# H.R. 1488, THE "HYDE-WOOLSEY" CHILD SUPPORT BILL

## HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

MARCH 16, 2000

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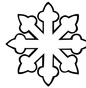

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# H.R. 1488, THE "HYDE-WOOLSEY" CHILD SUPPORT BILL

**THURSDAY, MARCH 16, 2000**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
*Washington, DC.*

The Subcommittee met, pursuant to call, at 11:00 a.m., in room B–318, Rayburn House Office Building, Hon. Nancy L. Johnson (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

# *ADVISORY*
FROM THE COMMITTEE ON WAYS AND MEANS

## SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE — CONTACT: (202) 225–1025
March 8, 2000
No. HR–18

# Johnson Announces Hearing on H.R. 1488, the "Hyde-Woolsey" Child Support Bill

Congresswoman Nancy L. Johnson (R–CT), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on H.R.1488, often referred to as the "Hyde-Woolsey" child support bill. **The hearing will take place on Thursday, March 16, 2000, in room B–318 Rayburn House Office Building, beginning at 11:00 a.m.**

Oral testimony at this hearing will be from invited witnesses only. Witnesses will include Members of Congress, State child support administrators, representatives of advocacy groups, business leaders, and operators of private child support companies. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

**BACKGROUND:**

The Child Support Enforcement program, authorized under Title IV–D of the Social Security Act, has been criticized for not collecting enough child support payments from sufficient numbers of noncustodial parents. Created in 1975, the Federal-State program has now grown to about 55,000 employees nationwide and an annual budget of around $3.6 billion. In 1998, the most recent year for which data are available, the program collected nearly $14.4 billion in child support payments for single mothers and their children, located 6.5 million noncustodial parents, established 848,000 paternities, and established 1.1 million child support orders. Collections by the child support program have increased more than 60 percent since 1993.

Even so, critics believe the program should be more efficient and should collect more money for more single parents. Judiciary Committee Chairman Henry Hyde (R–IL) and Rep. Lynn Woolsey (D–CA) have introduced legislation (H.R. 1488) that would turn responsibility for the program over to the Internal Revenue Service (IRS). More specifically, in addition to essentially ending the current child support program, the bill would require all employers to withhold child support payments and send them to the IRS. The IRS would then distribute the withheld amount to custodial parents owed child support. The bill would also treat child support obligations as taxes for purposes of penalties and interest related to failure to have them withheld by employers.

In announcing the hearing, Chairman Johnson stated: "Congress has worked on a bipartisan basis for 25 years to create and improve a national child support program. Due in large part to reforms made in the 1996 welfare reform law (P.L. 104–193), the child support program is good and getting better every year. What is needed now is Federal oversight to ensure aggressive implementation by States of the current Federal requirements—not an entirely new and untested approach."

**FOCUS OF THE HEARING:**

The hearing will focus on the advantages and disadvantages of the Hyde-Woolsey legislation. Some of the specific issues to be addressed include the appropriateness of IRS becoming more deeply involved in a social program, how IRS would locate fathers and establish paternity and child support orders, and whether and how IRS would expand its customer service operations to provide specialized assistance to parents owing child support and parents due child support. The hearing will also examine the achievements and recent performance record of the current Child Support Enforcement program.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Any person or organization wishing to submit a written statement for the printed record of the hearing *should submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label,* by the *close of business*, Thursday, March 30, 2000, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B–317 Rayburn House Office Building, by close of business the day before the hearing.

**FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at “http://waysandmeans.house.gov.”

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman JOHNSON. As always, I want to extend a warm welcome to our guests. Hearings are the major way in which Members of Congress educate themselves about the problems our constituents elect us to address. Today we have an especially stellar and diverse set of witnesses, and I want to thank them all for taking time out of their busy lives to educate us on the Subcommittee and, in turn, the Congress of the United States.

The issue of child support enforcement has vexed parents, child advocates, and Congress for nearly three decades. I want to congratulate Mr. Hyde and Ms. Woolsey for the time that they have invested in a very thoughtful proposal which develops an original and sweeping approach to child support enforcement through the Internal Revenue Service.

While I do not support the Hyde-Woolsey bill, I am very sympathetic with your assessment of the current child support enforcement program's difficulties and appreciate the thought that you have put into this reform proposal to better serve kids. We are always interested in the thoughts of our colleagues because through them we do gain new insights, and we will listen to you today with great attention.

Further, because the approach of turning child support over primarily to the Internal Revenue Service has appeal among a number of experienced observers, we look forward to the testimony of others and the data and information that you will provide.

Two witnesses, Geraldine Jensen and Art Alexakis, will be joined on the first panel by the widely respected support director of the Los Angeles County and by the co-owner of a private company that provides help to child support programs all over the nation. The latter witnesses will present testimony showing how the current child support program is progressing. And we will also hear testimony from a second panel of witnesses who will describe the impacts of the sweeping reforms originated by this Subcommittee and passed by Congress in 1996.

We will hear important new evidence today. In my opinion, this evidence, combined with evidence from our previous hearings and by my own assessments of evidence we receive on a regular basis from HHS about program performance, demonstrates that the current program is showing steady and significant improvement. Wage withholding has been a great innovation and is now the leading method of child support collection. Similarly, the tax intercept program, now the second leading and most rapidly growing method of collecting child support payments, has been a terrific innovation.

We are now beginning to see the results of the 1996 reforms: the new hire reporting, the financial institution data matching, the state disbursement units, and the many new collection methods such as suspension of driving, fishing, and hunting licenses.

The upshot is that paternity establishment has skyrocketed under Welfare Reform, rising almost 200 percent in the last 5 years, collections have increased by 80 percent, from $8 billion to $14.3 billion, and we at last appear to be getting effective computer systems in place. These are big achievements and if we hold steady on course, the current program will produce substantial improvements in the immediate future.

Against this promise of continued improvement, there are many who would like to see the whole program turned over to the IRS. I confess that I have many questions about how the new program would work, but I have several overriding concerns that I will bring up to Chairman Hyde and Ms. Woolsey in the course of the hearing.

First, in recent years, I have developed a much more nuanced appreciation for the plight of noncustodial parents. To now throw virtually every father who pays child support into the hands of the Internal Revenue Service is something I am not willing to risk. Over half of divorced fathers pay child support and many of them pay on a regular basis. It seems particularly unfair to subject them, along with delinquent fathers, to the tender mercies of the IRS.

Second, Chairman Archer and many others on our Committee are greatly concerned that the IRS not be given additional responsibilities and, indeed, as the Chairman of the Subcommittee that oversaw the IRS for a number of years and wrote the IRS Reform proposal, I concur that they are barely managing their current responsibilities, and so it is of great concern to me to propose additional responsibilities. Tax collection in any society is difficult, but with our extraordinarily complex Tax Code and a very big and diverse society and increasingly global economy, this is indeed extraordinarily difficult.

Finally, this Committee originated legislation last year to require the IRS to become more customer friendly and more even-handed in its dealings with citizens about its core business. To now throw the Service into the middle of the adversarial child support system seems to be a step in the opposite direction, and I believe could alienate millions of American fathers upon whom the nation depends for the payment of tax revenues.

As I say, I am going to listen carefully to the testimony of my colleagues and to those on succeeding panels who support them. There are always new ideas that can give you a better understanding of what course to follow, so I appreciate their being here.

Now, I would like to yield to my colleague, Mr. Cardin.

Mr. CARDIN. Madam Chair, I overheard Chairman Hyde, I think he is in a markup. I would be glad to defer my opening comments so that Chairman Hyde could present his testimony before we go vote.

Mr. HYDE. That is very generous of you, if the Chair will recognize me.

Mr. WATKINS. I will delay my hour-long speech.

Mr. HYDE. Gee, I am kind of unwilling to miss it, but, Okay.

**STATEMENT OF HON. HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Mr. HYDE. Thank you so much for having these hearings, and to Lynn Woolsey, who has been so wonderful and so helpful on this, I am very grateful, and thank you, Mr. Cardin.

I especially want to thank my friend, Geraldine Jensen, who will be testifying in a little bit. She is President of ACES, the Association for Children for Enforcement of Support, and she is here to support this legislation that Congresswoman Woolsey and I have introduced. Geraldine has been a tireless advocate for our Nation's

children and her life's story is a testament to her cause. Geraldine's advocacy group is a product of the failed child support system. After years of unsuccessfully working with local authorities to force her ex-husband to pay up and spending some time on welfare, she gave up. In fact, a local county prosecutor challenged her to try and do a better job collecting it, since he could not do anything to force her ex-husband to pay the $12,000 owed to her. So, in 1984, Gerry spent $8 of her last $13 on a newspaper advertisement that read "Not receiving your child support? Call Me". Today, her self-help group, ACES, has 40,000 members in 48 states and they are trying to draw attention to the need for a system that makes children as important as taxes.

Too many defenseless children are victimized by "deadbeat parents", and their irresponsibility imposes a terrible burden on children and society. The absence of responsible parents is now regarded as one of the primary causes of America's social decline. We can't forget the family is a commonwealth upon whose integrity the safety of the larger commonwealth depends.

As you know, the Federal Office of Child Support in its preliminary report for 1998 reports that over $50 billion in accumulated unpaid child support is due to over 30 million children in the United Sates. Unfortunately, state agencies only make collections in less than 23 percent of the cases they handle. This is not because of a lack of resources or effort, but in many cases it is due to an interjurisdictional problem with neighboring states. States are largely responsible for operating the child support enforcement program, but there is a greater Federal involvement in the interstate caseload since almost 36 percent of all child support cases are now interstate cases. This additional layer of governmental bureaucracy adds to the inability of many of the states to communicate with one another about child support collection, in addition to taking longer periods of time to enforce. No longer should custodial parents have to wait years while court systems in two different states coordinate their problems.

In Fiscal Year 1998, the Federal and state governments spent a combined total of over $3.6 billion toward child support enforcement. I find it difficult to comprehend that this amount of money was spent by the taxpayers to get only 23 percent of the noncustodial parents to live up to their responsibilities and support their children. Let us not forget the $2.2 billion the Federal Government paid to automate the state systems, which still are nit in place, or the additional governmental costs for the prosecution of individuals who fail to support their children.

In the meantime, I can only imagine what further burdens these deadbeat parents are placing on our society in the form of increased health care and welfare expenses. our Nation's children, abandoned by their noncustodial parents, are forced to turn to the government for assistance. As Welfare Reform reduces the options of welfare payments for many, the effectiveness of the child support enforcement system is critical. Though it is important to remember the child who is struggling, it is also important that we remember the taxpayer who must pay for the irresponsible actions of others. We must continue the culture of responsibility that Welfare Reform ushered in.

It is time to hold deadbeat parents responsible, and to help all parents develop the potential of their children. Chairwoman Johnson has already taken much needed legislative steps in helping parents to learn relationship building, parenting, budgeting, and family planning skills. We must continue to encourage parents but make sure that those parents who close their hearts and their wallets are held accountable.

As you know, the Department of Justice is charged with the responsibility of prosecuting those who willfully fail to pay their child support obligations with respect to a child who lives in another state or those parents who move across state lines in order to evade paying child support. While the number of cases filed and convictions obtained have slightly increased, I am extremely troubled by the small number of cases actually investigated, accepted and prosecuted with regard to these matters. In Fiscal Year 1999 alone, only 396 defendants were charged. I find this figure dismaying and that more cases against deadbeat parents were not prosecuted.

I have much more to say—my time is up and I don't want to impose on anybody. I heard what you said, Ms. Johnson, and I understand there are lots of good noncustodial parents, but we have tried just about everything—we have—and the states have not been up to the task, and meanwhile we have a growing body of little children abused economically and socially by being abandoned by their fathers who flee to other states. We don't have vigorous enforcement of the law, which we need desperately.

Sitting out there is the IRS. I know they are not the most popular agency in the world, but they are there, and they are run by people, human beings, just like the Department of Health, Education and Welfare, Health and Human Services. They have the resources. They have the data. They, it seems to me, ought to be given the chance at filling this terrible void that otherwise will go unfilled.

So, I just think it is worth a chance, and I thank you for letting me ramble and, and listen to our bill. And Lynn and I think this is worth a shot, and we hope you will treat it kindly.

[The prepared statement follows:]

**Statement of Hon. Henry J. Hyde, a Representative in Congress from the State of Illinois**

Madame Chairwoman, Ranking Member Cardin, Members of the Subcommittee on Human Resources, I want to thank you for granting me the opportunity to testify about the problem of child support enforcement and highlight new legislation which holds great promise in improving our current system.

I especially want to thank my friend, Geraldine Jensen, who will be testifying in a little bit. Geraldine Jensen, President of ACES—The Association for Children for Enforcement of Support—is here to support legislation that I and Congresswoman Woolsey have introduced. Geraldine has been a tireless advocate for our nation's children and her life's story is a testament to her cause. Geraldine's advocacy group is a product of the failed child support system. After years of unsuccessfully working with local authorities to force her ex-husband to pay up and spending some time on welfare, she gave up. In fact, a local county prosecutor challenged her to try and do a better job collecting it, since he could not do anything to force her ex-husband to pay the $12,000 owed to her. So, in 1984, she spent $8 of her last $13 on a newspaper advertisement that read, “Not receiving your child support? Call Me.” Today her self-help group, ACES, has 40,000 members in 48 States and they are trying to draw attention to the need for a system that makes children as important as taxes.

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These may not be crimes that spill blood or result in broken bones, or make the evening's headline news, but the reality is that these crimes affect a lot more people than generally realized. These are not criminals of one jurisdiction—they cross state borders to commit these crimes of financial neglect, which affects all of us. Since it appears as though not many cases have actually been prosecuted, it is even more important to devise an effective collection system.

What is the human toll in this record of failure? I have seen it in the eyes of children I have met at candlelight vigils in my district, organized by the Association for Children for the Enforcement of Support,—children who cannot understand why their parents have abandoned them, who cannot understand why there is no money for rent or food.

With all of this having been said, our nation's child support enforcement system is in desperate need of repair and innovative concepts that will allow this problem to be solved while children are still children, and desperately need support. The legislation before you, H.R. 1488, the "Compassion for Children and Child Support Enforcement Act of 1999," would allow the Internal Revenue Service (IRS) to collect child support in the same manner that taxes are collected, and then disburse it to the custodial parent with penalties and interest if appropriate, which currently is not possible. This obviously adds incentive toward the prompt payment to the custodial parent. It sets up afederal/state partnership to collect child support throughout

the nation even when parents move across state lines. States would still establish paternity and child support orders and modifications, however, the collection enforcement would be done on the federal level where payments would be made just like federal income taxes. I believe that this would be at a cost savings to the government as well, since this system would be building on the current tax collection system and the federal government would no longer be footing the bill for the state enforcement programs. Now, I know too well the antipathy towards giving the IRS more authority, but it makes a lot of sense with deadbeat parents, especially when the means have proven so effective.

This legislation would make paying child support indistinguishable from paying taxes. Think of what a statement this would make. We, as a nation, would go on record, as believing that the duty of support owed to one's child is every bit as important as the duty to pay taxes. There is one governmental agency that has the reputation and the statutory resources needed to make good on this country's promise to custodial parents, and that they will get their child support at an affordable rate to us all—the Internal Revenue Service. In fact, the federal tax intercepts that are conducted by the IRS for overdue child support enforcement is the most effective means of collection under the entire state/federal child support program nexus. The IRS is one example of where the federal government, with its centralized efficiencies, can bring both parents back into the equation—stream-lining the child support collection system while reducing welfare dependency and giving custodial parents the time to nurture their children.

If there is any truth brought home to us by conscience, it is this—that we are personally responsible for what we do, that we cannot shift our responsibility, and that dereliction of duty will not be tolerated. The will towards encouraging responsibility to our children is there; it is only finding the right mechanism to effect parental accountability that has been lacking. Congress must do what's right. Let's close this failed chapter once and for all and get these kids the support they deserve.

Madame Chairwoman, I hope my comments have been useful to you and the subcommittee concerning our child support enforcement system. Thank you for providing me the opportunity to testify today.

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Chairman JOHNSON. Henry, thank you very much. I didn't realize you had a markup going on, and I am sorry I missed that information in rushing and trying to get started.

Mr. HYDE. Not at all, that is the way it goes around here.

Chairman JOHNSON. Thank you very much for your testimony, and one thing that we will be looking at is whether one would have to keep the new hires bank in place and the matching program going on, which is now beginning to make an enormous number of matches, and so you are not seeing court cases because the matches are being made and the wages are being attached, and the numbers are very significant in that regard now. So, if we increase the role of the IRS, which is what I am listening for, we also—I think there are elements of the new system that has gotten in place that are proving themselves so valuable that they can get the money immediately and not under the IRS. Thank you.

Mr. HYDE. Thank you so much. Thank you.

Chairman JOHNSON. We will go vote and return right away.

[Recess.]

Chairman JOHNSON. I am going to open the hearing, and recognize my colleague, Mr. Cardin.

Mr. CARDIN. I thank you, Madam Chairman. Madam Chairman, I didn't know whether looking at the list of witnesses we have today, I couldn't decide whether I should give an opening statement or sing an opening statement, but I think what I will do is just put my statement in the record and, also, if I might, put a letter from Assistant Secretary of the Department of Treasury, Jonathan

Towsman, into the record also, raising certain administrative concerns with the proposal, and welcome my colleague, Lynn Woolsey, for all the hard work that she has done over her entire career on behalf of children, and it is a real honor to have you before our Committee.

[The opening statement of Mr. Cardin follows. Mr. Towsman's letter was not available at the time of printing.]

**Statement of Hon. Benjamin Cardin, a Representative in Congress from the State of Maryland**

Madame Chairwoman, let me start by thanking you for holding this hearing and for your continuing commitment to strengthening our Nation's child support enforcement system. Our efforts to reduce poverty, the long-term success of welfare reform, and the well-being of millions of families all depend on parents taking responsibility for their children.

Under your leadership, Chairwoman Johnson, the House passed legislation last year to help non-custodial parents who want to support their children, but lack regular employment. These are dead-broke, not dead-beat parents.

Nevertheless, we all know some parents have the ability to pay support, but they simply refuse to meet this basic obligation to their children. I very much agree with my friends Henry Hyde and Lynn Woolsey that far too much of this support goes uncollected. However, I do have reservations about both the political viability and the technical feasibility of their proposal to require the Internal Revenue Service to assume the lead role in collecting child support.

Furthermore, it is not clear to me that their proposed system, which depends on individuals voluntarily informing their employer that they have a delinquent child support order, will collect more support than the current system, which relies on National data bases to automatically find deadbeat parents when they change jobs to avoid paying child support. I look forward to a discussion of this and related issues with our two esteemed colleagues who are sincerely dedicated to improving the child support system.

As we discuss various proposals to increase child support collections, I hope this Subcommittee will consider sending more support to the families for whom it is intended, rather than to State and Federal governments for past welfare costs. Commonsense dictates that at least some non-custodial parents will be more likely to pay support if their payments are actually helping their children. The time has therefore come to change the central focus of the child support system from cost recovery for government programs to reliable support for families.

I would like to conclude by telling the many frustrated parents who are waiting for unpaid child support that Congress enacted several meaningful reforms in 1996 that have begun to yield positive results.

For example, all States are now required to suspend the drivers' licenses and the professional licenses of non-custodial parents who refuse to pay court-ordered child support. My home State of Maryland has used the threat of this procedure to collect more than $100 million in past-due child support over the last four years.

In addition, the establishment of a National data base on all newly-hired employees in every business in the country allows States to find deadbeat parents where they work, even when they are employed in another State.

We must now work with the States to ensure they gain the maximum potential out of these new resources. Our Nation's children deserve nothing less than a child support enforcement system that is quick, efficient, and resolute.

Thank you.

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Chairman JOHNSON. Welcome, Lynn.

**STATEMENT OF HON. LYNN WOOLSEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Ms. WOOLSEY. Thank you very much, Madam Chairwoman, and I want to thank you, too, Mr. Cardin, Ranking Member, and thank you for not singing. I want to thank the Committee for giving Chairman Hyde and myself the opportunity to testify on behalf of

our bill, the Compassion for Children and Child Support Enforcement Act of 1999.

Chairman Hyde and I have been working on this together in order to have legislation to improve the collection of child support for so long now that one of my newspapers calls Woolsey and Hyde "The Odd Couple", and that is true.

But we are both familiar, and I am particularly familiar, with the difficulties of collecting child support, and I lived with this long before I came to Congress.

I know personally how important child support is because a number of years ago—it was over 30 years ago—I was a single mom, I was working, I had one-, three- and 5-year-old children, and although the courts ordered my children's father to pay child support, we never received one penny.

I went to work, but in order to provide my children with the health care, and child care and food stamps, we were forced to go on Welfare, even though I continued full-time employment.

Today, millions of American families rely on Welfare for exactly the same reason that I did—a deadbeat absent parent. It wasn't fair to my family, it wasn't fair to me, and it is certainly not fair to families today, and it is absolutely not fair to American taxpayers.

