them to nurture, assist with home work, and care for the children in a way that day care cannot.

State Child Support Agencies Fail to Collect Significant Amounts of Child Support

A whole generation of our children has not received adequate and regular child support payments as promised when the Title IV-D child support system was introduced in 1975. The system was supposed to establish paternity, establish child support orders, and enforce orders. Children born in 1975 were 9 years old when Congress acted to improve the child support system for the first time in 1984. The number of cases without orders was about 50% and the collection rate was 15% when income-withholding laws, liens on property, posting of bonds, attachment of tax refunds, and reporting of child support debt to credit bureau laws were passed as part of the 1984 Child Support Amendments. When the children were 13 years old in 1988, Congress acted again because only about 50% of the children had orders and the collection rate was only 18%. In the 1988 Family Support Act, income-withholding was to begin at the time of divorce or establishment of paternity, modification of orders were to occur every 3 years, child support guidelines were required to be followed by the courts, and paternity was to be established via genetic tests and through voluntary programs.

When the children were 17 years old in 1992, about 50% of the children still did not have orders and the collection rate was 19.7%. Congress again acted in the Child Support Recovery Act to assist children with interstate cases. The collection rate on interstate case was less than 50% of the other cases. When the children were 18 in 1993, about 50% of the children still did not have orders and the collection rate was 18.2%, Congress acted yet again. This time medical support orders were required and a better system for establishing paternity was put in place as part of the budget. When the children were 19 in 1994, about 50% of the children still did not have orders and the collection rate was 19.4%. Congress enacted the Full Faith and Credit Act in another attempt to correct problems with interstate cases. When the children reached age 21 in 1996 and slightly fewer than 50% of the children still did not have orders and the collection rate was 20%, Congress acted again as part of the Personal Responsibility and Work Opportunities Reconciliation Act (PRWORA) establishing New Hire Directories, Case Order Registries, and State Distribution Units (SDU), professional driver's and recreational license revocation, and

required states to adopt UIFSA (Uniform Interstate Family Support Act). UIFSA is the third attempt to remedy interstate case problems.

The Federal Office of Child Support, in its preliminary data from the year 2000 shows that collections rose from $15.4 billion to $18 billion, for families with cases open at a government child support agency. 1999 Data shows reports that slightly less than 50% of the children *still* do not have orders and the collection rate is 37%. This increase from 23% in 1998 is in part due to new reporting requirements for states and new regulations which allowed states to close old cases where collections had not been made. U. S. Census Bureau Data from the May 1999 Current Population Report, which includes data for families with and without a government child support case, for the year 1998 shows that the percentage of single-parent families who receive child support (some or all support due in 1998) was only 32%. The collection rate shows no significant improvement. The collection rate remained about 30%.

The most recent data available from the Federal Office of Child Support **(Chart 1)** shows that the total collections for 200 are $18 billion up from $15.8 billion in 1999, up from the $14.3 billion in 1997, which was up from $13.3 billion in 1996. IV-D agencies spend $25 to collect $100, and 55.5% of collections are from payroll deductions.

In **Chart 2**, interstate collections are listed from 1993 to the present. Collections have risen from 1993 (pre-PRWORA) $725 million to $983 million in 1997, and to $1 billion in 1998 and 1999. Collections on interstate cases have risen about $100 million/year before *and* after PRWORA. UIFSA, the Uniform Interstate Family Support Act required PRWORA to be adopted verbatim by all states. PRWORA has not yet shown itself to be of any assistance in processing interstate cases faster or more effectively. In fact, ACES has been told by several state IV-D agencies and state courts that it is more difficult to use than URESA, its more complicated predecessor. Problems are being reported with the provision for direct income-withholding. If a nonresident parent receives an income-withholding order at their place of employment and the order is for the wrong amount, wrong person, or contains some other mistake of fact, there is no mechanism in place to resolve problems. The state which sent the order is inaccessible to the nonresident parent and the state IV-D agency in their state is not even aware of the order or that a case exists in another state.

Families Report PRWORA Has Not Helped and Has Hurt!

Statistics indicate little or no effect from any portion of PRWORA. Lack of results from the expanded Federal Parent Locator System with the National New Hire Directory and Case Order Registry are particularly disheartening.

ACES members report no noticeable improvements since enactment of PRWORA, even with the National New Hire Directory reporting that 3.5 million matches were found in 2000, more than triple the 1.2 million matches in 1998. Our research shows that the majority of the 3.5 million data matches made by the National New Hire/Case Order Registry have not been acted on by the State IV-D agencies. Certainly collections have not tripled since 1998. For example:

> *Texas* processed 2,481 income withholding orders due to New Hire information from the National Directory in three months. Texas received over 300,000 matches from state and

the National New Hire directories.

Virginia reports averaging 100,000 matches/year with their State New Hire Directory, resulting in collections of $7.5 million. This is $75/match. For 180,000 matches/year with the National Directory, collections of $13 million resulted. This is $72/match.

Iowa reported 20,000 matches to date with the National New Hire Directory and has collected $365,297. This is $18/match.

Arizona, in three months of comparisons with the National New Hire Directory, located 11,218 matches. No data is available for the number of cases where action was successfully taken to collect support. The intrastate New Hire Reporting System resulted in collections of $13 million on 45,083 matches. This is $288/match.

Minnesota, in FY 1999, had 39,078 matches with its state directory, and collections increased by $11.6 million (3%). This is $296/match. Minnesota is averaging 166 matches/day with the National New Hire Directory but no data is available on the action taken on these matches.

The Federal Office of Child Support reports they have made matches of delinquent parents with financial institutions for 900,000 accounts since August 1999. The accounts are valued at about $3.5 billion. No data is available about whether any of these accounts were successfully attached to collect child support.

Problems exist with the bank account attachment process. Administrative Process is used by 31 states to attach bank accounts; 12 states use Judicial Process; and 7 states use both. Twenty-six states do not accept orders from other states, 2 states sometimes accept orders from other states, 1 state leaves it up to the financial institution, 8 states have not yet made decisions about whether or not they will accept out-of-state attachment orders, and 2 states have state laws which are silent on the issue.

Automation problems

Since the 1984 Child Support Amendment passed, Congress has been giving states incentives and funding to put statewide computer systems in place. Many deadlines have passed or have been extended. In the 1988 Family Support Act, states were told to have computers in place by Oct. 1, 1995 in order to receive 90% federal funding. When only 1 state met this deadline, it was extended to October 1, 1997. When only 21 states met this deadline, penalties were changed so that states could get waivers to penalties if they were making sufficient progress on computerization. The Federal Office of Child Support reports the following[9]:

Montana was the only state to the meet the October 1, 1995 deadline.

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[9]Certification Reviews of Child Support Enforcement Systems, Division of Child Support Information Systems, January 6, 2000

The October 1, 1997 deadline was met by Delaware (conditional), Georgia (conditional), Virginia, Washington, West Virginia (conditional), Arizona (conditional), Utah, Connecticut (conditional), Wyoming, Mississippi, Louisiana (conditional), New Hampshire, Idaho, Colorado, Oklahoma (conditional), Wisconsin, Rhode Island (conditional), Guam, New York (conditional), Iowa, and Alabama (conditional)

Certified in 1998: Texas (conditional), Arizona(conditional), North Carolina (conditional), New Jersey (conditional), Vermont (conditional), Puerto Rico (conditional), Maine, Tennessee (conditional), Minnesota (conditional), Kentucky, South Dakota, Arkansas, Massachusetts, Florida, Missouri, and Hawaii

Certified in 1999: New Mexico (conditional), Illinois (conditional), Oregon (conditional), Maryland, Pennsylvania (conditional), Arkansas

Certified in 2000: Washington DC, Indiana, Kansas, North Dakota, Nevada.

States NOT Certified (representing 4.6 million children owed $24 million in unpaid child support): California, Michigan, Nebraska (report pending), Ohio, South Carolina, and the Virgin Islands

Conditional Certification for many states is due to the inability of their computer systems to referrals and the lack of action by the U. S. Justice Department, few charges have been filed under the federal criminal non-support statue. In 1995, charges were filed on only 82 cases. In 1996, charges were filed in 104 cases. In 1997, charges were filed in 212 cases. In 1998, charges were filed in 249 cases; and in 1999, charges were filed in 396 cases. In 2000, charges were filed in 405 cases. There are 7 million children owed $25 billion in unpaid child support with interstate cases.

