

105TH CONGRESS
1ST SESSION

S. 97

To amend the Internal Revenue Code of 1986 and the Social Security Act to require the Internal Revenue Service to collect child support through wage withholding and to eliminate State enforcement of child support obligations other than medical support obligations.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

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

A BILL

To amend the Internal Revenue Code of 1986 and the Social Security Act to require the Internal Revenue Service to collect child support through wage withholding and to eliminate State enforcement of child support obligations other than medical support obligations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Uniform Child Support
5 Enforcement Act of 1997”.

1 **SEC. 2. EFFECTIVE DATE; AMENDMENTS.**

2 (a) IN GENERAL.—This Act and the amendments
3 made by this Act shall take effect on the first day of the
4 first calendar month that begins after the 3-year period
5 that begins with the date of the enactment of this Act,
6 if the Secretary of Health and Human Services certifies
7 to the Congress that on such first day more than 50 per-
8 cent of the States have not achieved a 75 percent collec-
9 tion rate in child support cases in which child support is
10 awarded and due under the jurisdiction of such States
11 pursuant to part D of title IV of the Social Security Act
12 (42 U.S.C. 651 et seq.).

13 (b) ELIMINATION OF PROVISIONS OF LAW RELATING
14 TO STATE ENFORCEMENT OF CHILD SUPPORT OBLIGA-
15 TIONS OTHER THAN MEDICAL SUPPORT OBLIGATIONS.—
16 Not later than 90 days after the effective date of this Act
17 and the amendments made by this Act, the Secretary of
18 Health and Human Services shall submit to the appro-
19 priate committees of the Congress a legislative proposal
20 proposing such technical and conforming amendments as
21 are necessary to eliminate State enforcement of child sup-
22 port obligations other than medical support obligations
23 and to bring the law into conformity with the policy em-
24 bodied in this Act.

25 **SEC. 3. NATIONAL CHILD SUPPORT ORDER REGISTRY.**

26 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury shall establish in the Internal Revenue Service
3 a national registry of abstracts of child support or-
4 ders.

5 (2) CHILD SUPPORT ORDER DEFINED.—As
6 used in this section, the term “child support order”
7 means an order, issued or modified by a State court
8 or an administrative process established under State
9 law, that requires an individual to make payments
10 for support and maintenance of a child or of a child
11 and the parent with whom the child is living.

12 (b) CONTENTS OF ABSTRACTS.—The abstract of a
13 child support order shall contain the following informa-
14 tion:

15 (1) The names, addresses, and social security
16 account numbers of each individual with rights or
17 obligations under the order, to the extent that the
18 authority that issued the order has not prohibited
19 the release of such information.

20 (2) The name and date of birth of any child
21 with respect to whom payments are to be made
22 under the order.

23 (3) The dollar amount of child support required
24 to be paid on a monthly basis under the order.

1 (4) The date the order was issued or most re-
 2 cently modified, and each date the order is required
 3 or scheduled to be reviewed by a court or an admin-
 4 istrative process established under State law.

5 (5) Any orders superseded by the order.

6 (6) Such other information as the Secretary of
 7 the Treasury, in consultation with the Secretary of
 8 Health and Human Services, shall, by regulation re-
 9 quire.

10 **SEC. 4. CERTAIN STATUTORILY PRESCRIBED PROCEDURES**
 11 **REQUIRED AS A CONDITION OF RECEIVING**
 12 **FEDERAL CHILD SUPPORT FUNDS.**

13 Section 466(a) of the Social Security Act (42 U.S.C.
 14 666(a)) is amended by inserting after paragraph (19) the
 15 following:

16 “(20)(A) Procedures which require any State
 17 court or administrative agency that issues or modi-
 18 fies (or has issued or modified) a child support order
 19 to transmit an abstract of the order to the Internal
 20 Revenue Service on the later of—

21 “(i) the date the order is issued or modi-
 22 fied; or

23 “(ii) the effective date of this paragraph.

24 “(B) Procedures which—

1 “(i) require any individual with the right
 2 to collect child support pursuant to an order is-
 3 sued or modified in the State (whether before
 4 or after the effective date of this paragraph) to
 5 be presumed to have assigned to the Internal
 6 Revenue Service the right to collect such sup-
 7 port, unless the individual affirmatively elects to
 8 retain such right at any time; and

9 “(ii) allow any individual who has made
 10 the election referred to in clause (i) to rescind
 11 or revive such election at any time.”.