Today, over one-quarter of the children in America live in a household with just one parent. Even though 60 percent of noncustodial parents have been ordered by a court to pay child support, less than half of the children actually receive payment from the absent parent.

Currently, as Chairman Hyde told you, children in this country are owed close to $50 billion in unpaid child support, and this amount is growing by $5 billion a year. That may not seem like much when we are so used to dealing with Federal funding programs in the millions and billions and trillions of dollars, but for each child who is owed money, each check can mean the difference of a new pair of shoes, a warm winter coat, or even something as basic as food on the table. And I want to tell you, from my experience, having a parent that does not fulfill their share of the responsibility is hard on those children.

It is hard enough being poor, we all know that. But it is even worse when you can't count on the money that your children are owed—not knowing how to budget, not knowing if there will be enough to make it through to the end of the month, is worse than being poor in the first place.

This nation has tried over and over to find a way to ensure that families receive the child support that is owed to them. There were child support enforcement reform laws in 1984, 1988, 1993, and 1996. None of them has resulted in any significant improvements in the rate of child support collections.

That is because child support collection in America still relies on a complicated bureaucratic system where almost 1500 state and local agencies are charged with local collections—1500 bureaucracies. The Federal Government assists with interstate collections through a variety of tools, such as the new Parent Locator Service and the National Directory of New Hires. Yet, states still collected only 23 percent of the child support due in 1998. And in December

1998, 23 states and the District of Columbia were sitting on $68 million in undistributed child support payments because they don't know where to send the money.

In fact, the only part of child support enforcement reform that has worked is the provision that gives the Internal Revenue Service the authority to attach tax refund checks for collection of back support. Last year alone, the IRS collected over $1 bill dollars in child support, still far short of the $50 billion that is owed.

The Hyde-Woolsey bill makes paying child support as easy and as regular as paying FICA taxes. Employees simply fill out another line on their W–4 form, providing IRS with information about court-ordered child support. The child support is then withheld from the employee's wages, just as FICA taxes and income taxes are withheld. This results in a consistent and timely distribution of the funds to the families.

Why the IRS? First of all, the IRS has the tools and the experience to collect child support. The IRS has an 85 percent collection rate. The IRS would get a lot more money to needy families than the 23 percent collected by the states. That is 85 percent success versus 23 percent.

Second, the IRS can enforce support orders across state lines. In today's mobile society, that is absolutely crucial.

And, finally, the reputation of the IRS, which I know gives some people in this room heartburn—and it should—but that reputation will actually be a big plus here. The Hyde-Woolsey bill gives the IRS the authority to pursue deadbeat parents just as vigorously as it does tax cheats. And that tells this nation that we are finally taking child support enforcement seriously.

It is time to enact the Hyde-Woolsey bill to make child support enforcement a national priority, rather than state-by-state failing bureaucracy.

It is time to let deadbeat parents know that there are now three things they cannot avoid—death, taxes and paying child support. Thank you.

[The prepared statement follows:]

**Statement of Hon. Lynn Woolsey, a Representative in Congress from the State of California**

Thank you, Madam Chairwoman. I also want to thank you, and the ranking member, Mr. Cardin, for giving Chairman Hyde and me this opportunity to testify on behalf of our Bill, "The Compassion for Children and Child Support Enforcement Act of 1999."

Chairman Hyde and I have been working together on Legislation to improve the collection of Child Support for so long now, one of my local newspapers has dubbed us "The Odd Couple."

However, I was familiar with the difficulties of collecting Child Support long before I came to Congress.

I know just how important Child Support Collection is because a number of years ago I was a single working mother with three small children, ages 1, 3, and 5. Although the courts ordered my children's father to pay child support, we never received a penny. I went to work, but in order to provide my children with the health care and child care they needed, I was forced to go on welfare even though i was working full-time. Today, millions of american families still have to rely on welfare for the same reason.... A Deadbeat Parent.

That wasn't fair to my family and me; Its not fair to families today; and its certainly not fair to american taxpayers!

Today over one quarter of the children in america live in a household with just one parent. Even though 60% of non-custodial parents have been ordered by a court

to pay child support, less than half of the children actually receive payment from the absent parent.

Currently, children in this country are owed close to $50 billion in unpaid child support, and this amount is growing by $5 billion each year. That may not seem like much when you're used to funding federal programs, but for each child who is owed money, each check can mean a new pair of shoes, a warm winter coat, or even something as basic as food on the table.

Its hard enough being poor. But its even worse when you can't count on the money your children are owed—not knowing how to budget or, if there will be enough to make it through to the end of the month.

This nation has tried over and over to find a way to ensure that families receive the child support that is owed to them. There were Child Support Enforcement Reform Laws in 1984, 1988, 1993, and 1996. None of them resulted in any significant improvements in the rate of Child Support Collections.

That is because Child Support Collection in america still relies on a complicated Bureaucratic System where almost 1500 state and local agencies are charged with local collections, and the federal government assists with interstate collections through a variety of tools, such as The New Parent Locator Service and the National Directory of new hires.

Is it any wonder that states collected only 23% of the Child Support due in 1998? or that in December, 1998, 23 States and the District of Columbia were sitting on $68 million in undistributed Child Support payments because they don't know where to send them?

In fact, the only part of Child Support Enforcement Reform that has worked is the provision that gives the Internal Revenue Service the authority to attach tax refund checks for collection of back support. Last year alone, the irs collected over $1 billion in child support.....still far short of the $50 billion owed.

The Hyde-Woolsey Bill makes paying child Support as easy and as regular as paying FICA Taxes. Employees simply fill out another line on their W–4 form, providing IRS with information about court-ordered Child Support. The Child Support is then withheld from the employee's wages, just as FICA Taxes and income taxes are withheld, and distributed to the families on a consistent and timely basis.

Why the IRS?

First of all, the IRS has the tools and the experience to collect Child Support. The IRS has an 85% collection rate. That gets a lot more money to needy families than the 23% collected by the states.

Second, the IRS can enforce support orders across state lines. In today's mobile society, that's crucial.

And, finally, the reputation of the IRS, which I know gives some people concerns, will actually be a big plus here. The Hyde-Woolsey Bill gives the irs the authority to pursue deadbeat parents just as vigorously as it does tax cheats, and that tells this nation that we are finally taking Child Support Enforcement seriously.

Its time to enact The Hyde-Woolsey Bill and make Child Support Enforcement a national priority, rather than a state-by state failing Bureaucracy.

Its time to let deadbeat parents know that there are now three things they cannot avoid—death, taxes and paying child support!

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Chairman JOHNSON. Thank you very much, Congresswoman Woolsey. Would you describe how the IRS would collect child support and disburse it on a monthly basis?

Ms. WOOLSEY. Once the system is in place and regular withdrawals are coming from the employer to the IRS, then there will be an order and a check written. And it could be through the IRS or it could be through another agency. It could be Social Security.

Chairman JOHNSON. So they would not only attach returns for arrearages, but would manage the wage withholding system?

Ms. WOOLSEY. Absolutely, just like a FICA deduction. And for a parent—I heard, Madam Chairman, you brought up the absent parent that is actually responsible. The custodial parent can opt not to have the money withdrawn from the noncustodial parent's check. And as Chairman Hyde said as we drove over to vote, he

said, “And if that is such a good father, I am sure the mother will ask for that to come out of his paycheck”, but it is up to the custodial parent.

Chairman JOHNSON. In your legislation, you don’t have any estimate of cost. In fact, I think the assumption is that it would save money.

Ms. WOOLSEY. It would absolutely save money, but the Office of Budget and Management has not been able to give us the exact cost, but we absolutely know of the cost of not doing this—85 percent success rate of collections versus 23 percent. And it is costing the Federal Government investing in state programs that are not working, and the billions of dollars we paid for computer systems that aren’t working.

Chairman JOHNSON. I was very interested in the letter from the Assistant Secretary of the Treasury. He says that “implementation of your bill would be a monumental undertaking for the IRS as new personnel would have to be hired, new computer systems developed, and new operating procedures established. This would be particularly burdensome at a time when the IRS is in the middle of a major reorganization, striving to modernize its own systems and improve customer service, and trying to overcome significant challenges with respect to the collection of taxes as it seeks to implement the reforms of the IRS Restructuring and Reform Act of 1998”.

I bring that to your attention because, remember, just on the issue of modernizing their own equipment for a known purpose—that is, the purpose that they had been fulfilling for decades—they wasted $4 billion in technology that didn’t work.

So, we can’t underestimate the problem of asking them to now develop a technology for wage withholding. They do a very good job of attaching returns, they do that now, but the kind of work we would be asking them to do would be quite different. And there is one other aspect—

Ms. WOOLSEY. Could I respond to that, Madam Chairman? Actually, we have looked at that, and the systems that they have in place are so similar that it would be—and this is a computer world we are in. I mean, there is supposed to be simplification in these kinds of programs because of computers. And one more line doing virtually the same thing that FICA does—they deduct money and they deposit it somewhere—so our point is that it is not—we don’t think it would be that complicated but, of course, we would be appreciative to hear what the challenges will be.

Chairman JOHNSON. It is not just one more line on the wage withholding, it is distributing it, and all 50 states have some different rules about distribution. You are not going to override the state role in paternity identification, in court orders and all of that. So there is a whole level of state involvement in distribution issues that you also could not override. So the issue of the IRS distribution is a very complicated issue, to get it all the way down to the person that it is supposed to go to.

Also, I have here—I am going to give this to Henry, I will give you a copy—it is a report from the Health and Human Services Department, on the National Directory of New Hires which, in its first year of operation—which was not a full year—it located 1.2

million noncustodial parents and putative fathers. In 1999, the next year, it located 2.9 million—1.2 going up to 2.9—and this year, as of February 1st, has already provided information to the states about 2 million parents, in 2 months.

So, the difference is that the Federal New Hires Bank is finally established, and at least states now have in place the computer capability, and 20 states have the whole thing automated, and so they are attaching wages immediately, and distributing it immediately.

So, when you look at the increases—Virginia attributes $13 million in new collections to the matches just last year, and we are seeing the numbers exponentially grow in these last few years as the system has gotten in place.

So, the challenge, the technical challenge, is getting in place one national system that—in a different department—that would substitute for the state systems, but there would have to be a state aspect to it, I would imagine.

Ms. WOOLSEY. Absolutely. States would set the orders. States would negotiate with increasing or decreasing orders, and states would play a major role—it would cut their burden about 50 percent—and the Federal Government pays them to do all of this, and my state has a 13 percent success rate. My district has a 50 percent success rate, but the state has a terrible success rate.

Chairman JOHNSON. The success rates are changing so rapidly. In Texas, 36 percent of the total collected through wage withholding for a single month recently was collected through the new Matching Distribution program. So the new technology is just exploding the ability of states to get the person at the time. And since most of our problems are involved with interstate location and employer relationships and enforcing that—in Washington State, over 80 percent of the employer verification led to increased child support payments—85 percent. In Minnesota, over 89 percent. In Iowa, over 94 percent.

So the reforms we adopted a few years ago are only now taking hold, but to get reforms working, the technology you have to have, the interdepartmental communication, the relationships with the employer community, it would just take 3 years to get that in the IRS, there is no question in my mind that it would be complicated. And I have watched simple implementation of taxpayer protections that we adopted when I chaired that Committee and wrote the taxpayer protection bills, and 2 years later you are still wondering why don't you have this completely implemented.

So, my confidence in IRS management of the system I have to weigh against what I actually see happening in the system, and rarely in my experience have I seen this kind of growth in effectiveness as a result of Federal action. We had a hearing earlier about the bank matches and how much money we are finding in assets, the IRS couldn't begin to do that.

Ms. WOOLSEY. Well, we wouldn't undo any of the successful programs, obviously. I mean, where it is working, it is working, but it is not working—I mean, as far as I am concerned, where there is a will, there is a way. We had the will to put the new systems in place, and they are working better than what we had, but they are not at an 83 percent collection rate like the IRS.

I am all about these children. I don't really care about the IRS. I know how hard it is for those kids and their moms when they don't have the money that that parent owes them.

Chairman JOHNSON. I would certainly want to put clear in the record that we are all all about these children. It is a question of whether we set back the growth of the tools, the power of the tools that are in place, and whether we reach the goal faster that way or less fast that way. Mr. Cardin.

Mr. CARDIN. Thank you, Madam Chair. And, Lynn, first, thank you for your passion on this subject. There is no question that the status quo is unacceptable, that we have to do a better job, and I applaud you for coming forward with innovative ways for us to take a look at how we could be more effective in collecting child support from those noncustodial parents that otherwise would be unwilling to live up to their obligations.

And, Madam Chair, let me also congratulate you because I think it is important to point out that this Subcommittee, under your leadership has been in the forefront of giving states additional tools in order to collect child support. One of the most important ones, I might say, is the suspension of driver's license which, talking to people in Maryland, has been responsible for the collection of about $100 million, and that has been done without really suspending too many licenses, just the fear of losing your driver's license.

And I think one of the things that is probably an unintended consequence of the IRS legislation is to repeal those tools because the states are not involved in collections, it is the IRS involved in collections.

So, I think one of the things we need to do is to make sure that those valuable tools that are currently available for child support collections are not damaged by any change that we make.

I have, I guess, a more philosophical question, and that is, the Ways and Means Committee is charged with the oversight of the IRS. I worked with Rob Portman on the IRS Restructuring Act, and the concept and the success of our Internal Revenue Service has been that it is a voluntary system, by and large, on compliance. People pay the taxes that they owe. And we audit very few returns. There is no information reports that go to IRS on your deductions or your modifications to your income, or what your tax base is on assets that you sell, or the date of acquisition, date of sale. We don't have a lot of information that goes to IRS, we depend upon the taxpayer voluntarily supplying the correct information to the IRS, and we have a very, very high success rate, the highest in the free world, on people voluntarily paying the taxes that they owe.

I guess my concern is, by definition, what we are trying to do is go after the person who is not going to voluntarily supply the right information. And it seems to me a very difficult task to tell the IRS, who relies upon the individual supplying the information—and your legislation requires each employee to provide on the withholding certificate the amount of money that that individual owes for child support—why do we think that someone who otherwise is not paying child support is going to make this voluntary information available to the IRS?

Ms. WOOLSEY. Well, the state will also know where the individual works, and people who are not employed be also reporting

when they pay their taxes. We know now that the IRS is able to collect owed past-due child support out of tax returns. So, it can happen. There is a way for them to know that this particular individual owes child support, and when they are getting money back from their taxes it goes either to the county that has been paying the welfare instead, or to the family.

Mr. CARDIN. Everything works OK if the employee reports the right amount of money that he owes, or she owes. But if the individual does not report the proper amount of money, then you run into a real difficult issue—working with the state agency that has been helpful in establishing paternity and establishing child support and updating child support, the custodial parent who has her view or his view as to the amount of money that is owed, and the IRS is sort of in the middle here, does not have a good track record of being able to determine accurate information for the initial information that goes on taxes.

Ms. WOOLSEY. In the bill, Mr. Cardin, there is a penalty for not—

Mr. CARDIN. If you can't collect the child support, then you try to collect the penalties. You also, of course, run into the problem under the penalty provision, that you could have an innocent mistake on a return, and you have to wait 2 years, I think, for the penalties to really kick in.

Ms. WOOLSEY. And we also have the custodial parent who is going to be part and party to letting the IRS or the state know whether or not the deduction is happening.

Mr. CARDIN. That is one of the problems we have with collection today, is the custodial parent is somewhat at a disadvantage. We depend upon the aggressiveness of an agency, whether it is a state agency now, or the IRS.

I thank you. It is something I think we need to figure out, but the bottom line is we want to make sure more child support is actually collected in the most cost-efficient way.

Chairman JOHNSON. Thank you very much, Lynn, that certainly is our goal, and in pursuit of that goal the House passed our Fatherhood Bill, which would begin to address the part of the problem that some fathers pay no child support because they don't make any money, or they work underground. And one of the problems with the IRS would be that it would deal only with those who have reportable income, and a lot of the nonsupporting fathers actually have income that is not reported. So there are certainly aspects to the system that we would want to keep in place. Thank you very much for being here.

Chairman JOHNSON. I would like to call up now the first panel, Geraldine Jensen, the President of ACES from Toledo, Ohio; Victoria Williams, Senior Vice President, Policy Studies, Inc., Denver, Colorado; Art Alexakis, a member of Everclear, West Hollywood, California—and we are very glad that you have sung throughout your life even though we weren't interested in others—Wayne Doss, Director of the District Attorney's Office, Bureau of Family Support Operations, in California.

Let me tell you that your testimony will be included in its entirety, but so that we do get a chance to get to some questioning and we don't keep the second panel waiting too long, and for other

complexities of the schedule around here, your remarks must be limited to 5 minutes at the beginning.

Ms. Jensen.

**STATEMENT OF GERALDINE JENSEN, PRESIDENT, ASSOCIATION FOR CHILDREN FOR ENFORCEMENT OF SUPPORT, INC. (ACES), TOLEDO, OHIO**

Ms. JENSEN. Chairman Johnson, Members of the Committee, thank you for this opportunity. My testimony follows the charts that are listed in your packet.

ACES families are representative of the 30 million children owed $50 billion in unpaid child support. We ask you to support H.R. 1488 which sets up a partnership whereby state governments establish paternity and orders, and the expertise of the IRS is used for enforcement.

Parents can afford support. 60% of nonresident parents earn over $30,000 a year. Most of their children are living in families with significantly lower incomes. Collection rates are dismal, at about 30% for all families, VI–D rates are lower at 23%. States collected $14.3 billion in 1998. New data for 1999 shows that collections were only $15.5 billion, and that about 50% of the payments are through payroll deduction. This shows no significant increase since Welfare Reform. States spend $25 to collect $100.

The IRS serves more families. They collected $1.6 trillion, and they spend 44 cents to collect $100. IRS collections from the offset program are up 634 percent, 83% of the IRS collections are from payroll deductions.

Interstate collections are low. The complicated process outlined in the chart shows a New Hire reporting system from employers to another state, to the Federal Government, and back to the state. It is not working. The IRS direct-withholding system would solve this problem. Payments made by employers to banks could then be directly distributed to families and we wouldn't need so many state central disbursement units.

States have acted on few of the 2.8 million Federal New Hire matches. Texas only acted on 12,000 out of 1.3 million matches they received from the state and Federal registry.

The system to collect from the self-employed does not work. Not very many of the 662,000 bank accounts with assets of $1 billion have been attached because 26 states don't accept interstate attachments. 40% of the caseload is not automated. State systems are incompatible, and even the CSNet Internet e-mail system does not connect all states. California alone spent $371 million on a computer system that doesn't work.

Customer service is poor. This North Carolina poster, included in your packet, blames Moms for selecting Dads with bad character. States restrict ph1 hours. They don't sent out delinquency notices.

In 1999, states referred an average of only four cases from each state to the U.S. Attorney General for prosecution out of a pool of 9 million.

State disbursement units now have $200 million of families' child support checks they have not distributed. North Carolina, Florida, Tennessee, and Illinois report massive problems with SDUs.

Private contractors, like PSI, Maximus, and Supportkids.com are expensive, and their collection rates are no better than the states.

The IRS uses payroll-deduction on almost all cases. They would take over the Federal New Hire Directory system and build on that current system. They collect from the self-employed through FICA and monthly payments. Interstate cases are not an issue. The IRS attached 544,000 bank accounts in 1997. They have made recent improvements to their automation and customer service. The IRS collection rate is 83%.

States like Virginia that have an aggressive collection system using roundups, booting cars, still only collect on 25% of the cases.

Vermont, the nation's highest collection rate of 45%, has one of the smallest caseloads at 27,000. Los Angeles—as the chart on the last page shows—has one of the worst collection rates in the nation.

States are improving in establishing paternity and orders, but all states report that they are having difficulty on interstate and self-employed cases. So, at least act to use the expertise of the IRS on those kind of cases.

We have lost a generation of children to non-support. Children born in 1975 when the program began, turned 21 in 1996. Only 20 percent of them collected child support. Please act now. Don't lose yet another generation. Thank you.

[The prepared statement follows:]

**Statement of Geraldine Jensen, President, Association for Children for Enforcement of Support, Inc. (ACES), Toledo, Ohio**

ACES has 45,000 members and 400 chapters located in 48 states. We are representative of the families whose 30 million children are owed $50 billion in unpaid child support. We have banded together to work for effective and fair child support enforcement. ACES believes that it is time for a new state-federal partnership to improve the child support enforcement program. A partnership where state government would establish paternity and child support orders, and modify orders. The federal government would use the collection expertise of the IRS to collect payments just like we do for income and self employment taxes.

HR 1488, sponsored by Representative Henry Hyde and Representative Lynn Woolsey, accomplishes this, thus making children as important as taxes in the U.S.

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 $14,000 per year as of the end of 1999, and 85% have 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 on to 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.