Poor customer service

The number one complaint that ACES receives from families is about state IV-D child support agencies on our Hot Line report is that they are provided poor customer service from local agencies. Families report that they are victimized by caseworkers who tell them, "What do you expect, you went out and got yourself pregnant?" or "What did you do to make him so mad he won't pay?". Not even one state has a system for notifying clients of actions taken on their case. Families report that they are unable to understand quarterly distribution notices, if received, and that there is no system in place for the notices to be explained to them. Families report that many IV-D agencies restrict hours when they will accept phone calls from families to obtain or give caseworkers information. This is a major barrier to families providing agencies needed information about location and employment status of non-payors. We have not found even one state which sends delinquency notices to non-payors when they miss a monthly payment.

Liens on property not routinely used

Only 15 states report routinely placing liens on property of non-payors. Twenty six states report that placing liens is a difficult and technical legal action.

Suspension/ Revocation of licenses rarely used

Although proven effective, suspension or revocation of professional licenses is rarely used by any states. Suspension/revocation of fishing and hunting licenses is rarely used by states. Most states do not have any effective system for recreational license suspension/revocation. Several states identify non-payors who buy fishing or hunting licenses and ask them to voluntarily report themselves when making a license purchase at a local carry-out, sporting goods store, etc. This has been very ineffective. Colorado recently did a study of suspension/revocation of driver's licenses and their reporting to credit bureaus for failure to pay child support. Support collections increased 20% within the first six months following notices being sent to non-payors. Only a few states have an on-going program for driver's license suspension and /or credit reporting, and often these states only make the threat of the action. Thousands may receive notices of potential suspension but only a small percentage are actually suspended.

Expedited Process and Federal Timeframes are not being followed by state IV-D agencies

ACES members report a 1-3 year wait to establish paternity, 2 years to establish an order, 6-9 months for an income withholding, 6-9 months for court hearing, 1-3 years for modification, 5 years for medical support establishment and/or enforcement, 1 year for a Federal Parent Locator to be done, and 1-2 years for action on interstate cases.[10]

Private Child Support Collection Agencies Prey Upon Desperate Families

" I signed the contract with a private child support collection agency because the District Attorney office had done nothing in two years to collect the $10,000 in child support due to my children. I didn't realize that I had given the company power of attorney so payments go to them not to the DA then onto me. I didn't realize the contract defined current support as back support. I thought the private collector would only get 33% of any back support collected as a recovery fee. Instead, the contract gave them 33% and attorney fees so it added up to 44% or more of any support collected. When I got my first check, and 44% was missing. I called to complain and found out the truth. Now I have to hire an attorney to try to break this contract. I don't have the money to pay the attorney. How can this company advertize one thing and do another? . My children are the real losers here and I was the pawn" ---- a caller to ACES Child Support Hotline from Los Angeles, CA, Jan. 2001

Families entitled to child support enforcement services, who are mainly low income, face a new problem- being preyed upon by unscrupulous private child support collection agencies. The private companies are not licenced or regulated by state of federal laws because child support is not considered a debt under the Fair Debt Practices Act. Private collection agencies have been soliciting families via TV and Radio ads, promising much needed child support payments. Often they require the custodial parent to sign a power of attorney and contracts which are adhesion by legal definition. These contracts are almost impossible to break, have many hidden clauses and

[10] ACES annual membership survey (2000).

usually result in the family losing 40-50% of the child support due to them to the private collector as a fee for services.

Private collection agencies for child support do not work any better than the government child support agencies. These agencies do not and should not have access to confidential IRS information. They should also not have access to state information such as: tax records; employment records; worker's compensation records; and any other protected government records. The private agencies collecting child support are currently not regulated. In fact, the U.S. Supreme Court recently ruled that these agencies do not fall under the regulations of the Consumer Credit Protection Act.

Custodial parents who have used private collection agencies have encountered many problems:

- The private collection agency collected payments from the non-custodial parent but never sent the payments to the family. This is literally stealing money from the children.

- Private agencies have closed down and totally disappeared after custodial parents have paid application fees of over $100.

- Private collectors take fees for money they had no part in collecting. For example: The private collectors got paid by taking their 30% fee from an IRS refund that the state government child support agency attached.

- Families owed support have had to pay additional court costs and attorneys' fees on top of the 34% fee taken from the child support collected.

- Defined current support as back support in the contract and included language wich states that if even one payment no matter the amount is collected in the first 12 months the contract is binding until all support due, current and back is collected. This binds the family to the contract forever.

Thank you for allowing ACES to present this testimony.

Geraldine Jensen

ACES, The Association For Children For Enforcement of Support, Inc. receives $15,000 in

federal funding from the City of Toledo, Community Development Block Grant. We do not receive any state government funding

June 6, 2001
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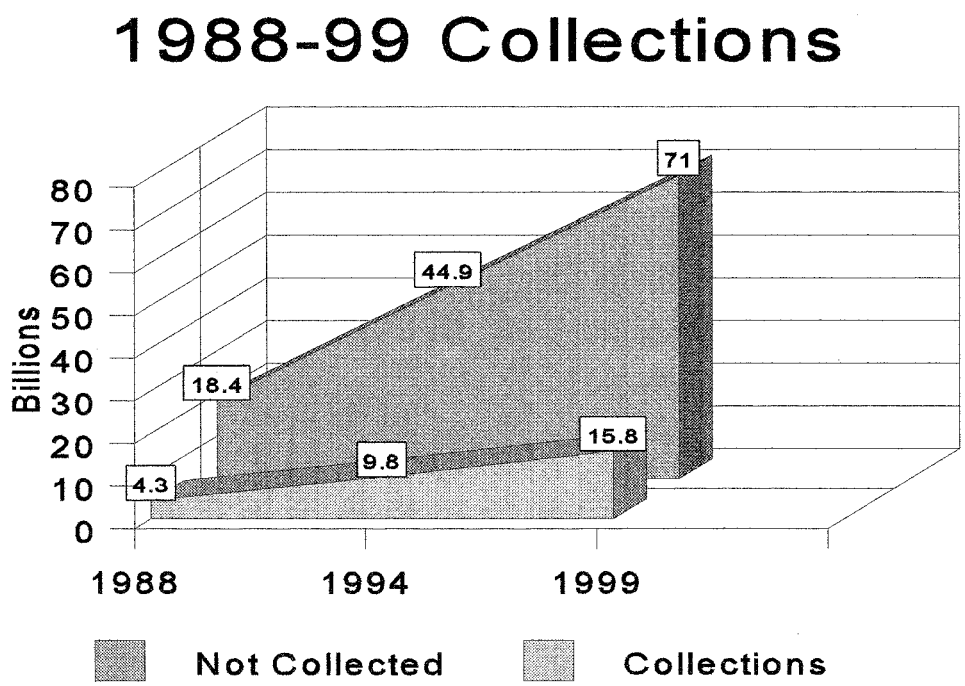
Chart 1


1988-99 Collections
Billions
80
70
60
50
40
30
20
10
0
4.3
18.4
9.8
44.9
15.8
71
1988
1994
1999
Not Collected
Collections