12 **SEC. 5. COLLECTION OF CHILD SUPPORT BY INTERNAL**
 13 **REVENUE SERVICE.**

14 (a) IN GENERAL.—Chapter 77 of the Internal Reve-
 15 nue Code of 1986 (relating to miscellaneous provisions)
 16 is amended by adding at the end the following new section:

17 **“SEC. 7525. COLLECTION OF CHILD SUPPORT.**

18 “(a) EMPLOYEE TO NOTIFY EMPLOYER OF CHILD
 19 SUPPORT OBLIGATION.—

20 “(1) IN GENERAL.—Each employee shall speci-
 21 fy, on each withholding certificate furnished to such
 22 employee’s employer—

23 “(A) the monthly amount (if any) of each
 24 child support obligation of such employee, and

1 “(B) the TIN of the individual to whom
2 each such obligation is owed.

3 “(2) WHEN CERTIFICATE FILED.—In addition
4 to the other required times for filing a withholding
5 certificate, a new withholding certificate shall be
6 filed within 30 days after the date of any change in
7 the information specified under paragraph (1).

8 “(3) PERIOD CERTIFICATE IN EFFECT.—Any
9 specification under paragraph (1) shall continue in
10 effect until another withholding certificate takes ef-
11 fect which specifies a change in the information
12 specified under paragraph (1).

13 “(4) AUTHORITY TO SPECIFY SMALLER CHILD
14 SUPPORT AMOUNT.—In the case of an employee who
15 is employed by more than 1 employer for any period,
16 such employee may specify less than the monthly
17 amount described in paragraph (1)(A) to each such
18 employer so long as the total of the amounts speci-
19 fied to all such employers is not less than such
20 monthly amount.

21 “(b) CERTAIN OBLIGATIONS EXEMPT.—This section
22 shall not apply to a child support obligation for any month
23 if the individual to whom such obligation is owed has so

1 notified the Secretary and the individual owing such obli-
2 gation more than 30 business days before the beginning
3 of such month.

4 “(c) EMPLOYER OBLIGATIONS.—

5 “(1) REQUIREMENT TO DEDUCT AND WITH-
6 HOLD.—

7 “(A) IN GENERAL.—Every employer who
8 receives a certificate under subsection (a) that
9 specifies that the employee has a child support
10 obligation for any month shall deduct and with-
11 hold from the wages (as defined in section
12 3401(a)) paid by such employer to such em-
13 ployee during each month that such certificate
14 is in effect an additional amount equal to the
15 amount of such obligation or such other amount
16 as may be specified by the Secretary under sub-
17 section (d).

18 “(B) LIMITATION ON AGGREGATE WITH-
19 HOLDING.—In no event shall an employer de-
20 duct and withhold under this section from a
21 payment of wages an amount in excess of the
22 amount of such payment which would be per-
23 mitted to be garnished under section 303(b) of
24 the Consumer Credit Protection Act.

25 “(2) NOTICE TO SECRETARY.—

1 “(A) IN GENERAL.—Every employer who
2 receives a withholding certificate shall, within
3 30 business days after such receipt, submit a
4 copy of such certificate to the Secretary.

5 “(B) EXCEPTION.—Subparagraph (A)
6 shall not apply to any withholding certificate
7 if—

8 “(i) a previous withholding certificate
9 is in effect with the employer, and

10 “(ii) the information shown on the
11 new certificate with respect to child sup-
12 port is the same as the information with
13 respect to child support shown on the cer-
14 tificate in effect.

15 “(3) WHEN WITHHOLDING OBLIGATION TAKES
16 EFFECT.—Any withholding obligation with respect
17 to a child support obligation of an employee shall
18 commence with the first payment of wages after the
19 certificate is furnished.

20 “(d) SECRETARY TO VERIFY AMOUNT OF CHILD
21 SUPPORT OBLIGATION.—

22 “(1) VERIFICATION OF INFORMATION SPECI-
23 FIED ON WITHHOLDING CERTIFICATES.—Within 45
24 business days after receiving a withholding certifi-
25 cate of any employee, or a notice from any person

1 claiming that an employee is delinquent in making
2 any payment pursuant to a child support obligation,
3 the Secretary shall determine whether the informa-
4 tion available to the Secretary under section 3 of the
5 Uniform Child Support Enforcement Act of 1996 in-
6 dicates that such employee has a child support obli-
7 gation.