About 33% of our nation's children have a parent living outside the household. They are 4 times more likely to be poor and 5 times more likely to receive food stamps than children who live with two biological parents. Child support, when received, accounts for 16% of the family's income, and averages $3,795 per year. Child

support is even more important for poor children where it represents 26% of the family's income.

Characteristics of Families Using Title ID–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 1**)

**Children who receive child support:**

- are more likely to have contact with their fathers [1]
- have better grade point averages and significantly better testscores [2]
- have fewer behavior problems [3]
- remain in school longer [2]

## STATE CHILD SUPPORT AGENCIES FAIL TO COLLECT SIGNIFICANT AMOUNTS OF CHILD SUPPORT

A whole generation of our children have not received adequate and regular child support payments as promised when the Title IV–D child support system was set up 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 a little less 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 Act ( PRWORA) establishing New Hire Directories, Case Order Registries, and State Distribution Units (SDU), professional drivers and recreational license revocation, and required states to adopt UIFSA (Uniform 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 1998, reports that a little less than 50% of the children do not have orders and the collection rate is 23%. In **Chart 2**, U.S. Census Bureau Data from the May 1999 Current Population Report 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 chart reflects collections based on census data that includes all families, IV–D and non-IVD, from 1984 to present. The collection rate shows no significant improve-

[1] 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.

[2] 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).

[3] McLanahan et al, National Survey of Families and Households, 1994

ment. The collection rate remained about 30%. Also on the chart is data from IV–D child support collections. This collection rate shows only slight a improvement from 15% in 1984 to 23% in 1998.

The most recent data available from the Federal Office of ChildSupport shows that the total collections for 1999 are $15.5 billion, up from the $14.3 billion in 1998 reported in **Chart 3 & 3A**, which was up from $13.3 billion in 1997. This chart also shows that collections rise about $1 billion/year no matter wether there is or is not new legislation. In **Chart 5,** interstate collections are listed from 1993 to the present. Collections have risen from 1993 pre-PRWORA $725 million dollars to $983 million in 1997, and to $1 billion in 1998. Collections on interstate cases have risen about $100 million/year before *and* after PRWORA. PRWORA required UIFSA, the Uniform Interstate Family Support Act, to be adopted verbatim by all states. PRWORA has not yet shown itself to be of any assistance in processing interstates 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 non-resident 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 non-resident 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 2.8 million matches were found in 1999, more than double the 1.2 million matches in 1998. Our research shows that the majority of the 2.8 million data matches made by the National New Hire/Case Order Registry have not been acted on by the State IV–D agencies. For example:

*Texas* processed 2,481 income withholding orders due to New Hire information from the National Directory in three months. Texas received 1.34 million 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 Directory and has collected $365,297. This is $18/match.

*Arizona,* in three months of comparisons with the National 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 Directory but no data is available on the action taken on these matches.

ACES members have seen neither the synergy nor improvement in collections that is being touted by federal and state government. In fact, in some states, the situation is even worse than it was pre-PRWORA. These states are having problems setting up State Disbursement Units. Our members in North Carolina report delayed and missing payments since Sept 24, 1999 when the new State Disbursement Unit went into operation. Many have been unable to buy needed food, pay rent, or take care of their families because payments that had been processed by local Clerks of Courts are now lost in the state's new distribution computer system. North Carolina reports having more than $10 million of undistributed funds on hand. Reasons cited are that Clerk of Courts bundled up checks, money orders, and cash brought in by non-resident 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. A class action law suit has been filed against the computer vendor in North Carolina due to failure to even test the new system before putting it on-line and for contract violations.

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 non-resident parents to the state with no identifying social security numbers. Illinois has more than $6 million in unidentified funds on hand. Tennessee, Nevada, part of Pennsylvania, and Missouri are reporting similar problems. 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.

SDU's federal policies should be immediately reviewed and revised. Payments should be able to be made at many places, such as ATMs, utility payment sites, banks, and the central payment collection site. This would ensure employers one place to send payments while, at the same time, make it easy for parents to pay. Payments received off-site could be sent via Electronic Funds Transfer to the central payment site. The Federal Office of Child Support should immediately audit states with undistributed funds to ensure that an adequate plan is being put in place to provide for emergency and long term needs.

States have more unidentified undistributed funds on hand than ever before. An ACES survey, (see **Chart 8**) shows $100 million on hand at the beginning of 1999. For example, ACES found $30 million undistributed funds in Florida, $2 million in Georgia, and $10 million in Los Angeles, CA. The Federal Office of Child Support has listed distribution of unidentified funds as one of their major priorities for the year 2000 due to the growing amount reported by states in 1999.

Other problems [4] with State Distribution Units are:

- There are 11 states that do not yet have an operating SDU. They are Alabama, California, Indiana, Kansas, Louisiana, Michigan, Nebraska, Nevada, Ohio, South Carolina, and Texas.
- Of the 43 states/jurisdictions that say they have functioning SDUs, 6 only serve IV–D cases. They do not take payments for non-IV–D withholding cases as required by federal law. These six are Arkansas, Georgia, Kentucky, New York, Oklahoma and Wyoming.
- Of the 43 states/jurisdictions that say they have functioning SDUs, 14 have no capacity to receive electronic payments. These states are Delaware, Washington DC, Georgia, Hawaii, Maine, Maryland, Massachusetts, Missouri, Nebraska, Oklahoma, Tennessee, Utah, Virgin Islands and West Virginia.

The Federal Office of Child Support reports they have made matches of delinquent parents with financial institutions for 662,000 accounts since August 1999. The accounts are valued at about $1 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.

## MORE BROKEN PROMISES OF IMPROVED COLLECTIONS FROM FEDERAL LAWS 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 and 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.

[4] American Association of Payroll Managers (March 2000)

Since 1990 CSNet an intranet communications system for state IV–D agencies has been in the process of being set up. This would enable state IV–D agencies to email each other location requests and case information within a secure Internet setting. The system is still not fully functionally after ten years of work. Results of CSNet implementation include;

1 state still does not communicate at all

2 states communicate with only one state

29 states communicate with ten or less other states

9 states communicate with 11–20 other states

4 states communicate with 21–37 other states

0 states communicate with all other states

Additionally, all states and jurisdictions have independently designed and developed their statewide automated systems. All have various software and hard ware. As the certification dates below show, few computer systems were put in place at the same time. Therefore, few will need maintenance upgrades simultaneously. This causes the systems to be expensive to maintain and acts as a barrier to the state systems becoming compatible at any given time.

The Federal Office of Child Support reports the following [5]

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

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

*States NOT Certified (representing 40% of the interstate child support caseload):* California, Washington DC, Indiana, Kansas, Michigan, North Dakota, Nebraska, Nevada, Ohio, South Carolina, and the Virgin Islands.

Conditional Certification for many states is due to the inability of their computer systems to correctly distribute payments. California has one of the worst problems with computerization. The state spend $371 million on a statewide system which does not work. Los Angeles was given a special waiver by the Federal Office of Child Support to have its own computer which would connect to the computer for the rest of California. When the California computer system failed, Los Angeles had no connection point. A review of the Los Angeles computer system determined it had so many problems it was unacceptable as the basis for a state-wide system.

**Few referrals to the U. S. Attorney General**

States fail to send referrals to the U.S. Attorney General for prosecution under the 1992 Child Support Recovery Act and the 1998 Deadbeat Parents Punishment Act. Under guidelines established by the U. S. Justice Department, state IV–D agencies must refer cases to be reviewed for potential prosecutions. The Justice Department reports that few cases have been referred to them by state IV–D agencies. In an effort to increase referrals the Federal Office of Child Support asked states to refer cases. States referred 600 due to the is request. Also, a program titled, Please Support Our Children (PSOC) has been established to assist states in reviewing cases to determine if they are appropriate for referral to the U.S. Attorney General's office. Families report slow or little action at State IV–D agencies on cases with potential for federal prosecution. Families report that they are turned away at U.S. Attorney offices who insist that cases must be referred to them from state IV–D agencies. Because of the lack of 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 140 cases. In 1997, charges were filed in 201 cases. In 1998, charges were filed in 249 cases of which 134 were guilty, 5 were not guilty and 89 were dismissed for payment or Rule 20; and in 1999, charges were filed in 396 cases of which 194 were guilty, 1 was not guilty and 81 were dismissed for payment or Rule 20. There are nine million children owed $14 billion in unpaid child support with interstate cases.

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

**Poor Customer Service**

The number one complaint that ACES receives from families about state IV–D child support Agencies on our Hot Line 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 your self pregnant?" or "what did you do to make him so mad he won't pay?". See **Chart 9,** a copy of a poster from a North Carolina county child support office which states in part, "The amount of time your individual case will take depends on two things: 1. The quality of information you provide and 2. The character of the person you chose to have as the parent of your child." Others report that the phones are not answered for hours/ day or are constantly busy. Few agencies have a system where case workers can be left voice mail messages if phones are busy or it is after hours. 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 form 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 state. Also, 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 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 on-going program for drivers 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.

**Problems with Payment Distributions to families or to pay off welfare debt**

Payment distribution problems, especially with the 2-day distribution requirement, have been reported in 14 states without SDUs. There are problems in 40 states if the case involves more than one county or more than one state. ACES members report problems in all states determining correct amount of support due to the family and the correct amount due to pay-off a welfare debt. This is an especially a serious problem in Florida and California.

**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.[6]

**Lack of adequate controls and monitoring of private contractors**

Many of the State Government Child Support Agencies currently have contracts with private companies to perform many different child support program functions. ACES looked at several projects states have undertaken to improve their child support programs in hopes of finding a model that all states could use. We were hopeful that privatization would be the solution families so desperately need but, unfortunately, we have not found this to be the case. The child support agencies that are run by private companies are not performing any better than the state-run agencies. For example, Policy Studies Incorporated (PSI) ran a full-service Child Support Of-

[6] ACES annual membership survey (1999).

fice in Douglas County, Nebraska, for a cost of $15.7 million in 1997. They had a caseload of 45,600, of which only 9,857 cases received a payment, for a 22% collection rate. In the other 97 Nebraska counties, the child support agencies run by the government had a 21% collection rate in that same year. In Arizona, PSI operated child support agencies in two counties, Yavapai and Santa Cruz, at a cost of $3 million. The total caseload at that time in both counties was 10,100, of which 1,777 cases received a payment, a 17% collection rate. The Arizona state-run agencies had a 14% collection rate that same year.

In Mississippi, Maximus operated full-service child support agencies in Hinds and Warren counties, at a cost of $4 million. The caseload at that time was about 35,000, of which 3,385 cases received a payment. This is an 11% collection rate. The Mississippi counties whose child support program is run by the government agencies had a 14% collection rate that same year. In Tennessee's four judicial districts, a project was run by Maximus at a cost of $2.3 million. We found the overall Maximus collection rate to be 11% compared to 14% for the whole state that same year.

In Maryland, Lockheed Martin IMS operated a full-service child support agency in Baltimore City and Queen Anne's County at a cost of $70 million. The caseload for both agencies is 214,299, of which 23,979 cases received a payment, an 11% collection rate. Agencies operated by the state government in Maryland averaged a 23% collection rate in the same time period. In Virginia, Lockheed Martin IMS operated full-service child support agencies in Chesapeake and Hampton Counties and were paid $7 million. The caseload is 31,161, of which 7,767 received a payment, a 23% collection rate. The other Virginia counties operated by government agencies have a 23% collection rate. We are concerned not only about the poor collection performances but with the high cost of privatization. Lockheed Martin IMS received seven times more money in Maryland as it did in Virginia for doing exactly the same type of work.

Some of the companies that are collecting child support for the state are paid on a commission basis, predicated on the actual dollar amount collected. We have found that this results in these private companies placing more resources and energy into getting those who are paying to pay more rather than pursuing those who do not pay at all. ACES believes the highest level of resources and energy should be placed on getting all parents to pay their fair-share rather than on getting a few to pay more.

Another problem we have noticed is that private vendors appear to vary prices charged for the same services provided. In the past, PSI charged Ohio $22,130, Pennsylvania $34,190, West Virginia $20,082, South Dakota $11,800, Arkansas $10,000 and Rhode Island $7,000 to review and update their child support guidelines. States seem to be unaware of the usual market price for services to be provided by private vendors.

A June 1997 GAO report entitled **Child Support Enforcement—Strong Leadership Required to Maximize Benefits of Automated Systems** found that the Federal Office of Child Support did a very poor job monitoring what was happening with private vendors who had contracts for the providing statewide child support computer systems. The same thing can happen when states hire private vendors for child support enforcement services.

ACES members in all of the states using private companies to run a child support enforcement program report that they were unaware that a private company was responsible for taking action on their cases. Many also experienced problems trying to find which government agency is responsible for monitoring the private company so they can complain if they are having problems with services. Families with cases at privately run child support agencies that are not receiving services cannot determine who to hold accountable for lack of services.

ACES has found some private child support enforcement services very effective and beneficial to families. Central payment registries run by banks who collect and distribute payments are especially effective. The Massachusetts system works very quickly and accurately. Our members report their arrearage records are kept correctly and they can count on regular checks being processed. Georgia has a long positive history of turning over public assistance arrears-only cases to private companies who are paid only if they collect on the case. This system has recovered millions of dollars owed to the state. Use of private companies to act as consultants for improvements in the child support system to set up better procedures for establishing paternity and developing New Hire registries has been effective in some states.

The success and assistance that some private companies provide to the government child support agencies in locating absent parents have been successful and are needed. There are many legitimate and beneficial uses of privatization of some government services. The issue appears to be which services are appropriate to be

privatized and which should remain within the government as part of the public trust.

**HR 1488 BUILDS ON STATE GOVERNMENT STRENGTHS**

States have made progress establishing paternity especially through hospital and voluntary acknowledgment programs. The number of paternities established have risen from 554,00 in 1993 to 1,290,000 in 1997. In-hospital paternities make up about 33% of all paternities established. As of the end of 1997, 55.9% of the child support collections were from wage-withholding. States who have had a system to attach wages at the time of hiring showed the most significant increases in collections via income-withholding.

The investment in state automated systems would not be wasted under HR 1488. States would use already existing computer systems to track and establish cases and then interface with the IRS as they assume the responsibility for the Federal Parent Locator System's New Hire Directory and Federal Case Registry.

Problems with State Distribution Units could be corrected by having local banks take over responsibilities of payment processing via Electronic Funds Transfer directly from employers who would deposit payments at the bank just like they deposit taxes withheld from a payroll. Other local payment collection sites could be made available if they have access to Electronic Funds Transfer payments. By piggy-backing the collection system onto the tax payroll collection system, we maximize the chances of collecting support from parents who are working and have the ability to pay.

States would continue to need workers to process paternity and establishment cases and to handle case modifications. Other enforcement workers would be needed to work in the IRS Child Support Division. Concerns about workers being displaced are unfounded. The current caseload for most state workers is about 800 per worker, even with 50% of the cases there will be plenty of work for years. Failure to improve the child support system due to fear of loss of state jobs would be like refusing to reform the welfare system because success would mean fewer families on welfare and a need for fewer welfare workers.

HR 1488 is needed because even states with aggressive enforcement programs have not been able to collect support for the majority of parents who owe it. For example, in 1998, in Virginia, there are about 414,000 cases. Collection were made on 94,124 cases. This is a 23% collection rate. In 1999, collections were $347 million with an accumulated $1.65 billion due. Almost 60% of Virginia's cases have orders, one of the highest rate in the nation. Virginia has an aggressive collection program called Kids First. They have booted cars of 70 parents who were delinquent in payments, use Most Wanted Posters, have round-ups of non-payors, and suspend driver's licenses. Virginia set-up one of the first statewide, automated child support enforcement systems, was one of the first states to have a state New Hire Reporting, and has an award-winning in-hospital paternity establishment program. The non-payment rate in Virginia for all cases, those with and with out orders is 88%; for cases with orders it is still 66%.

In 1998, Vermont had 27,022 cases of which 12, 123 received payments. They collected almost $40 million and about 45% of the cases received payments in 1998. Collections have steadily increased since 1992. Even with one of the nation's lowest caseloads (in comparison, Toledo, Ohio's caseload is 60,000 cases), collection rates are not near the employment rate. Vermont has programs for suspending fishing and hunting licenses and attaching bank accounts. Vermont lists is largest problems as collections on interstate cases and from the self-employed.

Los Angeles, California, with one of the worst track records for child support enforcement in the U.S., has shown some improvement. There are about 650,000 cases, of which about 400,000 do not have child support orders; only 10% of the cases received a payment last year. Los Angeles established paternity for about 50,000 families last year through a controversial program of default hearings for absent parents who don't attend. Families report that most of these cases eventually get thrown out of court due to service-of-process issues and the constitutional right to notice and hearing. Absent parents raise these issues years after default orders are entered, resulting in wiping out the default order. Often the support order entered is also based on last known earning so they are often too low or too high. The county reported an increase in receipt of locate information on cases, from 238,776 to 711,789 but follow-up action is taken on less than 20% of the locate leads.

In a recent study of U.S. Census Current Population data done by the Urban Institute, it was shown that California has a lower collection rate than the rest of the nation and that Los Angeles is even lower. See Chart 10. Nationally, single-mothers, both IV–D and non-IV–D, receive support in 31% of the cases—28% in California, and in only 24% in Los Angeles.

Because of the many problems with the California child support enforcement system under the county District Attorneys the California enacted a new law 1999 which established a Statewide child support agency. District Attorney's offices will begin to transfer child support case to the new agency in 2001.

**HR 1488 ESTABLISHES A FEDERAL/STATE PARTNERSHIP WHICH WILL STRENGTHEN THE CHILD SUPPORT ENFORCEMENT PROGRAM**

By adding the expertise of the Internal Revenue tax collection system to the state child support enforcement program, children will receive all needed services. States continue to have an important local role in establishing paternity, establishing and modifying support orders. The states role is strengthened because they can focus on tasks for which they have established expertise. Adding child support to tax collection by the IRS will ensure improved collections via payroll deductions. The IRS is not limited by state lines like the current system. The IRS currently collects 83%of taxes from payroll deductions (see Chart 4). The IRS has a system in place to collect from the self-employed through FICA. Currently, state IV–D programs have no system effective in collecting from self-employed non-payors. The IRS collected $1,623,272,071 from 268,495,000 tax payers in 1998. It was able to attribute payments to the taxpayer accounts and reconcile them at the end of the year. The IRS reports that 83% of Americans pay taxes. Of the 17% who do not pay, it is due to non-filing of tax forms or under-reporting.

The IRS has a reputation for being an aggressive collector. This would lead to more voluntary compliance with child support orders and encourage voluntary acknowledgment of support obligation due upon being hired and completing W2 forms.

The IRS has a proven track record in collecting child support through the IRS Offset Program. Collection under this program has increased from $205 million in 1984 to $1.33 billion in 1998, a 634% increase.

The IRS has recently enacted a Taxpayers Bill of Rights which could be easily modified to include child support enforcement issues. It includes sections on:

- I. Protection of Your Rights
- II. Privacy and Confidentiality
- III. Professional and Courteous Service
- V. Payment of Only the Correct Amount of Tax
- VI. Help With Unresolved Tax Problems
- VII. Appeals and Judicial Review
- VIII. Relief From Certain Penalties and Interest.

Other IRS customer Service improvements include expanded information services beyond the traditional telephone and walk-in assistance to include a web site, telefax—offering forms and instructions by return fax—and a CD–ROM disk with forms and publications. Beginning January 5, 1998, the live assistance lines have been open 7:00 A.M. to 11:00 P.M., Monday through Saturday.

The IRS has a system to identify citizens who do not pay their taxes. This could be expanded to identify those who fail to meet court-ordered child support obligations. The IRS identifies possible non-filers in two ways. The first way looks for taxpayers who stop filing tax returns. They are identified through an annual computer matching program. The second way looks for citizens who have never filed a tax return. This is achieved through the IRS information returns program. Every year, payers of any type of income have to report to the IRS the amount of that income and to whom it is paid. Each year, the IRS receives about 750 million of these information returns reporting interest, dividends, stock sales, gambling winnings, mortgage interest paid, etc. These documents are sent directly to the IRS by banks, insurance companies, casinos, and state governments. The IRS also receives wage information from the Social Security Administration where about 250 million W2 forms are processed each year. If these information returns reflect enough income that a citizen should have filed a tax return, but did not, the IRS sends the taxpayer a notice. This notice asks that the taxpayer either file the return, or explain why he or she doesn't need to file. If the taxpayer doesn't respond, the IRS sends a secondnotice. In Fiscal Year 1996, the IRS sent out non-filer notices to 1.3 million taxpayers. Many taxpayers respond when they receive these notices. In FY 1995 and 1996, taxpayers filed more than 620,000 returns after receiving non-filer notices. Other taxpayers call the IRS after receiving such a notice because they don't have the money to pay. In many of these cases, the IRS sets up a payment agreement. From FY 1992 to FY 1996, collections from installment agreements increased from $2.28 billion to $6 billion.