Interstate Collections

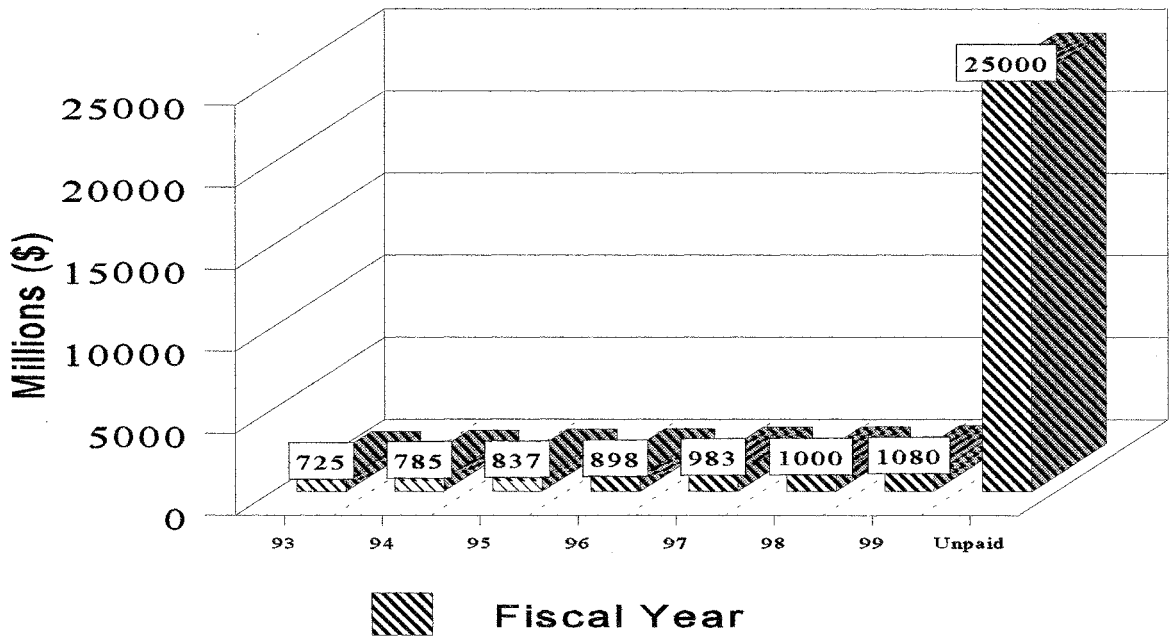
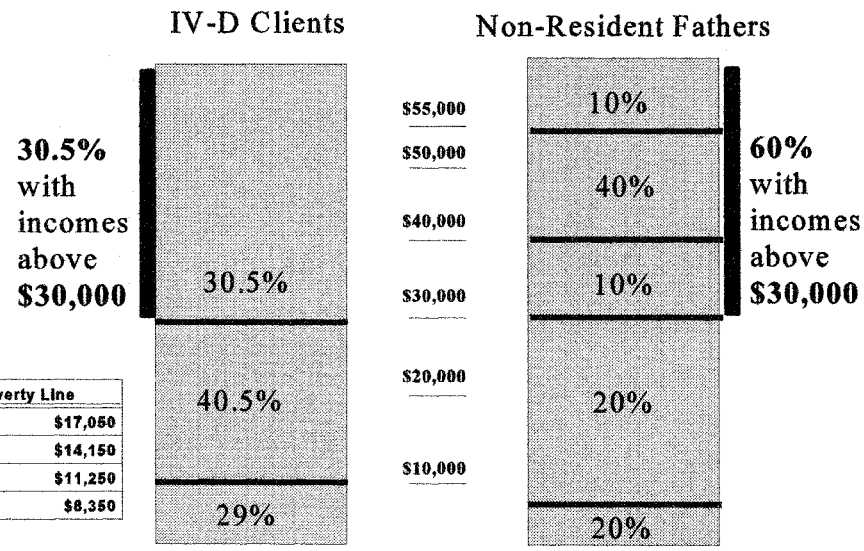


Chart 2

Income Distribution

Chart 3



Number People	Poverty Line
4 Persons	$17,050
3 Persons	$14,150
2 Persons	$11,250
1 Person	$8,350

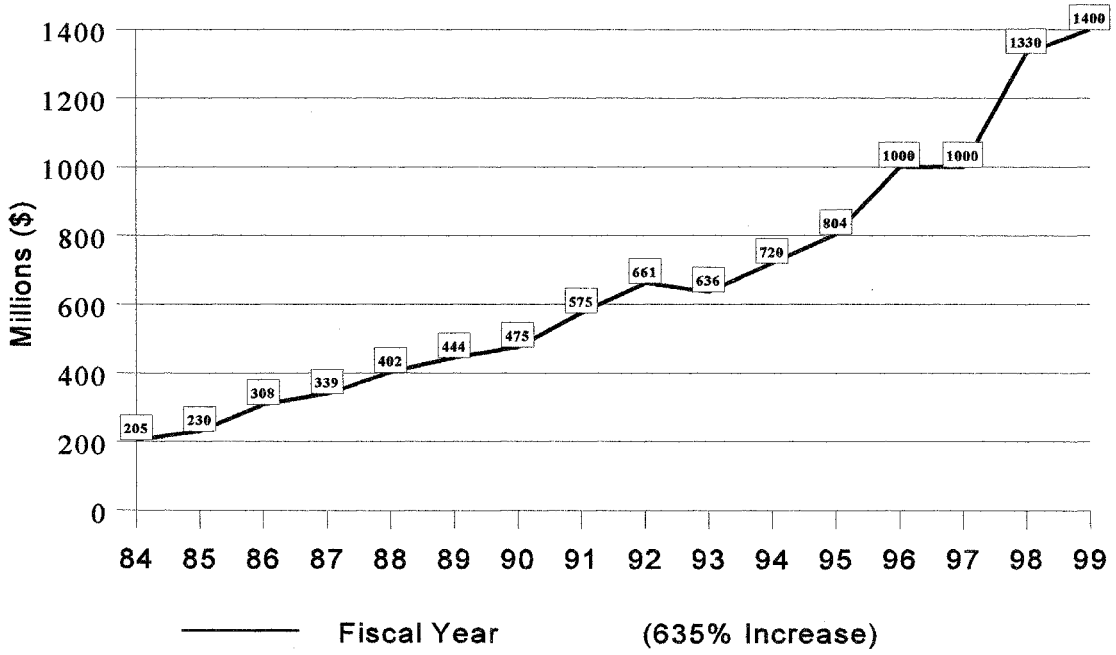
Chart 4

COLLECTED BY STATE , UNDISTRIBUTED CHILD SUPPORT PAYMENTS

STATE	Dec. 31, 2000	Dec. 31, 1999
ALABAMA	$3,702,988.00	$3,264,610.00
ALASKA	$3, 631,382.00	$1,747,989.00
ARIZONA	Not available	$9,506,700.00
ARKANSAS	$3,593,031.00	$3,990,073.00
CALIFORNIA	$176,270,539.00	$127,951,700.00
COLORADO	$4,282,615.00	$629,475.00
CONN.	$1,718,800.0	$1,381,554.00
DELAWARE	$4,551,948.00	$3,509,654.00
DC	$1,734,501.00	$1,361,607.00
FLORIDA	$41,704,057.00	$45,637,093.00
GEORGIA	$317,413.00	$2,518,115.00
GUAM	$3,365,040.00	$1,721,121.00
HAWAII	$3,785,481.00	$1,220,932.00
IDAHO	$129,504.00	$16,940.00
ILLINOIS	$1,316,851.00	$261,935.00
INDIANA	$14,000,594.00	$14,934,035.00
IOWA	$4,499,764.00	$989,989.00
KANSAS	$4,047,695.00	$327,474.00
KENTUCKY	$11,276,489.00	$11,072,597.00
LOUISIANA	$826,468.00	$387,290.00
MAINE	$4,254,567.00	$4,464,573.00
MARYLAND	$10,786,404.00	$7,828,829.00
MASS.	$11,252,358.00	$7,220,855.00
MICHIGAN	$26,663,060.00	$28,818,050.00
MINNESOTA	$7,513,981.00	Not Available
MISSISSIPPI	$3,222.524.00	$2,800,100.00
MISSOURI	$18,820,049.00	$14,273,822.00
MONTANA	$ 933,690.00	$262,725.00
NEBRASKA	$3,907,814.00	$98,217.00
NEVADA	Not Available	$1,555,070.00
NEW HAMP.	Not Available	$1,401,062.00
NEW JERSEY	$8,258,611.00	$4,058,470.00
NEW MEXICO	$2,356,732.00	$123,011.00
NEW YORK	$57,464,975.00	$52,860,921.00
N. CAROLINA	$8,952,542.00	$10,097,638.00
N. DAKOTA	$2,196,554.00	$1,288,608.00
OHIO	$19,703,191.00	$19,070,984.00
OKLAHOMA	$1,404,426.00	$2,277,525.00
OREGON	$1,552,068.00	$1,796,673.00
PENN.	$17,140,468.00	$18,971,240.00
PUERTO RICO	$4,275,058.00	$5,013,990.00
RHODE IS.	$2, 555,282.00	$1,488,480.00
S. CAROLINA	$6,122,065.00	$5,013,990.00
S. DAKOTA	$998,649.00	$715,738.00
TENNESSEE	$71,123,844.00	$72,480,009.00
TEXAS	$28,301,977.00	$34,935,212.00
UTAH	$763,059.00	$926,179.00
VERMONT	$1,770,454.00	$1,622,436.00
VIRGIN IS.	$ 396,784.00	$254,396.00
VIRGINIA	$5,074,764.00	$4,714,466.00
WASHINGTON	$2, 770,568.00	$3,099,927.00
WEST VIR..	$10,424,260.00	$4,278,930.00
WISCONSIN	$6,527,459.00	$7,179,526.00
WYOMING	$2,638,832.00	$1,000,698.00
TOTAL UNITED STATES:	**$634,890,229**	**$560,713,864.00**