8 “(2) EMPLOYER NOTIFIED IF INCREASED
9 WITHHOLDING IS REQUIRED.—If the Secretary de-
10 termines that an employee’s child support obligation
11 is greater than the amount (if any) shown on the
12 withholding certificate in effect with respect to such
13 employee, the Secretary shall, within 45 business
14 days after such determination, notify the employer
15 to whom such certificate was furnished of the cor-
16 rect amount of such obligation, and such amount
17 shall apply in lieu of the amount (if any) specified
18 by the employee with respect to payments of wages
19 by the employer after the date the employer receives
20 such notice.

21 “(3) DETERMINATION OF CORRECT AMOUNT.—
22 In making the determination under paragraph (2),
23 the Secretary shall take into account whether the
24 employee is an employee of more than 1 employer

1 and shall appropriately adjust the amount of the re-
2 quired withholding from each such employer.

3 “(e) CHILD SUPPORT OBLIGATIONS REQUIRED TO
4 BE PAID WITH INCOME TAX RETURN.—

5 “(1) IN GENERAL.—The child support obliga-
6 tion of any individual for months ending with or
7 within any taxable year shall be paid—

8 “(A) not later than the last date (deter-
9 mined without regard to extensions) prescribed
10 for filing his return of tax imposed by chapter
11 1 for such taxable year, and

12 “(B)(i) if such return is filed not later
13 than such date, with such return, or

14 “(ii) in any case not described in clause (i),
15 in such manner as the Secretary may by regula-
16 tions prescribe.

17 “(2) CREDIT FOR AMOUNT PREVIOUSLY
18 PAID.—The amount required to be paid by an indi-
19 vidual under paragraph (1) shall be reduced by the
20 sum of—

21 “(A) the amount collected under this sec-
22 tion with respect to periods during the taxable
23 year, plus

1 “(B) the amount (if any) paid by such in-
2 dividual under section 6654 by reason of sub-
3 section (f)(3) thereof for such taxable year.

4 “(f) FAILURE TO PAY AMOUNT OWING.—If an indi-
5 vidual fails to pay the full amount required to be paid
6 under subsection (e) on or before due date for such pay-
7 ment, the Secretary shall assess and collect the unpaid
8 amount in the same manner, with the same powers, and
9 subject to the same limitations applicable to a tax imposed
10 by subtitle C the collection of which would be jeopardized
11 by delay.

12 “(g) CREDIT OR REFUND FOR WITHHELD CHILD
13 SUPPORT IN EXCESS OF ACTUAL OBLIGATION.—There
14 shall be allowed as a credit against the taxes imposed by
15 subtitle A for the taxable year an amount equal to the
16 excess (if any) of—

17 “(1) the aggregate of the amounts described in
18 subparagraphs (A) and (B) of subsection (e)(2),
19 over

20 “(2) the actual child support obligation of the
21 taxpayer for such taxable year.

22 The credit allowed by this subsection shall be treated for
23 purposes of this title as allowed by subpart C of part IV
24 of subchapter A of chapter 1.

25 “(h) CHILD SUPPORT TREATED AS TAXES.—

1 “(1) IN GENERAL.—For purposes of penalties
2 and interest related to failure to deduct and with-
3 hold taxes, amounts required to be deducted and
4 withheld under this section shall be treated as taxes
5 imposed by chapter 24.

6 “(2) OTHER RULES.—Rules similar to the rules
7 of sections 3403, 3404, 3501, 3502, 3504, and 3505
8 shall apply with respect to child support obligations
9 required to be deducted and withheld.

10 “(3) SPECIAL RULE FOR COLLECTIONS.—For
11 purposes of collecting any unpaid amount which is
12 required to be paid under this section—

13 “(A) paragraphs (4), (6), and (8) of sec-
14 tion 6334(a) (relating to property exempt from
15 levy) shall not apply, and

16 “(B) there shall be exempt from levy so
17 much of the salary, wages, or other income of
18 an individual as is being withheld therefrom in
19 garnishment pursuant to a judgment entered by
20 a court of competent jurisdiction for the sup-
21 port of his minor children.