In June of 1999, Congress released $35.1 million as the first installment for modernizing the Internal Revenue Services massive computer system. The move followed a rigorous review process, which included a new General Accounting Office report praising the IRS initial effort on computer modernization. "This represents

a vote of confidence in our efforts to overhaul IRS computers and create a state-of-the art system designed to deliver top-quality service to taxpayers," IRS Commissioner Charles O. Rossotti said.

The IRS alleviates privacy issues associated with passing sensitive social security and financial information between many agencies and a private contractor hired by government is worrisome. It is almost impossible to ensure confidentiality when states have county child support agencies and contracts with private collection companies. Literally, any child support worker in the county could gain access to sensitive financial information that is essential for successful child support enforcement. The IRS already has this information listing place of employment and income. They have a proven track record of maintaining confidentiality

Also, ACES hopes that members of the Sub-Committee on Human Resources will support HR 816 sponsored by Representative Christopher Cox. HR 816 brings fairness to the tax code's treatment of child support payments. It gives parents a strong financial incentive to pay child support in full and on time by adding unpaid child support onto gross income thereby increasing tax liability. It provides families owed support tax relief by allowing them to deduct unpaid child support from income as a bad debt. It is estimated that HR 816 will raise $394 million in revenue more than ten years.

**It is time to make children as important as taxes in this nation.** If the committee is unable to embrace HR 1488 in it's entirely, ACES recommends that the bill be at least enacted in ways that sets up IRS collection via payroll deduction in interstate cases and from the self-employed. Or at the very least, if states are given "one more chance" to improve, it be time-limited, and they be required to meet the standards of the IRS, such as state IV–D collection must be at the 83% collection rate by 2002 or HR 1488 is automatically enacted.

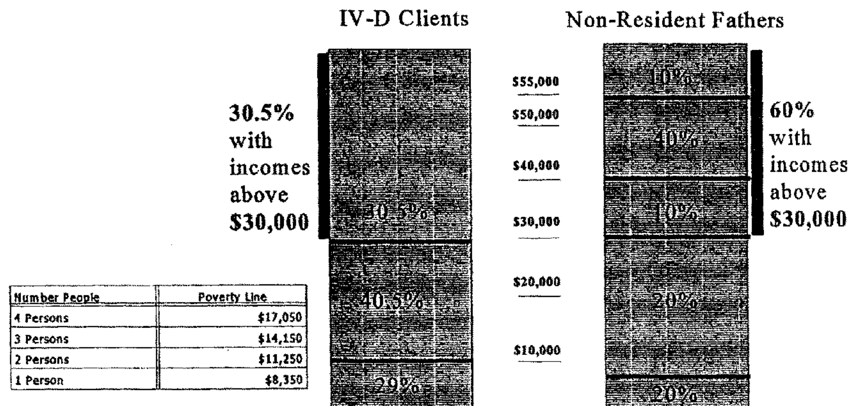
**Please act today to help our children. We need support now—the rent is due and we need to buy them food. We have lost one generation. Please, no more.**

ACES, The Association For Children For Enforcement of Support Inc., does not receive any Federal or State government funding

GERALDINE JENSEN, PRESIDENT

# Income Distribution

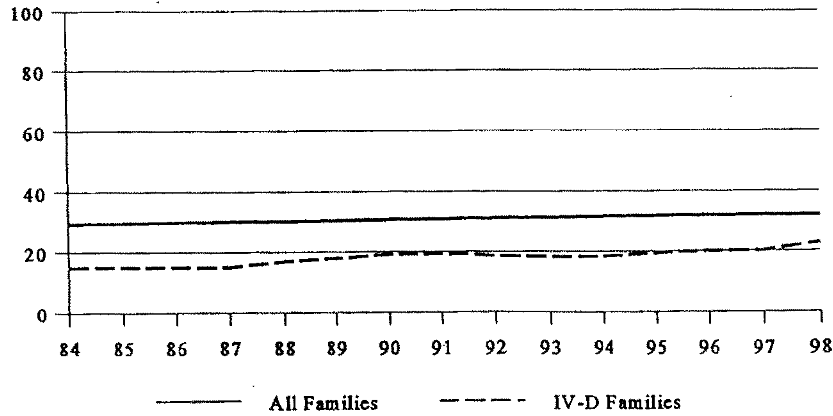
**Chart 1**




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

# Percentage of Families Receiving Child Support in the United States

Chart 2




### IV–D Collections

Number of Cases: 19,419,449
Dollars Collected: $14,347,706,681 ($14.3 billion)
**$25** in costs for every **$100** collected
**55.5%** from payroll deductions

1999 IV–D Child Support Collection: $15.5 Billion. The dollar collection are increased at about time the same rate the year before PRWORA and in the two years since ints enactment. (1997–$13.1 billion; 1998—$14.3 billion)

1998 Child Suport Statistic (Preliminary—Federal Office of Child Support)

| State | #Kids | $Amount Owed | Collection Rate |
|---|---|---|---|
| Alabama | 695,236 | $1.2 Billion | 21%. |
| Alaska | 112,616 | $475 Million | 25%. |
| Arizona | 624,993 | $1.7 Billion | 21%. |
| Arkansas | 425,474 | * | 25%. |
| California | 3,976,190 | Not Available | 28%. |
| Colorado | 411,213 | $1 Billion | 20%. |
| Connecticut | 482,556 | $853 Million | 19%. |
| Delaware | 115,204 | $229 Million | 28%. |
| Dist. of Col.a | 203,085 | 4184 Million | 14%. |
| Florida | 1,865,632 | Not Available | 17%. |
| Georgia | 1,008,930 | $1.2 Billion | 33%. |
| Guam | 18,914 | Not Available | 21%. |
| Hawaii | 129,395 | $163 Million | 23%. |
| Idaho | 165,714 | $359 Million | 19%. |
| Illinois | 1.4 Million | Not Available | 12%. |
| Indiana | 653,524 | $707 Million | 15%. |
| Iowa | 394,726 | * | 25%. |
| Kansas | 275,131 | $563 Million | 37%. |
| Kentucky | 597,584 | $1.3 Billion | 19%. |
| Louisiana | 632,207 | $414 Million | 18%. |
| Maine | 132,963 | $434 Million | 44%. |
| Maryland | 608,678 | 41.6 Billion | 29%. |
| Massachusetts | 454,947 | $1.3 Billion | 29%. |
| Michigan | 3.3 Million | $4.5 Billion | 19%. |
| Minnesota | 510,030 | Not Available | 40%. |
| Mississippi | 549,744 | $698 Million | 14%. |

1999 IV–D Child Support Collection: $15.5 Billion. The dollar collection are increased at about time the same rate the year before PRWORA and in the two years since ints enactment. (1997–$13.1 billion; 1998—$14.3 billion)—Continued

1998 Child Suport Statistic (Preliminary—Federal Office of Child Support)

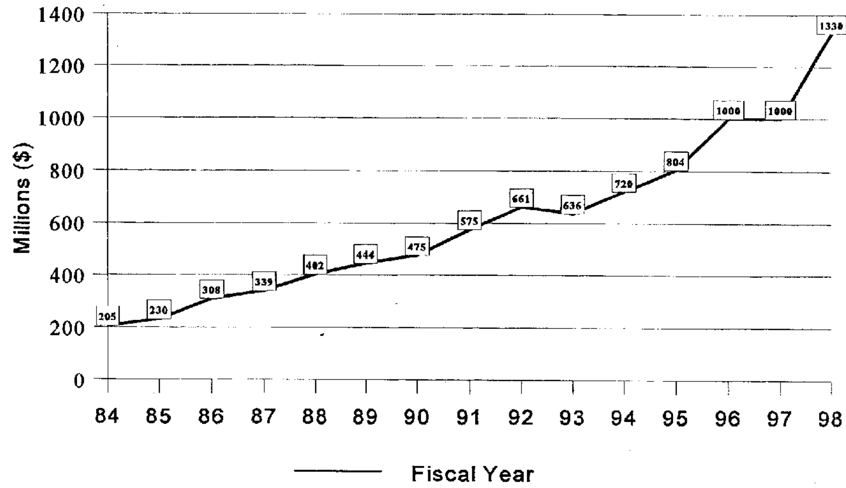
| State | #Kids | $Amount Owed | Collection Rate |
|---|---|---|---|
| Missouri | 770,491 | $1.5 Billion | 14%. |
| Montana | 78,549 | $222 Million | 31%. |
| Nebraska | 230,699 | $244 Million | 31%. |
| Nevada | 159,820 | Not Available | 25%. |
| New Hampshire | 97,568 | $303 Million | 40%. |
| New Jersey | 917,228 | $226 Million | 28%. |
| New Mexico | 147,998 | Not Available | 11%. |
| New York | 2.5 Million | Not Available | 20%. |
| North Carolina | 988,362 | $1.4 Billion | 7%. |
| Nort Dakota | 77,487 | * | 7%. |
| Ohio | 1.8 Million | $3.7 Billion | 34%. |
| Oklahoma | 255,475 | $148 Million | 19%. |
| Oregon | 508,787 | $919 Million | 23%. |
| Pennsylvania | 1.6 Million | $2.2 Billion | 25%. |
| Puerto Rico | 431,634 | $698 Million | 23%. |
| Rhode Island | 137,670 | $251 Million | 17%. |
| South Carolina | 415,782 | $581 Million | 32%. |
| South Dakota | 63,610 | $160 Million | 36%. |
| Tennessee | 945,491 | Not Available | 19%. |
| Texas | 2.3 Million | $6.9 Billion | 20%. |
| Utah | 207,597 | $670 Million | 31%. |
| Vermont | 51,341 | $125 Million | 45%. |
| Virgin Islands | 53,433 | $44 Million | 6%. |
| Virginia | 788,235 | $379 Million | 23%. |
| Washington | 767,909 | $1.2 Billion | 40%. |
| West Virginia | 235,639 | $181 Million | 24%. |
| Wisconsin | 903,189 | Not Available | 27%. |
| Wyoming | 112,331 | $315 Million | 19%. |
| Total | 30 million | $50 Billion | 23%. |

## IRS Collections

Number of Taxpayers 268,495,000
Dollars Collected $1,623,272,071 ($1. 62 Trillion)
**$0.44** in costs for every **$100** collected
**83%** from payroll deduction

# IRS Offset

Chart 4A




# Interstate Collections

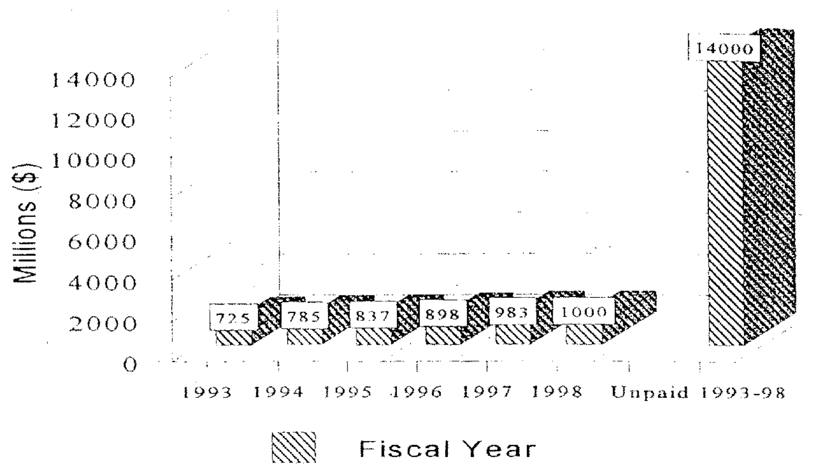
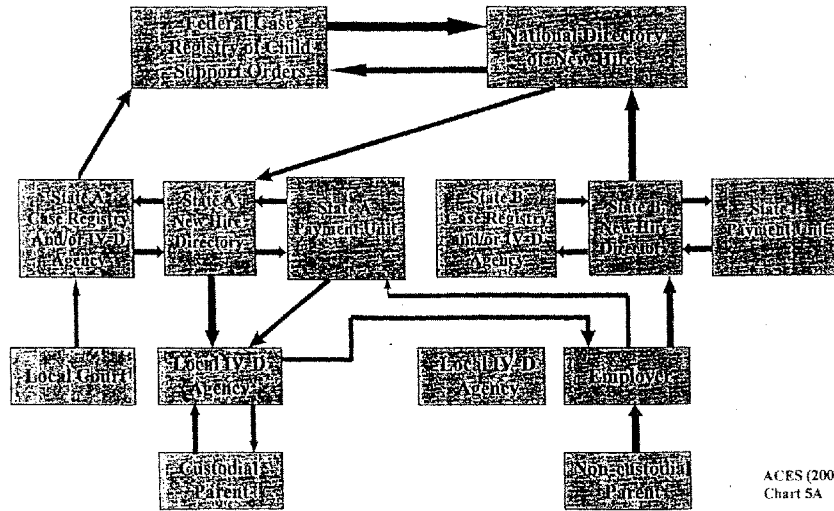



Chart 5

CHART OF THE EXISTING CHILD SUPPORT ENFORCEMENT SYSTEM

INTERSTATE
CASE




ACES (2000)
Chart 5A

**IV–D Summary**

- New Hire reporting leads to payroll deduction in some cases
- No system for collectinig from self-employed
- Lowest collection ratefor interstate cases
- 26 states don't accept interstate bank account attachment orders
- 40% of the child support caseload is not automated
- Poor track record for customer service
- Poor track record on collections; rarely use liens on propertly, license revocation, referrals to the U.S. Attorney General, and problems with new SDU's

**IRS Summary**

- New Hire reporting: payroll deduction in almost all cases
- Collectioin system for self-employed taxpayers
- Interstate cases not an issue
- Bank account attachments routinely ordered: 544,000 in 1997
- Recnt automation improvements
- New customer service improvements: Taxpayer Bill of Rights
- Good track record on collections: 83% citizens pay taxes (17% are non-filers)

We also asked the states for the amount of undistributed/unidentified child support payments as of December 1998 because they did not have a current address of the custodial parent.

| STATE | NUMBER OF MATCHES | RESULTS OF THE MATCHES | UNIDENTIFIED CHILD PAYMENTS AS OF 12/31/98 |
|---|---|---|---|
| Alabama | The computer does not tabulate the numbers of matches. | Computer does not tabulate the number of matches. | |
| Alaska | Not available | Not available | $3,967,484.21 as of 12/98. |
| Arizona | Not available | Not available | $2,535,727. |
| Arkansas | First reports received 3/99. | Data unavailable | $149,000. |

We also asked the states for the amount of undistributed/unidentified child support payments as of December 1998 because they did not have a current address of the custodial parent.—Continued

| STATE | NUMBER OF MATCHES | RESULTS OF THE MATCHES | UNIDENTIFIED CHILD PAYMENTS AS OF 12/31/98 |
|---|---|---|---|
| California | California is currently unable to submit data to the National Directory of New Hires due to lack of automation.. To compensate for this inability, OCSE conducted a one time data match of New Hire records with the 69,811 Tax Refund Offset requests sent for the 1997 Tax Year.. New Hire Matches: 6,162. Quarterly Wage: 19,301. Unemployment Insurance: 2,710 Of the 422,735 cases processed through the Federal Parent Locator Service for 10/97–5/98, 102,999 delinquent California parents were matched to non-California employers. | As California is a state supervised, county run operation, we at the state level are unable to track how the county Family Support Division uses the data.. | " Following the Public Records Act request CDAA's Office of Child support has no data on the dollar amount of undistributed child support payments. We are not required to report any such information to the Federal OCSE, and do not collect this information from the counties". Los Angeles County reports $10,000,000. |
| Connecticut | No response | No response | $385,302. |
| District of Columbia | 12,400 for 1998 | Unknown | $1,376,298. |
| Delaware | "State computer does not process matches from federal registry, being done manually. No records available of number of matches". | 6,000 wage withholding notices sent out since 1/29/99, impossible to tell which are from state new hire data and which from federal new hire data. | $2,040,215. |

We also asked the states for the amount of undistributed/unidentified child support payments as of December 1998 because they did not have a current address of the custodial parent.—Continued

| STATE | NUMBER OF MATCHES | RESULTS OF THE MATCHES | UNIDENTIFIED CHILD PAYMENTS AS OF 12/31/98 |
| --- | --- | --- | --- |
| Florida | No response ................ | No response ................ | "Our undistributed balance includes receipts that are awaiting normal monthly processing as well as those which require additional research. Unfortunately, neither the Florida Online Recipient Integrated Data Access(FLORIDA) computer system or the State Automated Management Accounting Subsystem (SAMAS) can differentiate between these two. Consequently, we cannot provide a specific delineation of those funds which are being held pending additional research.". |
| Georgia | As of April 1999, "Georgia's system has not successfully interfaced with the federal New Hire information.". | Not successfully interfaced with federal New Hire information.. | $966,403. |
| Iowa | 12,887 ........................ | 30% resulted in income withholding, does not track orders established, paternity, or other administrative or judicial enforcement. | $712,330 in undistributed collections of IV–D families whose addresses were not verified. In a typical month, the percentage of payments processed that are held until a IV–D family's address is verified is .06%. |
| Indiana | Not available at current time. | Not available at current time. | No response. |
| Kansas | 94,418 with state new hire registry. We don't know how many matches were made at the national level and sent to us through the Federal Parent Locator Service. | Unknown, don't track | $528,931, "this includes money eventually retained by the state as well as money due to the family. We do not track the reason the money could not be distributed.". |
| Kentucky | 115,343 ...................... | System does not gather this information. | $1,726,981. |

We also asked the states for the amount of undistributed/unidentified child support payments as of December 1998 because they did not have a current address of the custodial parent.—Continued

| STATE | NUMBER OF MATCHES | RESULTS OF THE MATCHES | UNIDENTIFIED CHILD PAYMENTS AS OF 12/31/98 |
| --- | --- | --- | --- |
| Louisiana | We receive around 50,000 records each month, of these we match about 7% or 3,500. | Information not available. | $60,825. |
| Maryland | 10,958 | Support Orders: 2,164 Income Withholdings: 8,493. Court Enforcement: 7,473* (totals more than received). | $228,244. |
| Michigan | "We do not have this information available in Michigan". | "We do not have this information available in Michigan". | As of 12/98, $21,974,063, This amount is in the process of being revised due to the submission of additional collection reports by the offices of the Friend of the Court. |
| Minnesota | Unknown | Unknown | $255,632 unknown address of custodial parents, 43,673 interstate cases, unknown case numbers. |
| Mississippi | 101,286 | "8,544 matched our records. We receive employer name and address for NCP, which is very helpful". | No response. |
| Montana | 172,686 (state and federal new hire matches). | Does not have information. | $295,208. |
| Nebraska | 901 | Does not have information. | No response. |
| Nevada | Statistical data is not kept on matches. | Statistical data is not kept on matches. | $121,835. |
| North Dakota | 31,968 reports received; 1,410 matches. | Not tracking results | No response. |
| North Carolina | 142,967 | 381 orders established, order data not available. | $7,862,986 total consists of:. $3,857,585: futures; $390,922: canceled checks;. $508,725: hold transactions;. $583,794: hold accounts;. $2,490: adjusted. not approved;. $125,251: no mail address;. $962,692: miscellaneous;. $16,672: unidentified payor; $1,414851: agency level. |

We also asked the states for the amount of undistributed/unidentified child support payments as of December 1998 because they did not have a current address of the custodial parent.—Continued

| STATE | NUMBER OF MATCHES | RESULTS OF THE MATCHES | UNIDENTIFIED CHILD PAYMENTS AS OF 12/31/98 |
| --- | --- | --- | --- |
| Ohio | 98,437 | Not a federal requirement to track this information. | $10,897,870 IV–D funds and $677,141 non-IV–D Funds;. $15,561,361 as of 9/99. |
| Oklahoma | 4,158 received | Not available | No response. |
| Texas | 1.34 million matches | Unable to track results, in process of automating. | As of December 1998, $16,298,991, of this $3,179,002 is due to unknown addresses of custodial parents, $6,361291 undistributed as of 3/26/99. |
| Tennessee | We sent our test load of 500 cases and received matches of 16,. | Did not track results | No response. |
| Utah | 12,441 | “We do not have computer capability to track”. | $268,313. |
| Vermont | 5,010 | Still determining | $1,434,499 as of 12/98; this includes contested tax intercept money and 2 month delay on EOG’s. |
| Virginia | 57,000 | Have not yet studied the results. | $40,900 due to unknown address of custodial parents. |
| Washington | 23,722 total, 10/98: 9,049; 11/98: 8,796; 12/98: 5,877. | Washington does not technologically link New Hire data to child support or payments. Current electronic tracking methods are inaccurate and unreliable. Resources not available to do manual tracking. | $3,036,757. |
| Wisconsin | 35,911 NCP* matches | Income withholding 25,000, approximately, based on worker estimates of 75%. | $3,168,757 accumulated since 10/1/96 of which $1,761,472 is held because of unknown custodial parent address. |

# Please be Aware of Child Support Time Frames

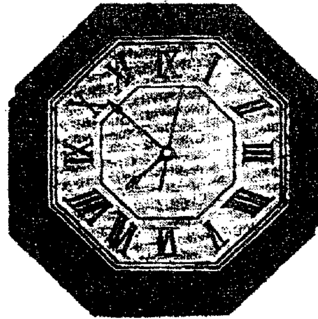


Chart 9

## Legal Proceedings Average 3 months or more. Out of State cases can expect a minimum of 6 months. Some cases may take several years.