IRS Offset

Chart 5



The Columbus Dispatch

An independent newspaper serving Ohio since July 1, 1871

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EDITORIALS

Lack of support

State willfully deprived its neediest families

If your head is reeling from the conflicting numbers and downright bizarre reasoning offered by the Ohio Department of Job and Family Services last week for intentionally withholding overdue child support from parents who had been on welfare, you're not alone. State officials have been about as clear as mud in explaining how, why and to what extent they've violated the 1996 federal welfare-reform law by holding onto support payments intended for some of Ohio's neediest families.

They should be held accountable for incredibly bad judgment.

And if you're outraged that a public agency, one whose very name makes clear that its mission is to serve Ohio families, instead knowingly kept money from those families for years as it dithered over computer problems, you're in good company. Those are about the only responses possible in the face of such arrogance and misprioritization by state officials.

The Dispatch disclosed last week that the state virtually ignored a portion of the 1996 federal welfare-reform legislation that reduced how much money states could keep from overdue child-support payments from noncustodial parents to offset welfare payments to custodial parents. Instead, Ohio continued to operate under a more stringent 1988 law that allowed states to keep more of this money.

The Department of Job and Family Services said the newer law was ignored as state officials chose to concentrate on establishing a computerized Support Enforcement Tracking System. Department officials have acknowledged they were intent on avoiding federal penalties for failing to have a statewide tracking system. What's troubling is that this is viewed as some sort of excuse for the department's director, Jacqui Romer-Sensky, and her predecessor, Arnold Tompkins, to skirt the law, diverting money from needy children to spend on computers. Instead, they should be held accountable for what, at the very least, was incredibly bad judgment. And this while the state sits on a huge pot of unspent welfare dollars: — $721.6 million, as of Sept. 30.

The Dispatch has been among those dogging the state to set up a comprehensive child-support-enforcement tracking system. But common sense dictates that this needed function shouldn't have been pursued blindly and at the expense of the very families who are to receive payments. State officials were terribly shortsighted, not to mention insensitive, in ignoring the big picture.

Compounding the confusion are the questions of who knew what and when they knew it. Welfare officials say they kept Gov. Bob Taft apprised of the pending problem, even as they failed to correct it. Taft's spokesman said the governor first learned about the problem last week after reading *The Dispatch's* first story on the scandal, and that acronym-littered memos that Romer-Sensky sent Taft earlier on the matter were incomprehensible.

If that was the case, why didn't the governor seek clarification from Romer-Sensky as to what she was trying to tell him? And when she didn't hear back from Taft on the issue, why did she not pursue it with his office?

When these questions seem so painfully obvious to the lay person, how could those in charge of public money have failed to raise them?

Adding further to the confusion and justifiable anger of custodial parents denied support payments rightfully theirs is that top state-welfare officials apparently are unable to explain how they came up with the figure of $8 million they say was improperly withheld from families.

Taft is right to take personal responsibility for correcting these shameful errors. He also should take a close look at the people running his Department of — and this term is used loosely — "family services," Job and Family Services and determine whether the way Romer-Sensky and other top officials there have handled this issue meets their responsibilities, the letter of the law and the public's needs. If they have failed in these basic duties, they should be held accountable.

The Detroit News

Tuesday, May 29, 2001 www.detnews.com 10 Metro Edition

UNFRIENDLY COURT: *Broken system cheats families*

State keeps kids' money

What The News has reported

The Detroit News has found that Michigan's 80-year-old Friend of the Court system, created to make sure kids are financially taken care of when a marriage dissolves, is broken. As a result, hundreds of thousands of children are forced to live at economic levels below what courts have ruled they are entitled. Other findings:

- Statewide, $6.3 billion in child support has gone unpaid since 1990.
- Child-support cases in Michigan have shot up one-third to 1.1 million in 10 years. Staffing of the county child-support offices hasn't kept pace.
- Nowhere in Michigan is child-support collection more difficult than in Wayne County, where those entitled to support must battle an overwhelmed system.
- There is no central tracking system for child-support payments or payers, making it easier for deadbeat parents to evade payment.

Rachanee Therakulsathit / The Detroit News

Geraldine Jensen founded ACES as an advocate for child support payments. "We have kids who go to bed hungry every night. Certainly some of the money is theirs."

Unclaimed funds fail to make way to parents

By Kim Kozlowski and Gary Heinlein
The Detroit News

The Michigan Friend of the Court collected more than $18-million in child-support funds last fiscal year — but they weren't distributed to the intended children because the court couldn't find the custodial parents.

Moreover, $303,000 of undistributed child-support money was funneled into the state's coffers in that fiscal year, which ended last September, because it had sat unclaimed for more than a year, as prescribed by state law. Nearly $700,000 more went into the state treasury from October to December 2000 for the same reason.

That brought to more than $1-million the total handed over to the treasury since October 1998, as far back as state officials could provide data.

Officials said the amount shot up sharply in the first fiscal quarter partly because of new guidelines. But if the trend from the first quarter continues, more than $2.75-million of unclaimed child-support money could land in the state general fund this fiscal year.

Although other states have similar policies, some state lawmakers find it disturbing that money collected from parents by the state on behalf of children could instead be spent on prisons, roads or legislative staff, and they plan to propose changes.

Please see MONEY, Page 4A

THE BLADE

One Of America's Great Newspapers

$1.50 @ 302 PAGES TOLEDO, OHIO, SUNDAY, MAY 13, 2001

SPECIAL REPORT

TECH DEAL BYTES TAXPAYERS

State spends millions of dollars on outside technology consultants

BY JIM PROVANCE
BLADE COLUMBUS BUREAU

COLUMBUS — The web site for Chicago-based Accenture calls OhioWorks.com "a glimpse of the 21st Century electronic government."

The nation's largest technological consulting company, which earned more than $10 billion last year, describes how the Internet "portal for the state of Ohio" was supposed to work, matching jobs with potential workers and tracking employment trends.

But Accenture, formerly Andersen Consulting, doesn't mention that Ohio Works doesn't work — at least not to the state's satisfaction.

The price tag for Accenture's Ohio Works contract, awarded in 1997 and expanded and renewed since — without competitive bidding — has reached $51 million.

Ohio was dragged kicking and screaming by the federal government into replacing its 88 county-run child support collection and disbursement systems with one automated, statewide system.

After missing federal deadlines and paying $43 million in fines, the last county went online Oct. 1.

The largest of four technology consultants setting up the $300 million system is American Management Systems, Inc., based in Fairfax, Va., with 9,000 employees nationwide. Since 1996, the price tag for AMS involvement has surpassed $62 million.

The Ohio Works and child-support consulting contracts — working for the state's Job and Family Services department and its predecessors — are a microcosm of a state government that relies heavily on expensive outside consultants when it comes to high-technology heavy lifting.

Job and Family Services — a $10 billion-a-year agency overseeing welfare, Medicaid, job training, child care, adoption, unemployment compensation, and other federal and state programs — is by far the largest consumer of outside technology consultants.

Seven out of 10 workers in the department's 1,000-member Management Information Services staff are not state employees. Most work for American Management Systems, billing the state hourly rates ranging from $64 to more than $200. That compares with the highest hourly rate of about $36 for state employees on staff.

An internal department study figures it costs taxpayers $81,000 more a year to fill an information technology post with a consultant rather than with a state employee.