22 “(i) COLLECTIONS DISPERSED TO INDIVIDUAL
23 OWED OBLIGATION.—

24 “(1) IN GENERAL.—Payments received by the
25 Secretary pursuant to this section or by reason of

1 section 6654(f)(3) which are attributable to a child
2 support obligation payable for any month shall be
3 paid (to the extent such payments do not exceed the
4 amount of such obligation for such month) to the in-
5 dividual to whom such obligation is owed as quickly
6 as possible. Any penalties and interest collected with
7 respect to such payments also shall be paid to such
8 individual.

9 “(2) SHORTFALLS IN PAYMENTS MADE BY
10 OTHER WITHHELD AMOUNTS.—If the amount pay-
11 able under a child support obligation for any month
12 exceeds the payments (referred in paragraph (1)) re-
13 ceived with respect to such obligation for such
14 month, such excess shall be paid from other amounts
15 received under subtitle C or section 6654 with re-
16 spect to the individual owing such obligation. The
17 treasury of the United States shall be reimbursed
18 for such other amounts from collections from the in-
19 dividual owing such obligation.

20 “(3) FAMILIES RECEIVING STATE ASSIST-
21 ANCE.—In the case of an individual with respect to
22 whom an assignment of child support payments to
23 a State is in effect—

24 “(A) of the amounts collected which rep-
25 resent monthly support payments, the first \$50

1 of any payments for a month shall be paid to
2 such individual and shall not be considered as
3 income for purposes of calculating amounts of
4 State assistance, and

5 “(B) all other amounts shall be paid to
6 such State pursuant to such assignment.

7 “(j) TREATMENT OF ARREARAGES UNDER CHILD
8 SUPPORT OBLIGATIONS NOT SUBJECT TO SECTION FOR
9 PRIOR PERIOD.—If—

10 “(1) this section did not apply to any child sup-
11 port obligation by reason of subsection (b) for any
12 prior period, and

13 “(2) there is a legally enforceable past-due
14 amount under such obligation for such period,
15 then such past-due amount shall be treated for purposes
16 of this section as owed (until paid) for each month that
17 this section applies to such obligation.

18 “(k) DEFINITIONS AND SPECIAL RULES.—

19 “(1) DEFINITIONS.—For purposes of this sec-
20 tion—

21 “(A) WITHHOLDING CERTIFICATE.—The
22 term ‘withholding certificate’ means the with-
23 holding exemption certificate used for purposes
24 of chapter 24.

1 “(B) BUSINESS DAY.—The term ‘business
2 day’ means any day other than a Saturday,
3 Sunday, or legal holiday (as defined in section
4 7503).

5 “(2) TIMELY MAILING.—Any notice under sub-
6 section (c)(2) or (d)(2) which is delivered by United
7 States mail shall be treated as given on the date of
8 the United States postmark stamped on the cover in
9 which such notice is mailed.

10 “(1) REGULATIONS.—The Secretary shall prescribe
11 such regulations as may be necessary or appropriate to
12 carry out the purposes of this section.”

13 (b) WITHHELD CHILD SUPPORT TO BE SHOWN ON
14 W-2.—Subsection (a) of section 6051 of such Code, as
15 amended by section 310(c)(3) of the Health Insurance
16 Portability and Accountability Act of 1996, is amended
17 by striking “and” at the end of paragraph (10), by strik-
18 ing the period at the end of paragraph (11) and inserting
19 “, and”, and by inserting after paragraph (11) the follow-
20 ing new paragraph:

21 “(12) the total amount deducted and withheld
22 as a child support obligation under section 7525(e).”

23 (c) APPLICATION OF ESTIMATED TAX.—

24 (1) IN GENERAL.—Subsection (f) of section
25 6654 of such Code (relating to failure by individual

1 to pay estimated income tax) is amended by striking
2 “minus” at the end of paragraph (2) and inserting
3 “plus”, by redesignating paragraph (3) as paragraph
4 (4), and by inserting after paragraph (2) the follow-
5 ing new paragraph:

6 “(3) the aggregate amount of the child support
7 obligations of the taxpayer for months ending with
8 or within the taxable year (other than such an obli-
9 gation for any month for which section 7525 does
10 not apply to such obligation), minus”.