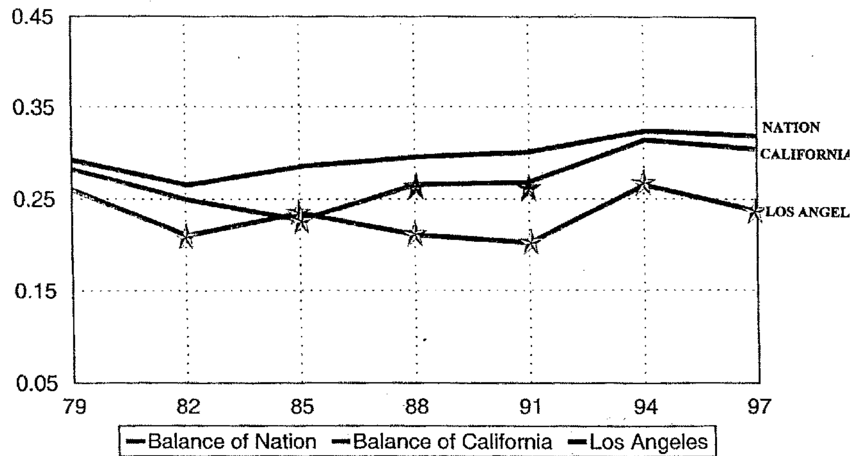
The amount of time your individual case will take depends on two things:

1. The quality of information you provide.
2. The character of the person you chose to have as the parent of your child.

**Percent of Single Mothers Receiving Child Support --**

**Los Angeles, Balance of California, and Balance of Nation**

with controls **Chart 10**




Source: March Current Population Surveys 1978-1998

★ significant at 10% level
☆ significant at 5% level

Chairman JOHNSON. Thank you.
Mr. Alexakis.

## STATEMENT OF ART ALEXAKIS, MEMBER, EVERCLEAR, WEST HOLLYWOOD, CALIFORNIA

Mr. ALEXAKIS. Good morning. My name is Art Alexakis, and I am the lead singer, guitar player, director and producer of a popular rock band by the name of Everclear. We have been nominated for Grammy Awards and have sold millions of records worldwide, but I am not here to talk to you about my musical accomplishments, I am here to tell you about my experiences as a child who grew up without child support, and tell you what a different life I would have had if H.R. 1488 had been in existence when I was a child.

When I was 6 years old, my mother left my father because he physically and emotionally abused her. We lived in California and my father moved to Florida. In Florida at that time, back in the late sixties, there was no law to allow nonpayers of child support to be extradited, so he hid there and was never made to pay child support. To this day, he has never paid a dime in child support.

By the way, my father was an aerospace engineer. He made more than a decent living, he could have paid child support. He did it out of hurt because my mother left him. And, incidentally, my mother put him through engineering school before he left.

I was the fifth of five children. My mom gave us all she could financially and emotionally, but life was really very hard for all of us. When I think of a hero, I think of my mother. People ask me

who my hero is. I am kind of a famous person, so I think people expect me to name musicians or actors or someone like that, but my idea of a hero is my mom. She taught me tenacity and to be a goof person, even when it is hard to be. I am only at where I am in life because of my mother. I only talked to my dad three or four times a year, growing up. I didn't see him again after he left until my brother died of a drug overdose when I was 12. He was 21.

My parents owned a house together when they were married, but my dad refused to sign it over to my mom after the divorce. Since he wouldn't help us out with child support or sign over the house, we lost the house. It wouldn't have cost him anything, all he had to do was sign it over to my mother and he refused to do that. We moved to a housing project, which was the only place my mom could afford at the time. My life grew even harder. I swore then that when I grew up and had children, that I would never abandon them or let this happen to them.

This experience, along with the experience of having a child—I have a seven and a half year old daughter, Annabella—affected me so much that I wrote a song about it. It is called Father of Mine, and it talks about, among other things, how my dad would send me a birthday card with a $5 bill, but that was the only time I heard from him growing up, basically. He didn't understand, or he said he didn't understand, how he was hurting me by no supporting me.

There is a line in the song that says "My daddy gave me a name, and then he walked away". I think it is a really terrible kind of emotional abuse when parents neglect the innocent little people of this world that they created by not providing the necessary food, shelter and clothing that these children cannot provide for themselves.

Apparently my song touched so many others, mostly kids, who were abandoned like me and could relate to my song, that my song did very well. It sold well over two million records, and it went to Number 3 on the radio charts. It seemed to have touched a nerve with people because there are millions of people out there, millions of kids out there—and not just kids, people in their thirties and forties—I am almost 40 years old—who, like me, know who their father is, but don't know their father. And in a lot of cases, to be fair, there are a lot of deadbeat moms out there who aren't owning up to their responsibilities, as well.

It is a cycle of abuse that needs to stop now. We have to stop the cycle of abuse. We cannot let another generation, as Geraldine said, grow up thinking that it is acceptable not to support your children.

If H.R. 1488 were a law when I was a kid, my life would have been very different. It would have meant a steady stream of income for my mom, and she wouldn't have had to work so hard to support us. Maybe we could have kept the house, and maybe I wouldn't have gotten beaten up so much because I lived in a bad neighborhood. Maybe I would have had a relationship with my dad because he would not have had anywhere to hide, so he wouldn't have tried hiding.

Too many kids see their parents getting away with not having to pay support. When I was a kid, I knew my dad didn't have to pay and I learned that deadbeat dads and moms can get away with

it. If we pass this bill, we will end this ability for parents to be able to get away with not paying. We will teach kids and a whole new generation a new lesson. Kids will learn that when you have children, you have to be responsible for them, then they will think that they have to pay, so they are entitled to have a relationship with those children, that it is a privilege to have a relationship with their own children.

People will learn this because we will use the muscle of the IRS to teach them. Most folks know that you don't mess around with the IRS or the punishment will be severe. Some people only respond to being forced into taking action. We have to protect our children, America's children. We have to fight for the people who can't fight for themselves. That is kind of what being an American is all about. Thank you.

[The prepared statement follows:]

**Statement of Art Alexakis, Member, Everclear, West Hollywood, California**

Good Morning. My name is Art Alexakis, and I am the lead singer, guitar player, director and producer of the grammy award winning rock and roll band, Everclear. But I'm not here today to tell you about my rock and roll accomplishments. I'm here to tell you about my experiences as a child who grew up without child support, and tell you what a different life I would have had if HR 1488 had been in existence when I was a child.

When I was 6 years old, my mom left my father because he physically abused her. We lived in California and my father moved to Florida. In Florida at that time there was no law to allow non-payors of child support to be extradited, so he hid there and was never made to pay support.

I was the fifth of five children. My mom gave us all she could financially and emotionally, but life was very, very hard. When I think of a hero, I think of my mom. I'm only where I'm at in life because of my mom. I only talked to my dad 3 or 4 times a year, tops. I didn't see him again after he left until my brother died when I was 12.

My parents had a house together, but my dad refused to sign it over to my mom after the divorce, and the state of Florida wouldn't help us. Since he wouldn't help out with child support and he wouldn't sign over the house, we lost the house. We had to move to the projects. My life became even harder. I swore that when I grew up and had children, I would not abandon my children.

This experience hurt me so much that I wrote a song about it. It's called "Father of Mine" and it talks about how sometimes he would send me a birthday card with a five dollar bill, but he just didn't understand how he was hurting me by not supporting me. It says "My daddy gave me a name, and then he walked away." I think that it is a terrible abuse when parents neglect the innocent little people of this world that they created by not providing the necessary food, shelter and clothing that these little people cannot provide for themselves.

My song touched so many others, mostly kids, who were abused like me and could relate to my song, that my song went to number five on the billboard charts. My album went double platinum. That tells me that there are millions of kids out there who are angry with their parents and forced into poverty because of non-support. We have to stop this cycle of abuse. Now. We cannot let another generation of children grow up thinking that it is acceptable not to support your children.

If HR 1488 were law when I was a kid, my life would have been very different. It would have meant a steady stream of income for my mom, and she wouldn't have had to work so many jobs to support us. Maybe we could have kept the house, and I wouldn't have gotten beaten up so often because I lived in a bad neighborhood. Maybe I would have had a relationship with my dad, because he would not have had anywhere to hide, so he wouldn't have tried hiding.

Too many kids see their parents getting away with not having to pay support. When I was a kid, I knew my dad didn't have to pay and I learned that dads can get away with it. If we pass HR 1488, we will end this ability for dads to be able to get away with not paying. We will teach kids a new lesson. Kids will learn that when you have children, you have to be responsible for them. Then they will think that they have to pay, so they are entitled to have a relationship with those children.

People will learn this because we will use the muscle of the IRS to teach them. Most folks know that you don't mess around with the IRS or the punishment is severe. Some people only respond to being forced into taking action. We have to protect our children. America's children. We have to fight for the people who can't fight for themselves. We can't close our eyes anymore, and sometimes to do this we have to put ourselves in uncomfortable situations to clean things up. Its time for us to do that now, for our kids. Please support the passage of HR 1488.

Thank you.

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Chairman JOHNSON. Thank you very much for your testimony.

Mr. Doss.

**STATEMENT OF WAYNE D. DOSS, DIRECTOR, LOS ANGELES BUREAU OF FAMILY SUPPORT OPERATIONS, COMMERCE, CALIFORNIA, AND PAST PRESIDENT, GOVERNMENT RELATIONS COMMITTEE, NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION**

Mr. DOSS. Good morning, Madam Chair and Mr. Cardin. Thank you for allowing me to be here this morning. I appreciate the fact that these comments will be in the record because I want to depart from them to some degree to talk about this bill and some of the concerns that have been raised this morning.

Let me begin by saying that all of us in the National Child Enforcement Association, which organization I am here to represent this morning, appreciate the efforts that Mr. Hyde and Ms. Woolsey have placed on child support enforcement in terms of priority. Whatever agreements we have, or disagreements we have, with respect to the merits of their proposal, there is no question that they are committed to the well being of the nation's children, and we share that commitment with them.

We also appreciate the fact that their bipartisan approach to this problem is emblematic of the bipartisan approach that Congress has taken over the many years that it has been involved in this program.

Having said that, I have to say that we have some significant variations in agreement with respect to this proposal. First and foremost, I think it needs to be understood that there is a reason that Congress has vested responsibility for enforcement of child support in the states, and that is because in our constitutional system and in our tradition, it is the states which bear responsibility for dealing with families. It is state domestic courts which set support orders, modify support orders, and enforce support orders. And imposing a Federal bureaucracy on top of that is a significant problem.

Another philosophical difference that we have with the approach that is being taken by this bill is that it creates for the first time a universal system of child support very different from what Congress has supported up until this time. By that, I mean this—under the terms of this bill, every family would be included for the first time in the child support system as opposed to those families that choose to be included or who are required to be included as a result of participation in our Nation's TANF program. That is a significant departure and it would add significant cost, we believe, to the conduct of this program nationwide.

You have already touched upon some of the concerns that I have expressed in my testimony. One of those is that this bill would essentially preempt some of the most successful state efforts that have been put in place, with the Congress' mandate, over the last several years. States have pioneered a number of successful approaches to collecting child support, like the driver's license match. We have implemented mandatory wage withholding on a large scale, which has been very successful.

This bill would do away with all of those efforts in favor of a program that essentially relies on voluntariness on the part of the child support obligor in the system. And if there is one thing we have learned—and we have learned a number of things in the course of this 25 years that the child support program has been in place—it is that voluntariness is not the answer. That is why so much of what we have done has been done on a mandatory basis—the mandatory wage withholding, the mandatory inclusion and submission of delinquent obligors to all the different databases that we have in this country and in each of our states. We know that we cannot rely on parents to pay support.

I heard with concern the statement made by Mr. Hyde at the beginning that this program represents a failure of government. I would submit to you—and I believe that the members of the National Child Support Enforcement Association would submit to you as well—that this represents first and foremost a failure of parental responsibility, and I do not think that it is reasonable to believe that we can rely on the same parents who don't support their children in the first instance—as you have indicated, Mr. Cardin—to voluntarily submit themselves to the IRS process of enforcement.

There is no question that state laws involving child support enforcement are complex. They are complex for a reason. They involve matters of custody and visitation every bit as much as they involve the orders of support. The information that the IRS would need to have at hand in order to effectively and correctly enforce court orders is enormous. The automation that would be required to put this program in place would be enormous.

Another lesson we have learned in this program is that if child support enforcement is difficult, automating programs to enforce child support is even more difficult. I don't think it is reasonable to expect that the IRS will be able to do a better job in this area—an area with which they are entirely unfamiliar at this point, with the exception of the limited role they play now in the collection of tax refund intercepts—I don't think it is reasonable to expect that Congress can do the job by implementing a program that would require the IRS to take over the problem of enforcing child support.

We are now seeing the fruition of those things Congress mandated on the states beginning in 1988. While it has taken longer then we might have liked for us to get some of these things in place, they are finally coming together. States are coming together with their automation systems. The National New Hire Directory and the National Case Registry are coming online, and they will be tremendous tools in assisting us in enforcing our nation's child support laws. I think the IRS would be a mistake.

[The prepared statement follows:]

**Statement of Wayne D. Doss, Director, Los Angeles Bureau of Family Support Operations, Commerce, California, and Past President, Government Relations Committee, National Child Support Enforcement Association**

Madame Chair and Distinguished Members of the Committee:

I am pleased and greatly honored by your invitation to be here today to offer this testimony as you consider H.R. 1488, the child support bill authored by Representatives Hyde and Woolsey.

My name is Wayne Doss. I am the Director of the Bureau of Family Support Operations of the Los Angeles County District Attorney's office. I am here today to speak not as a representative of Los Angeles County or the State of California. I speak here on behalf of the National Child Support Enforcement Association (NCSEA). I am a past president of that organization and a member of its Policy and Government Relations Committee.

NCSEA is the largest organization of child support professionals in the country. It brings together staff from all levels of state and local government as well as participants from non-profit organizations, the private sector and the advocate community. All of these partners are united in their commitment to secure for our children the financial support to which they are entitled under the laws of our nation.

I want to begin by telling this committee that all of us in the child support community recognize, appreciate and honor both Representative Hyde and Representative Woolsey for their longstanding personal commitment to ensuring that the children of this country receive the full benefit of the child support which is so essential to their day-to-day existence.

Mr. Hyde and Ms. Woolsey have been consistent and unwavering in their outspoken advancement of this cause. Their joint authorship of H.R. 1488 is emblematic of the bi-partisan approach that has marked the federally mandated child support enforcement program from its earliest days.

This bi-partisan spirit is an enormous force for good in advancing the public perception and the national discussion of the goals of the child support program. It speaks to all children and says that, as a society, we treasure them. It speaks to every parent and says that we believe they owe no greater obligation than to provide for their children. It speaks to every citizen of our country and says that we will do all that we can to ensure that our next generation is given every benefit of our laws and our devotion.

*Altering Traditional Federal and State Roles*

Besides bi-partisanship, one other feature has been a constant in the approach Congress has taken to the child support enforcement program. Ever since the enactment of Title IV–D of the Social Security Act in 1975, Congress has recognized that the states, not the federal government, should bear primary responsibility for carrying out the program's mandates.

Congress has often seen fit to pass laws to govern the national progress and development of the child support enforcement program. It has mandated the enactment of a variety of laws at the state level and required the creation of automation systems to effectively carry them out. Congress has provided monetary incentives to states to spur their efforts in a desired direction and has directed that funds be withheld from states which have failed to meet deadlines or performance expectations.

In all that it has done over the years to advance the success of the child support program, Congress has not varied in it appreciation for the singular relationship that exists in law and tradition between the states and families. Throughout our history, it is the states which have been the sources of law and, when necessary, the intervening authority in the affairs of families and the welfare of children.

H.R. 1488 would fundamentally alter the relationship which has existed until now between the federal and state governments in the operation of the child support enforcement program. For the past 25 years, the federal government has performed the job of oversight. It has done so by setting national policy and monitoring state performance.

True, the federal government does provide some operational support for the states. Examples of this operational involvement include the Federal Parent Locator Service, the Internal Revenue Service tax refund intercept program, the development of national data bases for new hire reporting and court order registries, passport denials and federal criminal prosecution of parents who cross state lines to avoid the payment of child support.

This list of examples underscores an important point: The federal government's operational role in the child support enforcement program until now has been limited to those activities which it is uniquely empowered to perform, (such as federal

tax refund intercepts and passport denials) or uniquely positioned to perform (such as maintaining the national new hire registry and national court order registry). Everyday involvement in the ongoing collection of support has never been seen as a necessary or desirable role for our national government.

*Complexity of State Laws a Barrier to IRS Enforcement*

In our constitutional tradition, the states have been accorded primacy in matters involving the establishment of parentage, the creation and dissolution of marriage, the awarding of custody and visitation and the setting, modification and enforcement of support. These are, to say the least, complex and highly intertwined and interdependent matters. The rules that govern parent and child relationships in each state have been highly refined over time. Critical details differ widely from state to state. While the development of the federal child support enforcement program has brought a semblance of uniformity to some parts of this landscape, the body of domestic relations law still accommodates widely varying applications of law and equity.

The suggestion that a bureaucracy such as the Internal Revenue Service, challenged as it is to apply a uniform national tax code, could successfully assume the responsibility for enforcing state support orders defies our common experience in dealing with the state domestic relations law and policy.

Indeed, the states themselves have found the problem of enforcing the orders of other jurisdictions to be among the most daunting of tasks. Some progress has been made in bringing uniformity and simplicity to this field through the mandated enactment of the Uniform Interstate Family Support Act (UIFSA). Still, states struggle with the application of such concepts as continuing exclusive jurisdiction, not to mention the multiplicity of state interest rates and penalties which may be applied to delinquent court orders. If state child support enforcement agencies, which are versed in the nature and kinds of issues that occur in the course of enforcing support orders, wrestle with the vast complexity of state variations, what hope is there that a new federal bureaucracy—especially one alien to the field—will do better? We submit that the likelihood is nil.

*Preemption of State Enforcement Remedies a Backward Step*

From our vantagepoint, one of the most troubling aspects of H.R. 1488 is the preemption of state child support enforcement activities in favor of the proposed Internal Revenue Service support withholding process. Beyond anything else we have learned in over years of trial and error, we have come to know that collecting child support is not easy. While some tools, such as universal wage withholding, are very effective, they are not by themselves capable of ensuring that more than a certain percentage of parents will pay regularly. Even universal wage withholding provisions working in combination with state and federal new hire registries are not sufficient to secure regular payments for the vast majority of families served by the child support enforcement program.

Over many years, states have pioneered many new enforcement tools to secure support from those who do not regularly pay through court ordered assignments of salary and wages. Credit reporting, professional and motor vehicle license suspensions, real and personal property liens, intercepts of insurance payments and lottery winnings and state criminal prosecutions are but a few of the enforcement remedies which must be used by states to collect support from unwilling obligors. Many of these tools have proven so effective, in fact, that federal law now mandates that states employ them.

Combined with such previously mentioned federal remedies as passport denial and income tax refund intercepts, an unprecedented "dragnet" of enforcement mechanisms exists to bring the unwilling payer to heel. Still, with all these tools at our command, the national collection rate continues to hover around 21%. It does not make sense to us that we should expect more obligors will pay if we do away with these tools and turn to a system which relies first and foremost on payers to make voluntary declarations to their employers regarding the nature and extent of their obligations.

*Problems with Voluntary Declarations of Support Withholding*

To ensure appropriate withholding and disbursements of child support payments, the enforcement scheme envisioned by H.R. 1488 relies on obligors to provide their employers with information concerning the amount of their court or adminstrative support order obligations. It also relies on the obligor to know the social security numbers of the obligees to whom support is owed. The assumption that obligors will know this information, much less provide it on a voluntary basis, does not square with the realities that we in the states know all too well.

By far the greatest number of court and administrative orders obtained through the child support enforcement program are secured through a default process. This means that after service of initial pleadings on a prospective obligor, he or she does not respond and the legal or administrative process is carried to conclusion in their absence and without their involvement. While these proceedings may involve parents who were formally married but are now separated, most frequently they involve parents who were never married. In these cases, to be sure, the likelihood that an obligated parent will even know of the existence of the court or administrative order, much less the monthly amount of the ordered obligation, is remote.

One of the primary assumptions underlying H.R. 1488—that obligated parents can be expected to voluntarily and knowledgeably report the existence of their obligations—is flawed. Indeed, it contradicts the premise along which federal and state policy direction has moved for the last several years. The idea behind the federal requirement for mandatory, universal wage withholding and the creation of new hire registries is that obligors cannot be relied upon to pay support voluntarily. The approach has been to eliminate as far as possible the ability of an employed obligor to avoid or delay the payment of support.