For every 2.4 technology employees on the state payroll, there is one contract consultant, according to the Ohio Depart-

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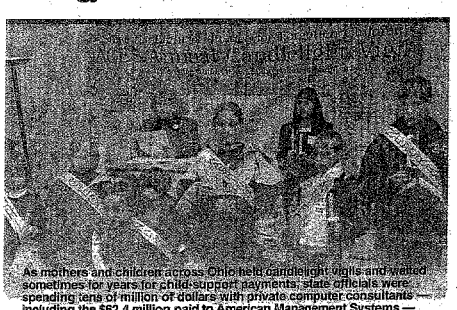

As mothers and children across Ohio held candlelight vigils and waited sometimes for years for child-support payments, state officials were spending tens of million of dollars with private computer consultants — including the $62.4 million paid to American Management Systems — because the state couldn't hire enough computer workers to build and maintain its own child-support system.

BLADE PHOTO/ILLUSTRATION

Tech

Continued from Page 1

ment of Administrative Services.

"The excuse for bringing in consultants is that the current staff isn't up to it, that they don't have the internal skills. If that is true, then the question is why," said Peter Wray, spokesman for the Ohio Civil Service Employees Union, which represents 35,000 state workers.

"During my last year, several legislators wanted to privatize the whole system. I told them we were pretty close to that anyway," said Arnold R. Tompkins, who was director of the Department of Human Services under Governor Voinovich. Last year, Governor Taft merged Human Services with the Ohio Bureau of Employment Services to form the Department of Job and Family Services.

The second-largest consumer of outside consultants is the Bureau of Workers Compensation, where the ratio of consultants to state employees is exactly opposite that of Job and Family Services.

In addition to the state's 2,400 in-house technology employees, there are 500 vacancies the state has had trouble filling, increasing its dependency on outsiders for even daily operations.

"Either I'm getting contractors to augment some of that or the work isn't getting done," said Greg Jackson, assistant director of Administrative Services and the state's chief technology officer.

Former House speaker Jo Ann Davidson, who headed the troubled Job and Family Services for two months at Mr. Taft's request, said the state has to do a better job of building talent in-house.

"The department will never be self-sufficient," she said. "We will always have to have some vendor involvement, but there should be a great deal more internal involvement than external."

She has told lawmakers that the state has to do a better job managing its consultants and tying their payments to achieving specific goals.

In the cases of AMS, Accenture, and other information technology consultants, open-ended contracts require a supply of expertise, manpower, and support — but not necessarily a quality, finished product that can be maintained by state employees left behind.

"It's about having management who understands the internal logic of the policies and programs you're working on," said Greg Browning, state budget director for seven years under former Governor Voinovich and now a public policy consultant.

"Otherwise, you lose the thread and the consultants are in charge," he said.

Job and Family Services is in the process of hiring project managers to oversee its contracts, reducing the consultants' ability to make decisions unilaterally that affect the projects and, ultimately, their price tags.

Ohio Inspector General Tom Charles is investigating the department's awarding of multi-million-dollar, computer-consulting contracts like Accenture's without competitive bids and whether the two prior directors of the department had conflicts of interest when it came to their selection.

Former director Jacqueline Romer-Sensky, a former aide to Governor Voinovich, has kept a low profile since resigning under fire March 2. She has declined requests for interviews.

Her predecessor, Mr. Tompkins, now runs his own consulting business that, for several months in late 1998 and early 1999, included Ms. Romer-Sensky as a partner. It counted Accenture and American Management Systems as clients.

Mr. Tompkins said he took Accenture on as a client a year after he left his state job in October, 1998, and that he has not used his influence with the department since to get the company business.

He declined to comment further on the investigation, but he defended his decision to award Accenture the Ohio Works contract without competitive bids.

"We didn't go through the [request-for-proposal] process, because it takes so long," he said. "I wanted something that was existing. I did not want to develop a whole new program. Accenture had knowledge of other systems around the country."

The contract was later renewed under Ms. Romer-Sensky without competitive bid. It will expire next month, but this time Accenture will have competition.

"OhioWorks.com is really not so much at Bob Taft's feet as George Voinovich's," said state Sen. Linda Furney (D., Toledo). "He allowed his Human Services department to do that contract when the Bureau of Employment Services had [a system] that was up and running that was done with minimal money."

Arnold Tompkins, left, former human services director, and his successor, Jacqueline Romer-Sensky, may have had conflicts of interest over the selection of state computer consultants.

After spending millions, state officials say the system still doesn't work as planned.

"It should be a customer-friendly system where any user can sit down at a library and actually use it for everything from resume services to job match to upgrading jobs, the whole works," said Dan Wiloby of Logan County, president of the Ohio Job and Family Services Directors Association. "Unfortunately, it hasn't gotten to that point. It can kick you out. It takes perseverance."

Job and Family Services had considered at least temporarily returning to a prior system developed by the now-defunct Bureau of Employment Services at a third of the price tag for Ohio Works. But so far, the state has decided to stick with Ohio Works, hoping eventually it will live up to its name.

Barb Hohbach, spokeswoman for Accenture, disagreed with the argument that Ohio Works has been a failure and said it was designed to match the state's requirements.

"Thousands of job seekers and employers use Ohio Works daily," she said. "It is a shame that a pioneering program which has helped so many and has been honored with a Smithsonian Award and a vice-presidential commendation is being tarnished in this way."

Although the original American Management Systems contract for the child-support system was bid competitively, it has since been extended without bidding. The company also has benefited from other nonbid contracts within the department or its predecessors for Y2K and welfare reform work.

AMS considers Ohio's child-support system to be a success story, despite what it deems to be moving targets of federal requirements and the fines.

"Bad publicity is one thing, but the [child-support] program is in place and has been successfully rolled out in 88 counties," said AMS spokeswoman Anne Burt. "This was a multiphase endeavor, an immense complex system with hundreds of databases, millions of lines of codes, and a million [child-support] enforcement cases."

Shortly after the system was up and running, counties began complaining that the system frequently was down. And it was revealed that the system, an amalgamation of 1,200 computer programs, was, in violation of federal law, withholding millions in overdue child support owed families who'd left the welfare rolls.

Most families never missed the money until Association for Children For Enforcement of Support — a support advocacy group founded in Toledo — began preparations to sue.

The federal government plans to visit the Lucas County child-support agency in June to decide whether the Support Enforcement Tracking System will be accredited and the leak of federal fines plugged.

Although Mr. Jackson of Administrative Services noted that Ohio has just a 3 percent turnover rate among state information technology employees, it continues to struggle to fill vacancies. The state plans to begin a radio advertising campaign in search of workers with these skills and is developing ways to retrain those it has.

"The state can't compete with price," said former director Tompkins. "Once the folks in the department get the knowledge, then they get better jobs. We worked with several firms and we became a body shop. They'd hire our people at higher prices and then, when we'd go to these firms, we'd get those people back [at higher cost]."

Under a proposed revamp of the state's information technology pay scale, the salary for a "systems analyst 2" would go from the current range of $48,966 to $66,098 to a range of $53,400 to $75,099, Mr. Jackson said. The industry average for an equivalent job is $61,000.

Although the consultants are supposed to work as a team with state employees, the state workers complain the skills aren't being transferred to them to allow them to run, let alone create, these major data and Internet systems.

State Rep. Jim Trakas (R., Independence) once worked for M.A. Hanna Co., which, in turn, worked alongside Andersen Consultants, now Accenture, on a project.

"My experience with consultants in general and Andersen specifically is that, rather than train workers, Andersen creates parallel groups," said Mr. Trakas. "State workers are not always cut into what's going on and the high-priced consultants end up doing their job. There should be a knowledge transfer to the actual state workers and then the consultants should hit the road."

The state employees union is working with Job and Family Services and Administrative Services on a pilot apprenticeship project to try to develop in-house pools of network administrators and high-level programmers.

Mississippi is among a growing number of states operating their own information technology departments, tending skilled in-house programmers to various agencies. But spokeswoman Karen Newman said in-house employees will never entirely replace outside consultants.

"We definitely don't have enough to handle all the work in all the agencies," she said. "When you're working on a major project, you don't want to have a staff of full-time positions for something that's only going to last one or two years."