11 (2) Paragraph (1) of section 6654(d) of such
12 Code is amended by adding at the end the following
13 new subparagraph:

14 “(D) DETERMINATION OF REQUIRED AN-
15 NUAL PAYMENT FOR TAXPAYERS REQUIRED TO
16 PAY CHILD SUPPORT.—In the case of a tax-
17 payer who is required under section 7525 to
18 pay a child support obligation (as defined in
19 section 7525) for any month ending with or
20 within the taxable year, the required annual
21 payment shall be the sum of—

22 “(i) the amount determined under
23 subparagraph (B) without regard to sub-
24 section (f)(3), plus

1 “(ii) the aggregate amount described
2 in subsection (f)(3).”

3 (3) CREDIT FOR WITHHELD AMOUNTS, ETC.—
4 Subsection (g) of section 6654 of such Code is
5 amended by adding at the end the following new
6 paragraph:

7 “(3) CHILD SUPPORT OBLIGATIONS.—For pur-
8 poses of applying this section, the amounts collected
9 under section 7525 shall be deemed to be a payment
10 of the amount described in subsection (f)(3) on the
11 date such amounts were actually withheld or paid, as
12 the case may be.”

13 (d) PENALTY FOR FALSE INFORMATION ON WITH-
14 HOLDING CERTIFICATE.—Section 7205 of such Code (re-
15 lating to fraudulent withholding exemption certificate or
16 failure to supply information) is amended by adding at
17 the end the following new subsection:

18 “(e) WITHHOLDING OF CHILD SUPPORT OBLIGA-
19 TIONS.—If any individual willfully makes a false state-
20 ment under section 7525(a), then such individual shall,
21 in addition to any other penalty provided by law, upon
22 conviction thereof, be fined not more than \$1,000, or im-
23 prisoned not more than 1 year, or both.”

24 (e) NEW WITHHOLDING CERTIFICATE REQUIRED.—
25 Not later than 90 days after the date this Act takes effect,

1 each employee who has a child support obligation to which
2 section 7525 of the Internal Revenue Code of 1986 (as
3 added by this section) applies shall furnish a new with-
4 holding certificate to each of such employee's employers.
5 A certificate required under the preceding sentence shall
6 be treated as required under such section 7525.

7 (f) REPEAL OF OFFSET OF PAST-DUE SUPPORT
8 AGAINST OVERPAYMENTS.—

9 (1) Section 6402 of such Code, as amended by
10 section 110(l)(7) of the Personal Responsibility and
11 Work Opportunity Reconciliation Act of 1996, is
12 amended by striking subsections (c) and (h) and by
13 redesignating subsections (d), (e), (f), (g), (i), and
14 (j) as subsections (c), (d), (e), (f), (g), and (h), re-
15 spectively.

16 (2) Subsection (a) of section 6402 of such
17 Code, as so amended, is amended by striking “(c),
18 (d), and (e)” and inserting “(c) and (d)”.

19 (3) Subsection (c) of section 6402 of such Code
20 (as redesignated by paragraph (1)) is amended—

21 (A) by striking “(other than past-due sup-
22 port subject to the provisions of subsection
23 (c))” in paragraph (1),

24 (B) by striking “after such overpayment is
25 reduced pursuant to subsection (c) with respect

1 to past-due support collected pursuant to an as-
2 signment under section 402(a)(26) of the Social
3 Security Act and” in paragraph (2).

4 (4) Subsection (d) of section 6402 of such Code
5 (as redesignated by paragraph (1)) is amended by
6 striking “or (d)”.

7 (g) REPEAL OF COLLECTION OF PAST-DUE SUP-
8 PORT.—Section 6305 of such Code is hereby repealed.

9 (h) CLERICAL AMENDMENTS.—

10 (1) The table of sections for subchapter A of
11 chapter 64 of such Code is amended by striking the
12 item relating to section 6305.

13 (2) The table of sections for chapter 77 of such
14 Code is amended by adding at the end thereof the
15 following new item:

“Sec. 7525. Collection of child support.”

16 (h) USE OF PARENT LOCATOR SERVICE.—Section
17 453(a) of the Social Security Act (42 U.S.C. 653(a)) is
18 amended by inserting “or the Internal Revenue Service”
19 before “information as”.

○