States have succeeded very well at the task of securing support from parents who are regularly employed. As automated systems continue to improve and interfaces with new hire and other employer data bases continue to develop, we can expect that the capability to quickly and effectively implement wage withholding for support will become even better. Already, in many states and localities, including Los Angeles County, it is commonplace for wage withholding orders to be in the mail to an employer within 24 hours of a match between a state or local jurisdiction's obligor data base and the state's new hire registry. In many of these places, the same quick response occurs when a parent entitled to support or another party calls or writes to update the records of the support enforcement agency with employment information about the obligated parent.

The mandatory wage withholding system in place today provides far more certainty to employers with respect to whether and how much pay ought to be deducted from a supporting parent's wages or salary than would be the case in a system which relies on the parent to provide this information in the first instance. Beyond the amount of current support to be paid, mandatory withholding orders issued from support enforcement agencies can provide an employer with specific information concerning the aggregate amount of arrears and an amount to be withheld to liquidate them.

States have come a very long way in implementing mandatory wage withholding mechanisms since the first proposal to have the Internal Revenue Service institute a support withholding process was introduced in 1992. Much of this progress has come as states have brought their automation systems on line. Still more progress in this area is owing to the development of the state and federal new hire systems. It seems anomalous that we should now be considering proposals to do away with the structures we have successfully put in place and, instead, substitute a process that appears less certain to ensure the same level of efficiency and accuracy in withholding that we can now provide. It may have taken longer in coming than we would have liked, but a highly effective system for support withholding now exists across the nation. Greater improvements can be made to this process, to be sure; still, those improvements can be made far more readily than the development of a system at the Internal Revenue Service to replace what we have so painstakingly built.

*Automating the IRS to Collect Support Would Be Lengthy and Expensive*

One of the most painful lessons we have learned in the child support program is this: If there is anything more difficult than operating a state child support enforcement program it is building an automation system to operate a state child support program. The records of this committee's past hearings are no doubt replete with stories of failed automation developments, delayed automation developments and automation developments plagued with cost over-runs well beyond original estimates. While the great majority of state systems are now federally certified, there are still states (my own state of California notable among them) that have not succeeded in implementing the automation requirements first laid down by Congress over a decade ago in the Family Support Act of 1988 and substantially augmented in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

There are many reasons why so many states have either failed or taken over long in implementing federal automation requirements. One common theme consistently cited by those involved in successful and unsuccessful automation efforts alike is that child support enforcement is by its nature a complicated business, dealing as

it does with complex family relationships and governed more and more by complex federal rules.

H.R. 1488 would require the Internal Revenue Service to enter the same automation minefield that has so enormously taxed the ingenuity, resources and efforts of the states for more than a decade. In fact, we think it is likely that the problems faced by states would pale by comparison to those the Internal Revenue Service would be taking on in order to effectively implement wage withholding.

Here's one example of what we mean. As noted above, legal provisions with respect to child support guidelines, interest and penalties differ widely from state to state. In order for the Internal Revenue Service to ensure accurate withholding of support from an obligor's wages it must be capable of tracking guideline support plus principle and interest balances according to the laws of *every* state and territory. This is a challenge far greater than those faced by any state automation developers, who in each case need only to have devised a mechanism for dealing with one set of applied rules.

Interest and penalty calculations are only one aspect of the vagaries with which a support enforcement system must deal. Problems associated with changes of custody and visitation are yet another. Although courts regularly deal on a formal basis with alterations to custody and visitation arrangements, it is far more common for families to deal with these issues informally. When this happens, it introduces significant complications into the calculation of whether or how much support is owed. States have different rules and policies for determining when and whether to allow credits or offsets, depending on the circumstances. We think it is too much to expect that the Internal Revenue Service can successfully take on the job of duplicating the mechanisms already in place in the states to wrestle with and resolve these problems.

*The IRS and Meeting the Challenges of Customer Service*

In the course of the last few years, child support enforcement administrators have focused increasingly on finding ways to serve customers of the child support enforcement program more effectively. As in virtually every other segment of government and industry, consumers of our services have become more knowledgeable, more sophisticated and more demanding. With more and more frequency, parents want to know not only what has happened with their case but also what will happen next and when.

Nor are parents alone in being customers of the program. The implementation of universal, mandatory wage withholding has made employers an important and significant customer base for the child support program. For example, payroll managers and personnel staff frequently have need to secure answers about the terms and conditions for withholding from an employee's salary or wages.

States have made tremendous strides in working to give parents, employers and other customers of the child support program meaningful access and response to their customer information needs. This has led to the development of large scale call center operations in many states and localities as well as internet-based applications to provide child support customers with rapid access to useful information. In almost every instance, the ability to provide customers with responses to their information needs is dependent upon a tie-in with the jurisdiction's child support automation system.

From the standpoint of the states, if the Internal Revenue Service were to enter the field of child support enforcement as the enforcer of first and last resort, it must grapple with the need to provide an equivalent quality of customer service to that now offered or being developed in state programs. Furthermore, the Internal Revenue Service would have to adopt an approach to this area which treats child support agencies themselves as customers, since they need for a close working relationship to share information would be critical to both partners in the child support collection effort.

It is clear that the volume of demand that we know would be faced by the Internal Revenue Service stemming from responsibility for the enforcement of support obligations could not be met with available resources at that agency. In Florida, for example, the state child support agency processes one million telephone inquiries per month. In Los Angeles County, the child support call center processes more than 80,000 phone calls per week.

Not only is the volume of calls daunting but also the knowledge base required to deal with inquiries in more than a superficial or "message taking" way is significant. The new and different demands that would be made on customer service agents within the Internal Revenue Service means that they must be specially trained and equipped to deal with the inquiries of parents, employers and other child support customers.

Recent reports on the status of efforts at the Internal Revenue Service to upgrade the delivery of customer service in the tax area raise doubts about that agency's capacity to take on the customer service needs of an entirely new and decidedly different sort.

*Summary*

The child support enforcement system in the United States is still relatively young. Efforts to improve the national system through automation which were begun a decade and longer ago, as well as more recent changes brought about by welfare reform, have finally begun to take hold and produce results. The success of these efforts is directly attributable to knowledgeable and dedicated staff in each state and jurisdiction who work daily to accommodate the requirements of the child support program to the state environments in which they operate.

While the child support enforcement program is national in scope, it is still very much state-based in terms of its connections to the laws and institutions that establish and govern the affairs of families and children. So long as state courts and institutions are vested with responsibility for ordaining the existence, scope and extent of parental financial obligations toward their children, child support enforcement should continue to be viewed as best conducted at the state level.

The enforcement of child support is a complex business. Many tools and remedies are needed to maximize the payment of support from parents who are unwilling to pay what they owe. Discarding state-based tools in favor of a single remedy solution through the Internal Revenue Service would be a backward step in the nation's efforts to secure financial support for its children

The federal government has an important role to play in the administration and oversight of the child support enforcement program. To a lesser but still necessary and significant extent, the federal government can provide operational support for state efforts by providing uniquely federal assistance through such unique programs as passport denial and the maintenance of national locate, court order and new hire registries.

The intricacies of state child support and domestic relations laws, coupled with the high volume of demand for program services and information as well as expectations of customer service make the Internal Revenue Service an unlikely and expensive alternative to consider at this juncture in the history and development of the program.

States have learned much, accomplished much and are now beginning to reap benefits from the years of trial and error that have preceded this moment. The time is not now to consider an overhaul of the child support enforcement program as extensive, time-consuming and costly as turning to the Internal Revenue Service would prove to be.

I thank you, Madame Chair and members of this Committee for the time you have given me today. I shall be happy to answer any questions you may have.

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Chairman JOHNSON. Thank you. We will pursue this problem later.

Ms. Williams.

## STATEMENT OF VICTORIA WILLIAMS, SENIOR VICE PRESIDENT, POLICY STUDIES, INC., DENVER, COLORADO

Ms. WILLIAMS. Madam Chairwoman, Member of the Committee, Mr. Cardin, my name is Victoria Williams. I am Senior Vice President of Policy Studies, Inc. It's a Denver-based private consulting company that also is involved in privatization of child support services in a number of states.

I am here today to talk to you as a private citizen who has dedicated her entire professional career to improving the child support program and helping people collect child support. I started early, 20-some years ago, back in the early days of the IV–D program, as an Assistant Prosecuting Attorney, and I have seen a lot of changes in the program that have seen a lot of improvements in child sup-

port, one of those things being that we are collecting child support very effectively from people who are employees, who have conventional means of employment.

What I see that hasn't changed in the child support program is that we still have a tremendous amount of difficulty collecting child support from people who do not work, who are underemployed, who work for cash, and who work in the underground economy.

Ms. Johnson and Mr. Cardin, you have both mentioned a lot of the things that I have expressed in my written testimony, and I am going to talk about the three concerns that I have about this bill. I think the idea of treating child support obligations as tax debts philosophically is a wonderful idea, but there are three things about this bill that cause me concern.

One is, as you mentioned earlier, Mr. Cardin, that this bill would eliminate all of the local enforcement remedies that states have worked so hard over the last 20 years to implement, and those are enforcement remedies that many of which are designed to get at obligors who work for cash under the table, who refuse to remain employed, and who need constant local attention.

Ms. Woolsey mentioned that there are 1500 state and local child support agencies. There is a reason why there are 1500 state and local child support agencies—that is because a difficult segment of our population is dealing with people who will not pay their child support and who do not work for employers who can withhold those wages and pay through the regular tax system. That is a significant amount of the effort that we expend in collecting child support, is expended on people who in those circumstances. As Ms. Jensen mentioned, 60 percent of noncustodial parents make over $30,000 a year. Well, that means clearly 40 percent of them make less than $30,000 a year. Those are people who move in and out of regular employment, who work for cash—they are construction workers, oyster shuckers, chicken catchers, moss pickers. These are people that the IRS right now does not effectively really collect taxes from. They don't seem to be particularly interested in this population. In the 20 years that I have been doing this, so many of the people that we try to collect child support from do not pay taxes. They don't file. When we ask them for copies of their tax returns, we can't get them because they are not paying.

I wonder whether having the IRS more involved in this program might precipitate more taxpaying as well, but it could actually have the opposite effect, that being driving these people even further underground and making them invisible to the child support program where now we are at least able to take them into court and make them pay their child support through at least the threat of jail.

One thing that we all know is that the IRS has no means of making people work in order to pay their taxes and support our government, yet at the local level in the child support program we spend much of our resources taking people to court, asking judges to make people work, to get better jobs, so they can pay their child support. Every day, across the United States, judges tell obligors, "If you don't have a job by next Wednesday, you better bring your toothbrush back here into the courtroom because you are going to go to jail". The IRS will simply never have that kind of power to

make people go to work. And if we ignore that population and take away judicial enforcement, we will be completely ignoring about 40 percent of our child support obligors, and that is the reason why this program is so expensive.

So, that is my most important point. You have already talked a lot about complexities of the distribution system—I hate to even say the word "distribution" because it is a word that makes my skin crawl—but for the IRS to think about trying to interface with 54 state public assistance programs, and know how much public assistance has been paid, and distribute money properly to families strikes me as an impossible situation.

People think that the child support system is simple, but it is very complex, and it is based on state laws. It is based on differing state laws having to do with interest accrual, ages of emancipation, statutes of limitation, and we simply can't expect the IRS to have a grasp of 54 different sets of state laws.

You are going to hear some more testimony in a few minutes about the successes of state child support programs, and I would urge you to continue your extraordinary support in helping state programs get better and better. Thank you.

[The prepared statement follows:]

**Statement of Victoria Williams, Senior Vice President, Policy Studies Inc., Denver, Colorado**

Chairwoman Johnson and members of the Human Resources Subcommittee, thank you for inviting me to testify. My name is Victoria Williams and I am Senior Vice President of Policy Studies Inc. (PSI), a private company that has, over the past 15 years, provided child support consulting or privatization services to almost every state's child supportprogram.

I am here today to ask you to oppose H.R. 1488, called the "Compassion for Children and Child Support Enforcement Act of 1999," which would turn over enforcement of child support orders to the Internal Revenue Service. While I applaud this subcommittee's continued efforts to help children by improving the child support program, I fear that this bill will not successfully serve that purpose. I have three main concerns. First, this bill would eliminate important local enforcement tools now used by states. Second, it would serve to confuse parents by fragmenting the program between state and federal responsibilities, and by creating duplication at the federal level of already complex state child support record-keeping systems. Third, this is not a good time to transfer this important national responsibility to the IRS.

**States Will Lose Effective Enforcement Tools**

The bill is based on the premise that obligors will fear the IRS more than they do state child support agencies and local courts. While this may apply to people working in conventional settings, it is not true for those involved in the underground economy. A great deal of state agencies' work on IV–D child support cases involves parents who are self-employed or paid in cash, not to mention parents who refuse to work at all. From what I have heard working in this field for the past 20 years, many of these people do not pay taxes either. They do not have employers who report to new hire databases or who can deduct child support from wages, and they have few assets. The only effective way of staying on top of these obligors is through constant local attention.

This bill would move responsibility for enforcing child support orders from states to the IRS, thereby potentially eliminating state-level enforcement mechanisms. Some of these tools, such as revocation of drivers' and professional licenses are fairly new to most states, and their effect on collections not yet fully realized. Two state-level mass collection programs—state tax offset and unemployment intercepts, which together generated over $325 million in collections in FY 1997—could be severely compromised if the IRS has to recreate these matches for each state.

Furthermore, the ability of courts to enforce their orders through civil contempt, an age-old enforcement remedy, is extremely important in reaching certain groups of noncustodial parents. I believe it is a myth that contempt actions are ineffective

and a waste of judicial resources. My experience tells me that many thousands of non-custodial parents who are now marginally employed would happily quit working and let their parents, spouses, and friends support them if they were not under constant threat of going to jail. Since there is no duty on the taxpayer to get a job to support our government, the collection arsenal of the IRS does not include these state-level tools to deal with under-employed noncustodial parents.

**This Will Fragment Child Support Services**

This bill proposes to leave certain responsibilities with the states, including paternity and support order establishment, order modification, and enforcement of medical support orders. To illustrate how this construct will create customer confusion, imagine the typical case that involves both a medical support and a child support order. Custodial and noncustodial parents, as well as the obligor's employer, would receive communication from the state agency regarding the medical support obligation, and a separate directive from the IRS regarding child support. When parents and employers have questions about support arrears, they will have to contact the IRS, but questions about medical support or modifications child support cases, they would have to know which agency to call for which service.

This fragmentation will also create expensive duplication of services. A state agency may have to go to court to enforce the medical support provisions of the order, but would not have the authority to address non-payment of child support at the same time. Likewise, if the state took action to modify the support order, it could not simultaneously address the support arrears.

The division of responsibility envisioned by the bill will also create a huge technical challenge for states and the Service. In order to enforce child support orders, the IRS will need to know the current obligation, and will have to calculate arrears balances for each case. The existing federal case registry does not contain this information, nor does it maintain an historical payment record. This will make it impossible for the IRS to resolve disputes without reference to state records. Even with access to complete payment records, agents will have to understand the law of the state that issued the order, including potentially complicated arrears and interest calculation issues, abatements, and statutes of limitation. Once the Service takes over payment processing, the state payment records will no longer be accurate, thus further eroding the possibility of obtaining local enforcement, even if the custodial parent later opted out of the IRS collection scheme.

Of greater concern, however, is the idea that the IRS will be able to create a successful interface to 54 different state-based public assistance programs in order to disburse payments properly. The IRS would need to know which cases involve custodians who currently receive or formerly received public assistance, while also keeping track of how much support is assigned to the state, and what amounts remain due to the state for repayment of TANF grants.

Assuming that these interfaces could be successfully built within a reasonable period, the IRS would still be hard pressed to understand the complicated circumstances surrounding the disbursement of support payments. One of the most difficult problems facing the child support system involves tracking children and their custodians. Many children move from state to state, and from one custodian to another. States spend enormous resources tracking children—and the obligations attached to them—from one household to another and into and out of foster care. This would have to remain a state-level function, but since the states would not be maintaining the payment records, it is hard to imagine that they would be able to keep accurate child-based debt records.

In addition to tracking child support payments and TANF grants, the IRS would have to track accruals and payments on a number of other items, including: interest, penalties, genetic testing fees, fees for state services, court costs, judgments for retroactive support and medical expenses, and cash medical support. Parents will find themselves in a bureaucratic maze, negotiating information between two very distinct agencies, at different levels of government, in order to make sure that their payments are correctly handled.

**Could be a Poor Fit for the IRS**

Even if H.R. 1488 did not fragment state child support systems, it does not appear that support enforcement would be a good fit for the IRS at this time. The Service is in the middle of its own reorganization and is seeking additional funds to hire new auditors. Passage of this bill would add one more extremely complicated function to an already over-burdened agency, one that Congress has been working hard to reform. The IRS would be required to recruit, hire and train thousands of additional employees, located in jurisdictions throughout the country, solely to enforce

child support obligations, at the same time that it is trying to revise its image and practices.

The bill will also impair the IRS's plan to improve customer service. Employers and parents would have to deal with two government agencies, not one. A person who felt better treated by the IRS as a taxpayer, might be furious at the way a child support case was batted back and forth between the state and federal government. Furthermore, the first of the Services' five modernization principles is to understand and solve problems from the taxpayer's point of view. While this is a reasonable goal when dealing with two parties, the Service and the taxpayer, it is hard to imagine how this would work in a child support case. Whose point of view should it consider, the custodial parent, the noncustodial parent, the state agency or the child? When the IRS negotiates a payment schedule with a taxpayer, it represents the obligee: the US Treasury. In a child support case, the obligee is a third party and the Service does not have the authority to negotiate a deal on this person's behalf.

**Conclusion**

By asking the IRS, an agency that already has its hands full with a reorganization plan, to perform support enforcement functions, Congress will splinter the child support system and undermine much of the progress made since the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was passed in 1996. As state governments and the IRS work to improve customer service and accountability to taxpayers, this fragmentationof the system will only serve to undermine their efforts.

As you will hear from this afternoon's hearing, states have made enormous strides in recent years in improving child support collections. Much of this progress has been due to the changes brought about by your work on welfare reform. I urge you to allow the states to continue their efforts to improve this important program.

Thank you for your time.

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Chairman JOHNSON. Thank you very much. What I was trying to clear up with my staff—sometimes there is a very simple issue and you want to try to clarify it for the record, and it is a little embarrassing not to be able to do it, so you think if somebody just helps you you will be able to do that. But this 85 percent figure and the 23 percent figure, these are not apples and oranges, and I don't want the record to reflect that or to support that indication.

So I would like each of you to speak to 85 percent of what, and 23 percent of what, because they are not comparable. Ms. Jensen.

Ms. JENSEN. Yes. Actually, the figure that I got from the IRS was that 83% of Americans pay taxes, 17 percent do not file, and that is what that figure is based on.

So, if we had 85% of Americans paying taxes through the system and they owed child support and we do what this bill says, which is to move the Federal New Hire Registry into the IRS so that if I write on my W–4 form I owe child support, my employer withholds it and sends it to the IRS. If I don't write it on my form, it is caught just like it is right now through the Federal New Hire Registry and the employer is told to withhold, so that if there is an order, it is on file, it is part of the Registry, and they would take it out of my paycheck.

Chairman JOHNSON. So you are not saying—the implication in the earlier testimony was that the IRS collects 85 percent of the child support that they are now empowered to collect, or that they would have the ability to collect 85 percent of the child support owed.

Ms. JENSEN. They collect taxes from 85% of Americans——

Chairman JOHNSON. I appreciate that, that is a different issue.

Ms. JENSEN.—and those Americans that would have an order on file through the current Federal and state order case registries, which would be about 2/3 of the child support cases in the nation. They would be listed, there would be an order on file when they went to work, and they would collect child support from their paycheck.

So, from that, one could extrapolate that they would collect about 75 percent of the families who owe support, possibly as high as 85 percent.

Chairman JOHNSON. What you are saying is that you would hope that they could collect 85 percent of the 2/3 of the parents who have orders.

Ms. JENSEN. Yes, because they cannot collect from people who don't have orders. And there will always be those who will earn money under the table and who won't pay.

Chairman JOHNSON. And who would try to collect from those?

Ms. JENSEN. Under the current form of this bill, the contempt powers of the state are left intact, so they could be taken into state court for contempt.

Chairman JOHNSON. For tax law contempt?

Ms. JENSEN. No. Under this—if they didn't collect it through the payroll deduction system, the IRS would go after them at the end of the year, just like they do if you don't pay taxes. If you have a tax liability, they could do the same thing to you.

In addition to that, state government maintains its power to do contempt of court, maintains its power to do criminal nonsupport on the state level, and maintains its power to go into court and do—

Chairman JOHNSON. I would remind you that the IRS audits only a very, very small percentage—I have forgotten what it is—it is about 10 percent of all returns. So, the likelihood of their reaching those—

Ms. JENSEN. Which is why putting that Federal order case registry inside of the IRS is so important, so that they would catch up with these people who don't voluntarily report. So that is an essential part of this bill.