The state, however, writes into its contracts that the skills to develop a project must be passed from the consultant to the state employee working by his side.

Mississippi has had its share of dealings with American Management Systems, many of them positive, according to Ms. Newman. But the state successfully sued the consultant last year for fraud and breach of contract.

The lawsuit, ultimately settled for $135 million after a jury returned a $474.5 million verdict, alleged that AMS used its $11.2 million contract for development of a tax system for Mississippi instead to develop a system for another client, Kansas, that didn't meet Mississippi's needs.

Jim Conrad, who has a reputation as "Mr. Fix-It" in Ohio government, is heading Governor Taft's team to whip Job and Family Services into shape.

He has done similar work for the former Ohio Department of Human Services and Bureau of Employment Services. He is director of the Bureau of Workers Compensation.

When Workers Compensation set out to establish a well-received Internet web site through which employers and workers could gather information and make claims, Mr. Conrad opted to do the work primarily in-house.

"When a system is critical to your agency, you don't want the contractors essentially running things," spokesman Jim Samuel said. "That puts you at the mercy of the contractors in some cases."

Ms. Davidson points to workers compensation as a model for where Job and Family Services should be going.

"But it's not going to happen with a snap of the finger," she said.

Today's trash color is pink; Wednesday's trash color is ruby

Metro

City Editor: Gary Clark / 614-461-5097 • State: Ann Fisher / 614-461-5569
State Government and Politics: Darrel Rowland / 614-461-5132

The Columbus Dispatch
Tuesday
FEBRUARY 6, 2001

B

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- **Convicted:** A former day-care worker pleaded guilty to six sex-related counts involving young girls and was found guilty of 18 others / **B7**

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Child support miscalculated

■ Since 1996, Ohio has withheld hundreds of thousands of dollars that should have gone to families.

By Darrel Rowland
Dispatch Public Affairs Editor

For more than four years, the Ohio Department of Job and Family Services has knowingly calculated a multitude of child-support payments incorrectly, an agency spokesman acknowledged yesterday.

The upshot: Hundreds of thousands of dollars have been withheld from Ohio children, says the Association for Children for Enforcement of Support.

"It's appalling — they did this on purpose," said Geraldine Jensen, president of the group. "They have literally been stealing the food out of the mouths of babes."

The problem stems from complicated federal laws that come into play when a child has a custodial parent on welfare and a noncustodial parent who is behind on child support.

In such cases, the state is allowed to grab the monthly child-support payment from the noncustodial parent as compensation for the state making the welfare payment to the custodial parent.

In 1996, federal law changed to reduce how much child support the state could snag, allowing more money to flow directly to the children.

But the department still is operating under a more stringent 1988 law — meaning Ohio children haven't benefited from the federal revision.

Agency officials instead have concentrated on converting to a statewide computerized setup known as the Support Enforcement Tracking System.

"We were aware of that then (in 1996), but the concentration was put on completing that conversion," said department spokesman Jon Allen.

He noted the department was fined millions because it didn't have the tracking system up and running by the federal deadline.

"Our concentration has been on avoiding incurring further penalties," Allen said.

That attitude outrages Jensen.

"They put the thing online knowing it was wrong," she said. "That extra $50 or $75 a month (improperly withheld by the state) means a lot to many of these children.

"They were just callous. They just didn't care."

Jensen said figuring out how many families have been affected and how much money is

Please see **SUPPORT** *Page* **B2**

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involved is difficult. But she said the amount owed is at least hundreds of thousands of dollars and could range into the millions.

"It's so difficult to understand, it's hard to know what the state is doing to you," Jensen said.

Allen said the department hopes to fix the problem this year.

For years, child-support payments have been a lightning rod for criticism of the state, mainly because of questions about the computer system used to calculate and distribute payments.

Since the tracking system was implemented statewide in October, county child-support enforcement agencies have been deluged by calls — sometimes hundreds a day — from custodial parents wondering what happened to their support checks.

The new system, administered by Bank One in Columbus, has been plagued by delays and other problems that Allen said are slowly being worked out.

Mr. HORN. Thank you very much.

Now, we are going to go on 5 minutes for the Members. We will start with the ranking member from Illinois, 5 minutes. Then Mr. Bilirakis will have 5 minutes and back and forth so we get the questions out of us and the information out of you.

The gentlewoman from Illinois has 5 minutes.

Ms. SCHAKOWSKY. In Illinois, you are right, Mr. Primus, the Governor vetoes a bill that would have allowed more than $50 to go to parents who receive TANF, but also then they don't receive it through child support payments. They just get the flat $50.

That $50 goes to support the entire child support collection system of Illinois, which serves not only low-income children, but also all children who are receiving child support. So, you have poor kids really subsidizing this child support system. Also, 10 percent of the money then just goes to run activities of Illinois government.

It seems to me that one of the rationales requiring—as does Wisconsin, by the way—my understanding is that there is a Federal waiver in Wisconsin so that all money collected for families on public aid goes to those families and that Wisconsin, which is experiencing a 90 percent drop in welfare caseloads, didn't penalize a person's cash grant due to child support.

So, it seems to me that if some States, Wisconsin, Vermont, and Connecticut could get that Federal waiver, that surely we ought to figure out some way for more of that money to be able to go to those children and it would be an incentive for the working parent to provide more child support, knowing that more than $50, in the case of Illinois, is going to go directly to the children and would encourage, also, the custodial parent to help find the other parent to contribute to their support. That is one question.

The other was, I am trying to understand how that interfaces with the Cardin legislation and if that is what this addresses, that more money would go to the kids?

Any one can answer that.

Mr. PRIMUS. Yes. The Nancy Johnson-Ben Cardin legislation of last year speaks directly to the issues you have raised. I agree with Geraldine. I think one of the chief problems in the system right now is the distribution rules.

I defy anyone to explain those in cases where the arrearages have been accumulated before the mother went on welfare, what happens to arrearages accumulated while she was on welfare and then afterwards. So, the Johnson-Cardin legislation of last year would have done two primary things. It would have said, "When we intercept the IRS refund check, if the mother is owed money or the State is owed money, you must give it to the mother first."

That was a mandatory provision and Nancy Johnson was the primary sponsor of that.

Congressman Cardin added another provision which would have gone to your Illinois example and said, if the State disregards—right now if the mother is on welfare, half of the child support, in some cases more, goes to the Federal Government, regardless of what the State does in terms of disregarding the child support and calculating the TANF payment.

What the Cardin amendment would have done is said if the State of Illinois wants to disregard $200, then it no longer has to

send to the Federal Government $100. It participates in the cost of providing that assistance to the mother.

I think all of us would agree that really is the legislation that you want to support. I think that would do a lot for the system. We need to simplify these distribution rules.

Ms. SCHAKOWSKY. In a June 4, 2001 article in the Chicago Sun-Times, it mentions there is enormous dissatisfaction right now with the State disbursement unit. It seems that, though, is in compliance with fairly new Federal regulations that require disbursement to go on this way.

Did we create a system that further exacerbates the problem? Is that what we have done, in your view?

Ms. JENSEN. Yes. The State disbursement unit has caused many more problems in States that have a State-supervised county-run system. In those States in the past, mainly the county clerk of courts disburses payments.

Instead it said we will have one place that all the payments come into and go out of. The vendors that were hired in many States did a very poor job. Those payments went in and they couldn't identify which families to send them to. There have been many problems.

We would like to see reform to that system that would allow States to let money come in locally and just send the records back and forth. Right now, in places like Michigan, money comes into the State disbursement unit. They then take the money and send it to the county friend of the court who then sends it to the family.

It seems to us they should send the money to the family and send a record to the county so that they quit passing this money between agencies.

We also would like to see it easier for people to pay, so that you could pay with your credit card or your ATM card at the bank.

Mr. HORN. Thank you. We will get back to that.

The gentleman from Florida, Mr. Bilirakis, 5 minutes.

Mr. BILIRAKIS. Thank you very much, Mr. Chairman.

I want to thank the panel, and I mean that sincerely. We get so darned frazzled sometimes, and often our intentions don't always make it into the legislation.

I said at the outset, that there are a lot of loopholes and a lot of corrections and improvements that need to be made. I have no pride in authorship.