Chairman JOHNSON. I just wanted to make clear what the 85 percent, what that figure was that was thrown around earlier, and I think even in your comments it is clear what a big responsibility administratively and bureaucratically this would be for the IRS, for them to have the entire state order registry centralized at the Federal Government, which has never been done, that that is a lot of people, the order centralization, and then the New Hire Bank moving to them. I want to give Mr. Doss a chance to——

Ms. JENSEN. If I could just correct one thing that maybe I haven't said clearly. They would not be taking on anything more than what is in PRWORA. In the Welfare Reform Act, where the Federal Case Order Registry was created, that would be moved to the IRS. So they wouldn't be taking on anything more than what HHS does right now. It isn't like they are going to get a new one, we are just transferring it over.

Chairman JOHNSON. I would just like to ask Mr. Doss then if he—because it is difficult. It is a complicated system, and it isn't at all clear from the bill what exactly would go to the IRS and

what would remain. And in my estimation, it is such a complex system, the idea that you are going to be able to move this all into the IRS and not have a million pieces at the state level is the stuff of charts and papers, and not the stuff of reality. But Mr. Doss is a professional in this area, I want to hear what you think the 85 percent is of what, and what is the 23 percent.

Mr. DOSS. I am not entirely conversant with the information available about the IRS collection rates, although I have seen some information. It is very clear, however, that the IRS does a very good job, for the most part, of collecting taxes from people who are employed and whose employers withhold it from their paychecks. By the way, that calculation is generally done by the employer, not by the employee.

But the IRS has the same problems that we have in child support, in collecting from those who are not regularly employed, who move around, who work, as Victoria said, in the underground economy.

The challenge of child support enforcement is one of constant monitoring, and you have already indicated, with the allusion you have made to the number of audits that are done by the IRS, that the resources available currently in the IRS to do the kind of monitoring that is done at the local level to collect child support are simply not there, and the addition of staff at the IRS to do the kind of work that is currently being done by local government and state government in enforcing child support would be massive. It would simply be massive.

There is a cost to doing it this way, there is no question. If we are going to collect child support, we are going to have to spend money to do it, that is why the program is so expensive. But I repeat what we said earlier, collecting child support is not a simple business. It is not an easy business. We need lots of tools, not one tool. I would love to believe that there is a magic bullet.

Chairman JOHNSON. Could either of you comment on what percentage of the child support that we are not collecting now is—well, I guess you gave this in your chart—40 percent comes from people making less than $30,000. What I want to get is, in the wage withholding group, that is the easiest.

Mr. DOSS. Absolutely the easiest.

Chairman JOHNSON. And that is why the match system is working so well, and the new hire system, and we are just going to see that grow, I would think, exponentially.

Mr. DOSS. I think that is correct.

Chairman JOHNSON. How many years would you think it would be, knowing about the state progress, before the states could pretty well collect from people who are working just through the new hires and the matches? Is this going to take 10 years, or do you think we are going to be there in five?

Mr. DOSS. I think you are going to see significant improvement in less time than that. Five years would probably be a good increment in which to measure the state's progress because of the implementation of all of the automation systems and the implementation of—and full effectiveness of the New Hire Registry and all of the other databases that are being put together at the state level.

I think that is going to greatly increase our capacity and ability to do the job.

Chairman JOHNSON. And how long do you think it will take us to improve our capability in this other group, the nonsupporting fathers who actually work underground, make money, but don't pay.

Ms. JENSEN. Ms. Johnson, we have an estimate on the improvement timeframes under the current system. There was a study done by the Children's Defense Fund that showed if it continued to improve at the current rate, it would take 180 years for all the children to receive payment, but—

Chairman JOHNSON. Ms. Jensen, if I may, please. That study was for—only Massachusetts has really fully implemented the match law and the banking system. You can't believe what is coming out of the assets people have. So, it is going to take us probably two more years to get that match system, now that we have a few model states working well, but that study of the Children's Defense Fund sufficiently pre-date it because these tools are really now—each year there is a dramatic change that really—that is why I am asking the question.

Ms. JENSEN. We did an extrapolation of updating on that study, that was just the starting point, and we determined that if you took the best state, if you looked at states improving income withholding by 36% and that bank matches add another 10 percent—I mean, at best, you have got down to about 75 to 100 years at that rate.

Chairman JOHNSON. I think from the testimony—and I would be happy to have you review the testimony of our last hearing where we went sort of method-by-method, and what is happening—driver's license suspension has proved to be very powerful.

Ms. Williams, would you like to comment on this?

Ms. WILLIAMS. I would like to comment on the possibility that the IRS can effectively address the nonemployee part of the population, going back to a 4-year study that the IRS did where it took—we now have the ability to refer cases to the IRS for what is called "full collection services", and it is not an exceedingly massively used remedy, it is partly because the IRS sends out letters to obligors and says "what are you going to do about this?" The IRS, last year, for collecting taxes, only did 161 property executions for collection of back taxes.

So, we are looking at primarily a voluntary system of tax collection. But if you look at the 168 cases that the IRS followed over a 4-year period, they only had a success rate of 2 percent per year in collecting on the $14 million that was owed on those 168 cases, and they found when they tried to collect child support from these people, treating the delinquent child support as back taxes and using all of their remedies that they have to collect back taxes, they found that hardship based on income level of the taxpayer was a significant barrier and that these obligors had a high degree of tax debt, which indicated to them that these are people who do not follow laws and are certainly not intimidated by the IRS. And they also found that the high cost of the field investigation to try to collect money from this group of obligors was not supported by the relatively small return.

So, I think what we are looking at is the IRS is not going to be successful in collecting child support from people who don't work in the normal economy.

Chairman JOHNSON. So they only collected 2 percent of the—

Ms. WILLIAMS. Two percent per year, for a total of 8 percent over a 4-year period.

Chairman JOHNSON. —of 168 cases, total?

Ms. WILLIAMS. On a $14 million debt.

Chairman JOHNSON. Well, we are not, certainly, going to conclude this, but I did want to make it absolutely clear that the numbers are not to be comparable, that the IRS currently collects 85 percent of what it could collect, and the other system collects 23 percent of what it could collect. And one of the big difficulties would be how would we deal with the nonfilers.

Mr. DOSS. Ms. Johnson, if I may intercede with one other point, I think something that is going on in my State of California would be useful to the national discussion—and I think there is some national discussion—in terms of determining what percent of the outstanding unpaid support is actually collectible.

We know that many parents have large debts. Those debts are compounded with interest which is accumulated at different state rates. But the point is, those parents' circumstances today are different than they were when those orders were entered. Many of them are disabled, they are not working, they are working at lower wages or salaries.

The question really should be what are we looking at in terms of a realistic collectible base of unpaid support, and I don't think we know the answer to that question.

Chairman JOHNSON. Thank you very much. I think it is important for this Committee to begin the process of trying to determine what that number is because one of the things that has always haunted the IRS is this big number of uncollected taxes. When you get down to it, the IRS does a very good job of collecting taxes. Most of the uncollected taxes are uncollectible. So, I will pursue that. Thank you very much. Mr. Cardin.

Mr. CARDIN. Thank you, Madam Chair. Mr. Alexakis, I think you will be pleased to know that we have changed the laws since your circumstance, and we now have interstate New Hire Directory to track down noncustodial parents nationwide and to enforce child support orders across state lines.

Mr. ALEXAKIS. I am aware of that.

Mr. CARDIN. So we have made some progress in that regard. Using the IRS would not appreciably increase, and perhaps could actually reduce the amount of collections—we all acknowledge that the collections are too low—what should we be doing? What options should we be putting on the table in an effort to help the states in their collection process? Let me address that to Mr. Doss and Ms. Williams. What would you suggest that Congress could do in order to help you?

Ms. WILLIAMS. I think you did so many things in 1996 that it would be nice to not impose anymore requirements on the states at the moment, and to spend a few years, do some research, and watch to see which of these remedies are effective, and then make

sure that states implement them appropriately. The most important thing is getting states to be effective.

States make errors and they don't always effectively implement things, but there are 55,000 local child support employees out there who consider it their "calling" to enforce child support orders, and I think you have given them all the tools that they need to do it, you just need to make sure the states are good at implementing them.

Mr. DOSS. I would echo the comment that we need a little break in terms of the new requirements that were placed on us to do this more effectively. I would suggest to you that we haven't seen the full benefit of some of the things that you have done. For example, the multi-state National Institution Data Match that was referred to earlier has turned up billions of dollars in accounts around this country. We have got to find mechanisms now to get at those accounts and make sure that we are collecting money from people who are putting it away and who are earning interest on that money. States have not yet progressed to the point where we are effectively taking advantage of those dollars.

I believe very strongly that what we need to do in this country is create more and more ways to stop up the avenues of escape for parents who don't pay child support. I don't think there is a single way to do this. I think there are many remedies and many different tools that have to be used to make this program effective. We are finding them. We need to fully utilize them. When we do, we will see much better success that we are seeing today.

Mr. CARDIN. Let me suggest a couple of points that I would hope that you would work with us on. One is the legislation that has passed the House of Representatives—it is now in the U.S. Senate—to deal with noncustodial parents to help them become—get jobs, put some resources behind the noncustodial parents. There are a lot that are dead broke, not deadbeat, and we should be putting more attention—and we have on Welfare Reform—in that regard.

Second is the passthrough of child support to the family, the issue that we changed and actually made it more difficult, I think, for noncustodial parents to be a part of the family when the support goes to the child collection agency rather than to the family. I think that we could improve that circumstance, and that might also have an impact on child support collections. They are two suggestions that I would hope this Congress would take a look at under the existing structure.

Mr. DOSS. I'd like to address the latter point and then I will get to your former point. All of us in the National Child Support Enforcement Association would appreciate greatly a simplification of the rules of distribution. It is one of the single, most—it is the foremost reason, I think why child support automation has been so difficult.

Accommodating automation systems to very complex rules of distributing money to families, to governments, to other states, has made the system far more complex, far more difficult to deal with than it ought to have been, and I think we would do everybody in this country a favor if we could give as much money as we collect to the family as possible.

On the first point that you made, I can tell you that we are very supportive of the Fatherhood initiatives that have been talked about in this Congress and in past Congresses. In my own county of Los Angeles, we have been a demonstration site for a couple of those programs. We have seen a tremendous effect on the fathers that we deal with. There are many alienated fathers in our country, and we need to bring them back into a position where they believe they can participate with their families. Many of them do not believe they can do that today.

Mr. CARDIN. Thank you. Thank you, Madam Chairman.

Chairman JOHNSON. I did want to put a couple of facts on the record because I think they are relevant in framing the challenge that continues to face us. 75% of divorced fathers have a child support order, and 75 percent of those with an order make a payment. That isn't to say that they make the full payment, I don't know about that. So, overall, 50 percent of divorced fathers make some payment. In the never-married category, only 40 percent have orders and 60 percent of that 40 percent pay. So, you can see how much of the problem is in the never-married sector.

Then of the poor people who are adults—well, poor people over 16, only 41 percent work at anytime during the year, and only 12 percent work full time.

So, this issue of ability to pay, of hardship, of getting people in positions where they pay, is every bit as important as trying to make them pay. So I think that is one of the things that we are really struggling with, and it is curious to me, Mr. Alexakis—

Mr. ALEXAKIS. Alexakis.

Chairman JOHNSON. It is so easy when you say it.

Mr. ALEXAKIS. I have been doing it for a while.

[Laughter.]

Chairman JOHNSON. It is mysterious to me that your mother didn't have a support order or that for some reason there was no help for her in enforcing it.

Mr. ALEXAKIS. Back in the late sixties and early seventies, there wasn't that kind of network set up in the State of California. Basically, what the social worker told my mother when she tried to get help was that maybe next time she should pick a better man and should concentrate on getting herself a man. That is not a joke, that really happened. My mother never went on welfare. I did when my daughter was born because I couldn't support my child at that time. I later went off welfare and paid that money back.

The one thing I wanted to bring up was the fact that—everybody is making really good points and bringing good data to this, but I think the issue is not those people that can't pay or won't pay, but the people that can pay, the people that do have Federal income tax taken out of their check. There are a lot of those people who don't pay.

I don't know the numbers—you said the numbers of those who can, even a partial amount, is 75 percent of divorced fathers. That is not necessarily—

Chairman JOHNSON. They have an order, and then of that 75 percent, 75 percent pay. So, effectively, only 50 percent of divorced fathers—well, I don't know that that is true. Some of the ones that don't have orders may pay, so I guess we can't actually say that.

But it should be 100 percent. I mean, this is a terrible showing for America.

Mr. ALEXAKIS. It is. I am not a public servant, I am a person. I pay my support. I am supporting of friends of mine who do. Most of my friends do, and a lot of them don't. Unfortunately, we have grown up in a time when marriages just don't seem to last like they used to, and relationships don't, and children suffer from it. Those are the people that suffer. And that is why I am here today. I just want to be an advocate for children because there is also some very attractive charities entertainers and people in the public eye attach themselves to, but no one wants to talk about this, this or domestic abuse or something like that, and those are things that hit just about every household, or close to every household.

Chairman JOHNSON. You make a very good point and, in fact, people have been willing to attach themselves to the issue of abuse, spousal abuse, domestic abuse, really quite readily, and we have made a lot of progress both in people understanding it and early intervention, but people don't want to attach themselves to the issue of nonsupport, and we don't yet have a way of talking to our friends about the fact that you can't not support your child. And if just all of those with orders paid, or if all of those who could pay paid, the picture would be very different.

So, there is a human and moral dimension. If we can get out more the terrible suffering of children, not just monetary, but the sense of abandonment is just—we have to get people to understand better, that you cannot abandon your children.

I know hearings get burdened down with figures, but you might be interested to know that of the never-married parents, at the time of birth, 80 percent say this is an important relationship with long-time consequences—80 percent—among the ones we do paternity establishment. So those are the ones that are going to be on public assistance but, nonetheless, these are young people who are already in poverty—I mean, that is why the mother is going to be eligible for welfare—and so in our Fatherhood Bill we now are going to treat the young man just the way we treat the young woman. Help them with job search, help them get into the work force, and even give them training in parenting skills, since most of their friends are not struggling with how to deal with a crying child all night.

We do, unfortunately, have to move on to the next panel, but thank you very much for being here, and I appreciate your input very much.

On the next panel, if we could start with Mr. Jeffrey Cohen, Director of the Vermont Office of Child Support; Nick Young, Director of Child Support Enforcement from Virginia; Jim Owen, Meijer Stores, Grand Rapids, Michigan; Mark Rogers, the Commissioner of the Georgia Child Support Commission and Economist for the Federal Reserve Bank of Atlanta. It is my pleasure to welcome you and thank you for being here. Mr. Jeffrey Cohen of Vermont. Is he not here? OK. We will move on to Nick Young, of the Commonwealth of Virginia, then we will come back to you, Mr. Cohen.

**STATEMENT OF NICK YOUNG, DIRECTOR, CHILD SUPPORT ENFORCEMENT DIVISION, VIRGINIA DEPARTMENT OF SOCIAL SERVICES, BOARD MEMBER, NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION, AND EASTERN REGIONAL INTERSTATE CHILD SUPPORT ASSOCIATION, AND OFFICER, NATIONAL COUNCIL OF CHILD SUPPORT DIRECTORS**

Mr. YOUNG. Madam Chairwoman, good morning, Mr. Cardin. It is good to be back before the Committee again, I appreciate being invited back.

I am a Board Member of the National Child Support Enforcement Association as well as the Eastern Regional Interstate Child Support Association, and those organizations are committed to this effort and appreciate being included in this testimony this morning.

My purpose for being here this morning is I want to talk about the state and National New Hire Directories and how effective they are and the success that we enjoy from them, and I will even make some predictions, as you asked the last panel, as to how well they will do in the coming years.

I also want to say I appreciate the kind remarks by Ms. Jensen about our program. We do have an aggressive program and we are very proud of it, and we think that it is turning in a success rate in the current support owed in Virginia and collecting right at 57 percent of the current support that is owed.

As Mr. Doss pointed out, it is somewhat specious at times to go back and include arrearage figures that include people that are deceased and still owe an arrearage and owe interest, and so that inflates the number and makes states look artificially bad. I would only add that for clarification.

But my remarks today are focused on the state and National New Hire Directories. All employers now report employees that they hire within 20 days. I must say that most report within 48 hours. It is a simple matter of filing out the W–4 form, and you do not have to add anything extra to the W–4, it is filled out as it was intended by the Federal Government to start with.

These reports help measure, as you brought out earlier, Madam Chairwoman, not only just the people that have gone to work, but also it helps us to locate absent parents, enforce outstanding support orders, establish paternity, and basically track people down and make them accountable.

With these quick matches, child support workers can initiate income withholding much sooner than previously possible. And I have already mentioned about paternity, and that will work very much so for the never-married population as we do in-hospital paternity when, as you said, 80 percent of the people indicate that it is an important relationship whether they have gotten married or not. And we do in-hospital paternity immediately to when they still have that relationship and those feelings, so that two or 3 years down the road when they perhaps do not have those same feelings, we do not have to turn to the New Hire database or any other database to try to establish paternity.

I have three charts I would like to show the Committee—and they moved them to the right. Thank you. Just in the 90 days from when somebody goes to work and when the old system would have quarterly reports of new hires, we have collected $43 million over

the last 5 years—just in those 90-day periods where we previously did not have the National Director of New Hires. So that $43 million is money that would not have been collected.

I would like to add, also, that this is an excellent example of public-private partnership. The State of Virginia contracted this out to PSI, Inc., who does a wonderful job on it. It is cheaper than the state. I didn't have to hire employees. And it is basically a self-run operation that pays for itself.

The next chart moves to the National Directory of New Hires, which we are certainly a member, and most states are by now. Since July 1999, Virginia has received 255,000 matches both new hire quarterly wage and unemployment claims. Between 1997 when Virginia began using the national data and 1999, the number of income withholding actions increased by 22 percent. This year, we expect to increase the number of income withholdings by 31,000, a 27% increase. So, right there is a 49% increase in the number of wage withholdings in a two-to 3 year period.

This dramatic increase in income withholding actions comes as a result of Virginia increasing its automation capabilities and most of the income withholding documents that are produced now are done automatedly. We get a report at night. The next night it produces an automated wage withholding, and it goes to the employer, and my child support workers never touch the action, it is just documented in the case files, and all we wait for is in about 13 days, whenever the man or woman gets a paycheck, we get a return on investment by getting the money.

The last chart that I have may help describe to you when we are going to see some improved results. Right now, we collect over $1 million a day in Virginia, on 422,000 cases. You will notice the green bar is the collections bar, the blue bars are the caseload. The green is going up faster than the blue. Even though we will see an increase in caseload as the population continues to increase, the divorce rate stays at 50 percent, and the out-of-wedlock birth rate maintains itself at about 25–30 percent. I think you will see within the next 2 years dramatic increases in the number of parents held accountable for their children both through driver's license suspensions, through income withholdings, through established paternity at the hospitals, and all the tools that you have entrusted us with that are now coming to fruition and are actually showing some remarkable—remarkable—improvements.

As you said earlier, in 1997 we located 1.2 million people using the National Director of New Hire, and the next year 2.9 million, and already this year over 2 million, just in this 2-month period. It is becoming increasingly harder to hide in the United States. That concludes my testimony, Ma'am.

[The prepared statement follows:]

**Statement of Nick Young, Director, Division of Child Support Enforcement, Virginia Department of Social Services, Board Member, National Child Support Enforcement Association, and Eastern Regional Interstate Child Support Association, and Officer, National Council of Child Support Directors**

Good morning Madam Chairman and members of the Subcommittee. My name is Nick Young, and I am the Director of the Virginia Department of Social Services' Division of Child Support Enforcement. I am also a Board member of the National Child Support Enforcement Association (NCSEA) and the Eastern Regional Inter-

state Child Support Association (ERICSA), as well as an officer in the National Council of Child Support Directors (NCCSD).

The subject before you today is the "Feasibility of Shifting the Nation's Child Support Enforcement Program to the Internal Revenue Service." I am here today to tell you that such a major operational shift will negatively influence, in a very dramatic way, the laws and systems you have worked so hard to put in place. Such a significant shift will endanger the vision you have set forth for welfare reform and jeopardize full implementation of the powerful new tools you have given states to realize success in their Child Support Enforcement Programs. My remarks today will focus on the National Directory of New Hires (NDNH). This, and other initiatives that you have put in place, will be adversely affected. Specifically, I portend that you will lose the momentum that has taken four years to achieve, severely disrupt the Program, and compromise its ability to serve our citizens by making such a major change as asking the IRS to collect child support. My comments, of course, will be from the perspective of the successful program we run in Virginia, and specifically the New Hire Reporting System, which is showing great results.