If the only thing that comes out of this hearing and the introduction of our legislation is prudence, then I think it is worthwhile.

I guess one of the questions I would ask Ms. Jensen is what happens to the money that is collected that doesn't get down to the families, to the children?

Ms. JENSEN. The States have not been able to give us a good answer. Most of them can say that a portion of it is unidentified. They don't know which custodial family to send it to. We ask them to do the Federal parent locator to find the custodial parents because, you know, they are not hiding. They would want these payments.

The other money, I just think they need to be better monitored and they need better fiscal controls because it is very hard to determine where the rest of those un-issuable payments are going.

Mr. BILIRAKIS. I am sure we could try to help in that regard. I just want to point out, do we want grant money, Federal taxpayers' grant money, to go to Creators for Literary Publishing, cultural festivals and various types of artistic and cultural exhibits given by the National Endowment for the Arts?

When those people have been bad actors in terms of not caring enough about their children, do we want money to go to venture capitalists as Ms. Jensen mentioned for the creation of high-risk technologies given by the National Institute of Standards Technology? Do we want money to go to developers for modernizing or purchasing land, building or machinery given by every one of these departments and agencies when there have been bad actors?

Do we want grant money to go to creators and inventors for projects that present to the public conservation of art exhibits, again the National Endowment of the Arts? Do we want money to go for the construction of doctors' offices?

Ms. Jensen shared this with us. I find it hard to believe that we spent money for it. I have been here 19 years and I still get surprised.

Money to doctors for constructing medical facilities, incorporating new construction concepts given by HUD? I mean, do we want Federal dollars to go to those types of people making applications for grants and getting them when in fact they have been bad actors as far as their children are concerned?

That is really the intent of our legislation. I want to apologize that we didn't make that clear. Obviously the way it is worded, as you and I have said, the intent is not there.

We are not talking about the impoverished. We are not talking about people on Food Stamps. We are talking about people who clearly earn enough to support their children and are coming to the Federal Government as bad actors, getting these grants.

I guess I would ask the question: Would you all support this legislation, more fully if it focused on Federal loans, loan guarantees and grants rather than Federal assistance in general? Of course, it would more clearly define good cause to include economic necessity. That is a little bit tough because it is ambiguous but that can all be worked out.

Let me ask the question. Mr. Fuentes.

Mr. FUENTES. Congressman Bilirakis, there is no question that we share the goal.

Mr. BILIRAKIS. But would you support that type of legislation?

Mr. FUENTES. I would say that the administration would be happy to review any revisions and modifications to the proposal that you put forward and get back to you with a very thoughtful and constructive response.

Mr. HORN. Without objection, it will be put at this point in the record.

It seems to me it is very simple. You either say artists can go out and leave their kids in the gutter and you people getting HUD grants can go get them and they are left on the curbs. So, it is very simple, yes or no?

Mr. Penn.

Mr. PENN. We support the objective of the legislation. Our only concern is with the way you implement it. If we can find a way to

implement it that doesn't overly burden the effectiveness of the programs, we would be happy to support it.

Mr. BILIRAKIS. Just a little line or two on an application form. Mr. Hatcher.

I am sorry, Mr. Chairman.

Mr. HORN. No. I just wanted to get it going down there. You asked a question. Let's see if it is yes or no.

Mr. HATCHER. Thank you, Mr. Chairman. I will start with "yes," but add clarification. We definitely support the intent that Mr. Bilirakis has described and would not like to see those types of services going to parents who can afford to pay child support and who aren't paying child support.

We still do have concerns on the timing questions and the ability to implement additional penalties at this time.

If I could use an example, I just bought an old house that I am trying to fix up. I get restless as I move from one room to the other room. I start tearing into something and then I get bored with that project and pretty soon my whole house is a shambles. Now, I have a new baby and it is a mad house. Nothing ever gets completely fixed.

So, our concern here is that we really spend the limited resources of State child support programs to fix the current things that need to be fixed rather than trying to implement new programs.

Mr. HORN. Mr. Primus.

Mr. PRIMUS. We also support the intent of the legislation. But I guess we really question the effectiveness. I mean, if it is a bad actor and you just have a line on the form, I am not so sure that does much. I worry that we will create more cost trying to route out the bad actors, as you put it.

I would rather see those moneys and efforts spent making the existing tools more effective so we weed out the bad actors before they even get around to applying for any Federal grants.

I also share some concerns, you know, if you have a farmer who is behind, but he is behind for other reasons. Then you have to sort out whether he should get assistance or not. I am not so sure we should put that burden on every program that supplies assistance.

I would rather focus on getting the current tools working and working better and getting this system funded better.

Mr. HORN. Ms. Jensen.

Ms. JENSEN. Yes, absolutely. We believe the certification process will help based on the experience of when the law was passed for revocation of drivers' licenses. For example, the State of Maine just sent a letter out to people telling them that they can lose their license and they collected millions of dollars.

So, just bringing this to people's attention and saying that the Federal Government is concerned about this issue will have a big impact for the children.

Mr. HORN. OK. We will now move back to the ranking member, Ms. Schakowsky, for 5 minutes of questioning.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman.

Mr. Fuentes, does the Secretary of HHS support the Johnson-Cardin legislation?

Mr. FUENTES. My understanding, Congresswoman, is that Secretary Tommy Thompson has gone on record as supporting sim-

plified distribution and that there are a number of proposals. The Department, I believe, is reviewing the bill and at the appropriate time will provide an answer to that.

But there is no question that he is very supportive of simplifying and certainly helping welfare families become self-sufficient and remain self-sufficient.

Ms. SCHAKOWSKY. So, at this point do you have any legislation addressing this issue that is being promoted by the Department and the Secretary or are you in the process still of considering it?

Mr. FUENTES. The administration is in the process of considering it.

Ms. SCHAKOWSKY. We are reauthorizing TANF this Session, are we not? Might this be part of that?

Mr. FUENTES. We will see exactly what the best approach might be. Certainly the consideration of TANF reauthorization will be an opportunity to touch on many of these areas.

Ms. SCHAKOWSKY. Ms. Jensen, regarding the issue of the State disbursement unit, you suggested a number of corrections that could be made. Are these incorporated in any legislation right now? Is there any activity now in either body?

Ms. JENSEN. The only legislation I am familiar with is the thing that everyone has been talking about, the Johnson-Cardin bill. I think we have a need for some new laws to deal with some of the problems that have come out of the State disbursements units, with timeliness of payments and unclaimed funds and all those other issues.

Ms. SCHAKOWSKY. In Illinois, a committee of the legislature, a task force of the House of Representatives, which I used to serve on, was created. They are going to hold hearings on whether to create a new State agency with child support its sole responsibility.

One of the Republican members was quoted as saying that this program is broken. It doesn't need another band-aid. It needs either a private contractor or it needs a director to go to Washington and say, "Look, the old system worked fairly well. This new system has been a disaster."

What would you say about that characterization around the country of this system?

Ms. JENSEN. We have been very involved in Illinois with the task force and with the need of moving child support out of the Illinois Department of Public Aid and into a different State agency where it is a priority. We think that would help a great deal.

We do need to be computerized. It is amazing that in this century child support is not yet computerized in States effectively.

So, I don't think we need to go backward, but they do need to make sure that the computer systems for payments distribution, for tracking cases actually work and help families instead of hurting them.

So, there needs to be a tooling of that system to get it up and running.

Ms. SCHAKOWSKY. Are you talking about just Illinois or in general?

Ms. JENSEN. I am talking throughout the whole country. The system they setup was that each State developed its own computer system. So, California and Michigan and, I forget the other State,

Ohio is not certified but is in the process of getting certified, along with Nebraska.

Those systems are all going to need to be updated at different times. They are all different from each other. So, the Federal Government, if it continues to fund this, is going to pour millions and millions of dollars into something that doesn't work and probably has no hope of really working.

Plus, the systems don't talk to each other. It would make much more sense to revisit that whole issue and maybe adopt one system that all the States used, kind of like everyone using Windows.

Ms. SCHAKOWSKY. It seems so reasonable. The Department of Public Aid has said, "Non-payment of child support is a primary reason almost half a million children in Illinois receive welfare."

The Federal role is so critical here. I would certainly like to work with everyone, Mr. Bilirakis and everyone, to see if there isn't something that we can do, particularly with perhaps this new opportunity with the TANF reauthorization, although it certainly extends beyond that, to come up with something that is really going to work.

This is a persistent problem that doesn't defy solution. We just have to come up with a better one. Thank you.

Mr. HORN. The gentleman from Florida, Mr. Bilirakis, 5 minutes.

Mr. BILIRAKIS. Thank you, Mr. Chairman.

You know, we have talked about improvements made over the last few years. God knows that has been the case and we are very grateful for that. Ms. Jensen shared with us about how collections have been improved. But an awful lot of that money, as much as half a billion dollars, is really not going down to the children.

HHS has furnished us with State breakdowns. So I guess a question ought to be raised as to where that money went. Where is it? It was intended for a certain purpose.

Mr. Chairman, not belittling any of these other areas, and the ranking member is quite correct, if we don't improve the collection and distribution process, getting it to where it is supposed to go, we are not really accomplishing very much.

I still say that there are people out there who are receiving Federal dollars who are not impoverished, who are not on Food Stamps, who can well afford to pay child support for their children and who are not doing it.

There seems to be a reluctance to supplement all of the good things that are now taking place by basically having a certification.

Now I assure you, and I guess we all have different opinions in this, but we are talking about people who are, doctors, lawyers, engineers, scientists, painters. We can go on and on here.

I don't think that they would be willing to sign a statement under oath to the effect that they have not followed the law in terms of their children and still go forward and try to get Federal dollars.

In any case, the point of the matter is that I don't think we ought to get away from the purpose of the legislation and that is to prevent those kinds of people from getting Federal dollars.

The purpose is not to go after the impoverished and people on Food Stamps or welfare. As far as farmers are concerned, there are an awful lot of big farmers out there who get a lot of subsidies and

Federal loans who may be bad actors. Is it intended to reach them? You are right it is. I think so.

Thank you, Mr. Chairman. I appreciate very much your giving me this time.

Mr. HORN. Well, I agree with you on those last remarks. I wouldn't give them an inch.

Let me get down to the Federal Parental Locator Service. Under whose responsibility is that? Mr. Fuentes.

Mr. FUENTES. Yes, that is an activity of the Office of Child Support Enforcement.

Mr. HORN. How many employees are currently assigned to updating and checking the Federal Parental Locator Service and associated systems?

Mr. FUENTES. Federal employees, we currently have 12. We have 123 contractor staff working specifically on that system.

Mr. HORN. And that is spread out over all 50 States?

Mr. FUENTES. The 12 Federal staff and the contractors are housed specifically in Washington and the surrounding area.

Mr. HORN. OK, so all the work is done here.

Mr. FUENTES. It is all done here, but it is communicated on a regular automated basis with all the States.

Mr. HORN. How long does it take to verify whether a person is listed on the Federal Parental Locator Service? How long does it take; 5 seconds; 5 minutes?

Mr. FUENTES. It is a very quick process. It is instantaneous. It really is tape-to-tape. All of these machines have their data bases. The work that is done is actually creating matches between numerous data bases and then providing the State the necessary information.

Mr. HORN. Now, is there ever a breakdown on this or how does that work?

Mr. FUENTES. From time to time there are systems failures in terms of the computers, but there are redundant and backup systems. We utilize the data system at SSA, which is state-of-the-art. So, as soon as one system or one series of computers go down, there are those that back it up. So, the matches are continual. They go back to the States on a daily basis.

Mr. HORN. Do we know what type of person is locating this? Is this a city or a county where the welfare department is delegated or where Federal agencies—what is the profile of people that you are serving?

Mr. FUENTES. That we are serving?

Mr. HORN. Yes.

Mr. FUENTES. Our primary clients are the States. The States provide us on a regular basis information from their State case registry, their requests for the locator service. Within 20 days of a person being hired, the employer must provide certain information to the State and then the State automatically provides that to our data base.

Mr. HORN. Are there any lawsuits or anything where people have tried to interfere with that and say, "What do you mean? I am entitled to that million dollars of Federal taxpayers' money and I can still not give a dime to my kid."

Mr. FUENTES. Not to my knowledge, sir.

Mr. HORN. No lawsuits on that? Sometimes there are weird groups.

Mr. FUENTES. In the last 15 months that I have been there, I have learned all manner of kinds of groups. But the fact of the matter is this has not happened.

Mr. HORN. Now, with some of the States not having much of a system, should we just do it for them? What would we miss if it weren't the States that was doing it?

Mr. FUENTES. Sir, we are working with all of the States in bringing their systems up. All but four States are certified for the FSI–88 requirements. We have just finished full certification of six States for the PRWORA requirements. We have a number of other States ready to be certified.

We continue under the current arrangement to provide technical assistance, but also, where necessary, invoking the penalties if States are not moving on the timeline that they are required to.

Mr. HORN. Where is California in all this? As I remember a couple of years ago, the Los Angeles District Attorney, which represents one-third of the State of California, which is 32 million people, they have 10 million. The smaller counties didn't want to have the same computing ability that the Los Angeles District Attorney had.

I am just curious about what happened on that. Have you been in the middle of that?

Mr. FUENTES. Well, sir, the way that has been working out, Mr. Chairman, is that in working with the State of California, because of the circumstances that came about there and the desperate conditions, the State legislature created a separate agency for child support enforcement. It removed responsibility from the counties and provided it to a statewide agency. I believe by this October all of the personnel working in the District Attorney's Offices or other county offices across the State will now be part, officially part of the new child support agency.

In addition, working with them on their automated systems, we have been supporting an interim system of six, taking all of the 58 counties. Am I correct?

Mr. HORN. Yes, 58.

Mr. FUENTES. Taking all of the 58 counties, the State probably had 50 different approaches. We have taken an interim step to get one system in place because it is a very laborious and time-consuming process.

We have authorized six systems so any one of the counties can now come on to one of the six approved systems. They are approved because they meet the criteria laid out in PRWORA and FSA-88.

The State has indicated by 2006 that they will have a statewide system across the country. However, again, because we implement the law, California this year paid $113 million in penalties. Until their system is up and running or unless those requirements change, those penalties will continue to be invoked.

Mr. HORN. Where does that money go to, the U.S. Treasury?

Mr. FUENTES. Currently, it reverts to the Treasury, sir.

Mr. HORN. That is a good place for it to revert. Thank you. I am sorry my people in California don't seem to know what they are

doing. But that is not the only issue they have out there. So, if you are going to go out there, take a candle with you.

Mr. FUENTES. If I could just add something, because we have talked about the undistributed collection issue and I would just like to take the opportunity to share with you what the Office of Federal Child Support Enforcement has been doing about that issue.

First, it was the No. 1 priority the last fiscal year and it remains this fiscal year one of our top three priorities.

Second, just as recently as yesterday morning we were meeting with the IV-D Director Association in a panel discussion that was all morning long in identifying approaches to resolving those undistributed collections.

We have also come to understand, because of the attention we have put on it, both with the States, but also nationally, that at any given time about half of that money is explainable. The Federal tax offset requirements includes a provision for the injured spouse. So, States routinely hold that money up to 6 months. So, half of the undistributed amount is allowing time for an "injured spouse claim" to be processed and acted on.

We are still working with the States through a task order that we have offered to identify best practices and to provide technical assistance to them on how to reduce that other half of the amount.

Mr. HORN. That is very well said. My last question, because we have two votes on the floor. Ms. Jensen, I am curious, you suggested in your testimony that custodial parents should also be listed in the Federal system so they could be located for issuing child support payments.

What would it take to accomplish that?

Ms. JENSEN. It would take a regulation from HHS. They already have all the names and Social Security numbers of the custodial parents when you apply for services. It would just be a regulation requiring the States to use that tool to track down parents that they need to find to get this money to.

Mr. HORN. Well, we thank you all. You have all been great witnesses. We appreciate your answers to the questions. The majority staff and the minority staff might well have questions to send to you. If you would be as nice on those questions as you were on ours, they will put it in the record at this point.

With that, we are in adjournment.

[Whereupon, at 11:45 a.m. the subcommittee was adjourned, to reconvene at the call of the Chair.]

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