First, permit me to share a couple of telling statistics about Virginia's child support enforcement program: Our caseload today is 421,000, representing approximately 558,000 children—25 percent of Virginia's child population. Though Virginia is recognized as having a very efficient program, it is unfortunately the case that we carry a $1.65 billion arrearage, an amount that is growing by $200 million a year. Our caseload, which had grown by 25 percent between 1996 and 1999, has now leveled off, while our collections continue to increase at a rate of approximately 13 percent per year. We are one of only a handful of states that can conduct our business both administratively and through the courts. As a result, approximately 70 percent of our cases are managed administratively, which saves a great deal of time, paperwork and money. Our work is also accurate; we have a very low rate of appeals of our administrative decisions. Virginia was one of the first two states in the nation to receive in early 1996 full federal certification of its automated case management system, placing Virginia in the forefront of the nation regarding such systems. It is the promise automation holds, in conjunction with the powerful new tools available under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) that will bring to fruition the full potential of the nation's Child Support Program.

In many ways, the status of Virginia’s child support program illustrates challenges experienced throughout the nation in child support enforcement today. The overall picture is a study in contrasts. The good news is that Virginia collected over $350 million in child support in state fiscal year 1999—a record. The bad news is that this amount is but a drop in the bucket compared to the $1.65 billion that is still owed. The good news is that we are extremely productive in our work: for every $1.00 spent, we collect $5.63 in child support.

More good news is the success of the national and Virginia's own statewide welfare reform initiatives. Welfare reform has resulted in a tremendous drop in the welfare portion of our child support caseload. Although our overall caseload is still rising somewhat, welfare reform is definitely working. We are heartened by the tremendous level of federal support welfare reform has given to many of Virginia's creative initiatives to combat the child support problem. These initiatives—some of which I am about to highlight—have helped make Virginia's program one of the most dynamic, successful child support enforcement programs in the country.

Most of my comments today focus on strategies Virginia uses to crack down on child support evaders. Many of these strategies are today in existence and thriving because of PRWORA. I stand before you today to emphasize that welfare reform has given us the means to strengthen our enforcement activities and crack down on delinquent parents and deliver to children the support they deserve.

PRWORA marked a profound turning point in fighting the twin scourges of welfare and child support delinquency and has generated success on many fronts.

First, the new law has proven to be a catalyst for profound changes in many of the basic statistics regarding welfare. In Virginia, the most dramatic example is the 30 percent reduction of child support TANF (Temporary Assistance for Needy Families) cases since the law went into effect. More parents have moved off the welfare rolls and into jobs, thereby providing the means to support their children. Virginia's non-TANF child support caseload has correspondingly gone up—not altogether a bad problem, since many of those cases are former TANF recipients. Welfare reform is definitely providing more Virginia children the support they are due.

PRWORA has also generated a burst of collaboration and cooperation between public and private entities, such as law enforcement, the courts, and public agencies.

One example is Virginia's co-location initiative. Begun as an experiment in the summer of 1993, the co-location of public assistance and child support staff has blossomed under welfare reform into a mutually beneficial strategy for TANF (Temporary Assistance for Needy Families) and child support staff and clients. Co-location has helped promote customer self-reliance under welfare reform, and allows TANF and child support staff to collaborate to provide better service for customers, streamline elements of case management, reduce administrative costs, and above all, provide more successful outcomes for customers. Co-location is now a vibrant statewide strategy. As of today, approximately 26 child support staff have been co-located full- or part-time at 28 sites serving 22 local social service agencies. Five distinct models tailored to specific community needs have evolved throughout the state.

Another example of collaboration and cooperation is Virginia's Paternity Establishment Program (PEP). Established in 1990, PEP grew under welfare reform into an effective program that gives unmarried parents the opportunity to voluntarily acknowledge paternity in the hospital, before the child goes home. Currently, 69 hospitals are participating statewide, generating approximately 10,000 paternities per year.

Yet another example is the Commonwealth's KidsFirst Campaign. Initially begun in June 1997, KidsFirst kicked off with a two-week limited amnesty offered to 57,000 of the most egregious support evaders. While the amnesty netted $1.2 million from 4,039 noncustodial parents; the crackdown that followed also generated outstanding results. Working in close cooperation with local law enforcement and judicial communities, a statewide "roundup" resulted in 512 arrests and show-cause notices issued. Today, eleven roundups later, the money generated by this campaign has topped $91 million, and 37,315 delinquent parents are paying support. An added bonus has been enhanced rapport with the law enforcement community and the judiciary. PRWORA has also provided authorization to strengthen a multitude of enforcement mechanisms, nearly all of which have allowed Virginia to expand and enhance its efforts to crack down on child support evaders.

One such example is the suspension of drivers' and professional licenses. Since Virginia's welfare reform law was implemented in July 1995, Virginia has suspended a total of 2,600 driver’s licenses alone, generating collections in excess of $61.8 million. Virginia has fully implemented the revocation of both occupational and recreational licenses, as well as the denial of passports to delinquent parents.

Virginia's In-State New Hire Program is our premier example. Thanks to federal welfare reform, Virginia now requires employers to report all new hires within 20 days of employment. This measure helps locate absent parents, enforces outstanding child support orders, and saves administrative time and expense. With these quick matches, child support workers can initiate income withholding much sooner than previously possible. Additionally, this tool facilitates faster paternity establishment and—as we all know—paternity establishment gets the ball rolling toward obtaining financial supportfor the child. Approximately $43 million in collections can be attributed toVirginia's New Hire Program since its inception in July 1993.

Virginia also participates in and benefits from the National Directory of New Hires, the federal program to place new hire information in a national database. Since July 1999, Virginia has received 255,109 matches from new hire, quarterly wage, and unemployment claims submitted by other states. Between 1997, when Virginia began using NDNH data, and 1999, the number of income withholding actions increased by 22 percent. This year, we expect to increase the number of income withholdings by 31,000 (from 113,000 in 1999 to144,000 in 2000—a 27 percent increase). This dramatic increase in income withholding actions comes as a result of Virginia’s increasing its automation capabilities. Many income withholding documents are now produced without manual intervention.

Still more examples center around the general challenges of pursuing interstate cases. Expanding the Federal Parent Locator Network to improve the collection of locate information on interstate cases, adopting more uniform state child support laws to improve enforcement activities between states, and allowing administrative enforcement of interstate cases have all begun to ease the pursuit of child support evaders across state lines. In addition, the passage of the Uniform Interstate Family Support Act (UIFSA) in each state has given states a framework to process interstate cases more sensibly. Virginia is redoubling its efforts to train its staff on the intricacies of UIFSA rules and working interstate cases. It is exploring the option of hiring private contractors to work the cases in other states where large caseloads and differing rules have prevented a Virginia case from being worked. It is developing a tracking program that will allow us to identify specific states and localities where one-on-one interaction is needed to resolve case processing problems.

Other examples of improved enforcement techniques include mandating the use of a single case registry, the authority to enforce child support obligations from federal employees and members of the Armed Forces, and many changes in the law that allowed the administrative process to be streamlined. All of these elements of PRWORA—taken alone or together—have resulted in marked improvements to Virginia's child support enforcement efforts—particularly the ability to crack down on delinquent parents.

I've enumerated a number of very powerful enforcement tools that states are using to help them collect the over $50 billion owed the Nation’s children. Moving the Child Support Enforcement Program under an agency already scurrying to recreate itself as a friendlier, more accountable agency will imperil the entire child support enforcement operation. Such a move at a time when the nation is enjoying unprecedented child support collections and a leveling of its caseload requires serious reconsideration, as it will most assuredly have significant deleterious effects on the program and its customers. Similarly, the unrealized promise of greater automation held out by welfare reform will be endangered. Many states are still working to fully automate their child support programs to take advantage of the new tools. Even more important is maintaining and nurturing the vital collaboration and linkages that have been so carefully crafted with the judicial and law enforcement communities, as well as the public and private sectors. These important relationships stand to be irrevocably damaged. I cannot imagine why, at this late juncture, we would want to start anew....It is taking a step back to ask an agency that has no foundation in social welfare to assume responsibility for a Program that has evolved from a collection agency to one that considers the emotional, as well as the financial, well-being of the nation's children.

In conclusion, PRWORA has served as the catalyst for the most comprehensive revisions to the nation's Child Support Enforcement Program in its 25-year history. PRWORA's comprehensive elements also fully support Congressional determination to clearly communicate society’s lack of tolerance for those who fail in their responsibilities to financially and emotionally support their children.

Thank you.

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Chairman JOHNSON. Thank you very much, Mr. Young.

Mr. Cohen.

**STATEMENT OF JEFFREY COHEN, DIRECTOR, VERMONT OFFICE OF CHILD SUPPORT**

Mr. COHEN. Thank you. Good afternoon. My name is Jeff Cohen, I am the Director of the Vermont Office of Child Support. I have been the Director for 10 years and have been with the child support program for about 19 years.

We hear a lot about how effective or ineffective the child support program is nationally, and typically the comparisons are made comparing states-against-states, the states over time, or perhaps the states' performance against some theoretical amount that might be collected.

I would like to try a few other ways of looking at state performance, particularly looking at the benefits and effectiveness of the child support program especially compared to other alternatives. I believe you will see that it is a very effective program. And another point is that you pretty much get what you pay for.

The first program I would like to have you look at is Medicaid, which I think you are familiar with. The red bar in the negative numbers is the amount of administrative costs used to pay out Medicaid benefits. It is almost $7 billion in order to pay out $150-plus billion in public benefits.

Another program that you are familiar with is TANF. TANF has about $3 billion-plus in administrative costs. These are 1996 figures. Those administrative costs support about $20 billion in TANF

benefits that go to families. So, in other words, when you look at TANF, families are only getting 86 percent of the total dollars that are expended for that purpose.

When you look at the child support program under Title IV–D of the Social Security Act, you see that there is also about $3 billion in public taxpayer money spent for the cost of the program. But unlike the other programs, the benefit of child support, the $12-plus billion that was collected in 1996, for example, is not paid out of public coffers, but comes from noncustodial parents. So, just looking in these terms alone, it is an incredibly cost-effective way to benefit low-income families. On top of the actual collections, there is also a cost-avoidance factor. The Urban Institute numbers that I have used estimate that over $1 billion in cost-avoidance is associated with the IV–D program relating to avoided Food Stamp costs, TANF costs, and so forth.

Another way of looking at this from a monetary standpoint is the return on investment. Because TANF has a relatively high proportion of administrative costs, there is essentially a 16 percent negative return on investment, with Medicaid it is less. Comparing it to another number you might be familiar with, the S&P 500 only increased about 19 percent. I say only, but for one year up to April 1998. Compare that with the investment in the child support program. For every dollar spent in child support, even after you deduct out the administrative costs, we were returning about $3.00 for every dollar spent on the program—incredibly effective—which is not to say we wouldn't like to see that go higher, but when you consider other alternatives it still is a good bang for the buck.

I might also add that when it comes to costs, the average cost of a child support case in this country is about $158 compared to about $717 of admin cost for an average TANF case. So, child support is relatively cost-effective.

One last thought is, you get what you pay for. We heard testimony about the low performance of states. If you look at the bottom-most five states in this country, in terms of percent of cases with collection, you see that, using the scale across the bottom, that they are collecting in only about 14 percent of their cases. They are also spending only about $103 per case. So, in other words, those states that spend about $100 per case only collect in about 14 percent of the cases.

In the case of the five states that spend the most on their caseload on a per capita basis have very different results. Those states, the top performing states, spend almost three times as much per case and they collect almost three times as much across their caseload. They collect in 34 percent of their cases, on average, which suggests to me that there is a strong correlation between what you put in and what you get out of the program, and that we may be, in some states, being "penny wise and pound foolish" when it comes to investing in the program. Thank you.

[The prepared statement follows:]

**Statement of Jeffrey Cohen, Director, Vermont Office of Child Support**

Good morning, my name is Jeff Cohen, I have been involved in the child support program for over 18 years and have been the Director of the Vermont Office of Child Support for the past 10 years. Thank you for inviting me to testify on the status of the child support program.

Over the past few years there has been a lot of discussion about the performance of the national child support program. Typically the discussion revolves around whether the child support program administered under Title IVD of the Social Security Act is effective. Often these discussions try to measure programs by comparing one state to another, comparing states over time or, perhaps comparing actual state performance against the theoretical amount of child support that might be paid if all noncustodial parents contributed their fair share.

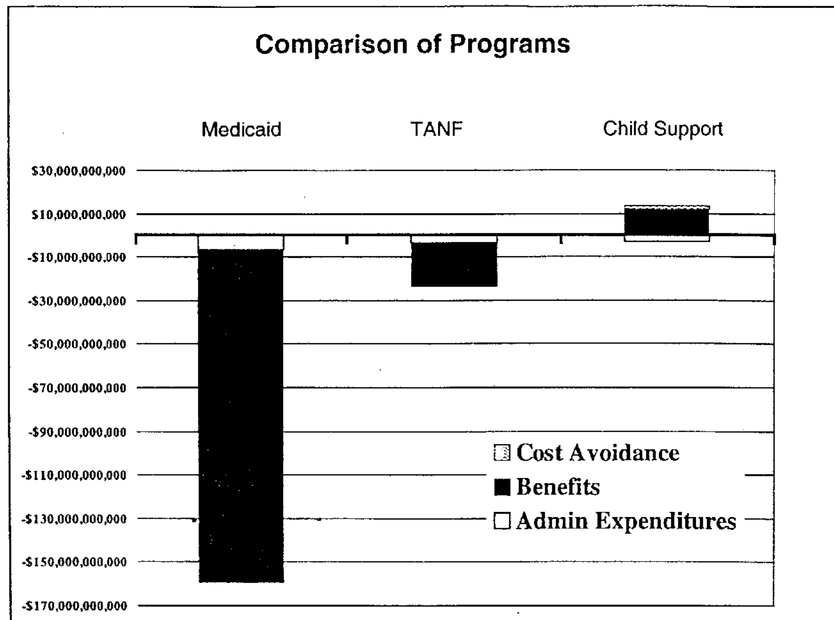
I suggest there is yet another way to consider the performance of the child support program; look at outcomes for every dollar of government funding invested child support compared to alternative investments.

As the result of Welfare Reform, more and more families have been dropping off the welfare rolls. At the same time, these families have become part of our non-public assistance child support caseload under title IV–D. As a result, most of our child support caseload now consists of low income families who no longer have the benefit of TANF as a safety net. For many of these families, the national child support program is a critical income support program to supplement wages.

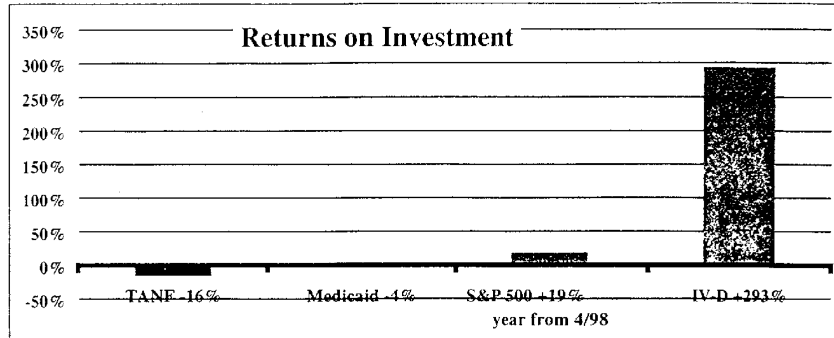
With that said, how does the Child Support Program stack up against other programs that might benefit the same population? The chart below compares a few of the most well-known programs. The first column shows $153 billion in total Medicaid expenditures in federal fiscal year 1996. Of these expenditures, $6.7 billion went to administrative costs. In other words, recipients received about 96 cents of each dollar spent.

The next column shows that recipients in the TANF program only received 86% of the $23.7 billion total spent on the program, the other 14 percent went to administration.

The third and final column shows that state and federal governments combined contributed a total of about $3 billion nationally toward the administration of the child support program. This resulted in over $12 billion in child support "benefits" that were returned to families, or reimbursements to state and federal government. Unlike the benefits in other programs, this money did not come from taxpayers. It came from noncustodial parents of children. So, unlike other programs there is a significant net gain rather than a net loss for every public dollar invested.




Looking at the program purely from an investment standpoint even after deducting administrative costs from child support collections, the chart below shows that returns on investment in the child support program far exceed the alternatives. In fact the return is almost 300%.




Aside from the obvious benefit derived from child support collections which results directly in money to families, other non-monetary benefits are also provided including:

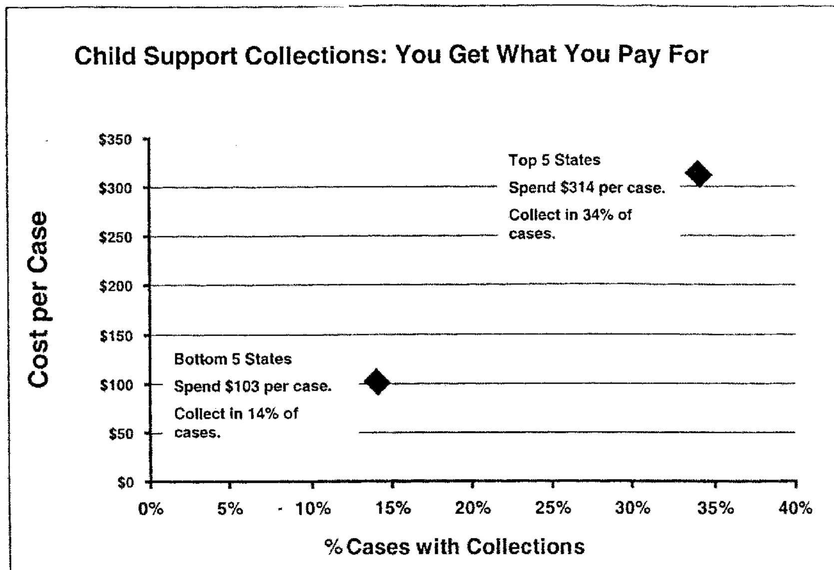
- percentage establishment,
- health-care coverage for children,

cost avoidance for other programs such as food stamps, TANF, and Medicaid, and

- deterrence which impacts IV–D and Non IV–D families alike.

Considering the myriad of activities involved in each case including disbursements, location of parents, establishment of orders, modification of orders, and enforcement of orders for millions of cases, the program costs per case are relatively low. The annual administrative cost per child support case is only about $158 or only about 22% of the $717 annual administrative cost per TANF case.

Finally, both states in the federal government should consider the correlation between investment in the program and program performance. Using data from the Federal of Office of Child Support's 21st Report to Congress the chart below compares states with respect to investment per child support case and outcomes as measured by the percentage of all cases with a child support collection. The five states that spent the least per child support case ($103 per case on average) made collections in only about 14% of their child support caseload. At the same time states that spent three times as much per case collected support at a rate almost three times higher than the lowest performing states.



Chairman JOHNSON. Thank you very much, Mr. Cohen.
Mr. Owen.

**STATEMENT OF JAMES OWEN, PAYROLL OPERATIONS/SERVICES PAYROLL MANAGER, MEIJER STORES, GRAND RAPIDS, MICHIGAN**

Mr. OWEN. Thank you. I appreciate the opportunity to speak this morning, or this afternoon, in regards to an employer's perspective of the bill and what we see from the SDUs, state disbursement units.

My name is Jim Owen. I am Payroll Manager from Meijer Stores, and we employ about 80,000 people in the Midwest. We process many child support orders. We get about 60 to 75 new orders a week. We have about 1610 active orders distributed to about 218 different agencies and courts around the country sending payments to about 18 different states, that totals approximately $6 million in withholding that go to the children each year. I think that is great, that everybody who has spoken, has focused on how we get the money to the children as quick as possible.

Three things I want to try and address today, one is dealing with the need for burden reduction on employers; the second being how the H.R. 1488 would affect employers—even though my testimony goes into a lot more detail, I want to share a couple of highlights—and, finally, some of the successes from the employer's perspective of the SDUs.

On the burden reduction for employers, employers really supported the SDUs. We supported it, Meijer Stores supported it and joined with many other employers. In fact, I might add that I am an American Payroll Association member, which represents 18,000 individuals and businesses, including Meijer, who backed the establishment of the SDUs. And some of the reasons why we backed the SDUs were because it reduced the check processing and reconciliation fees—some people won't think of that as much to deal with, but it is; reduced numbers of check issue problems helps reduce employer burdens—for example, when we send a check to all these various courts, if it isn't identified just perfectly, you would get it back, and it not only has just the person that you are sending the court order to, but it has a list attached to it, so you have maybe ten orders attached to that one check, it would all be returned to you, causing the payment late to all ten custodial parents on that particular check. So that has been resolved, going through the SDUs. We are not receiving payments back with the lists of custodial parents.

Also, the SDUs open up opportunities for electronic payments using e-commerce, going into the EDI processing, staying current with business world changes and staying in tune with low overhead and improved servicing. And I think I have heard a couple testimonies identifying the SDUs need time now to develop, and we agree because we have experience—from the private sector when you are trying to implement projects, it takes time to reap the full benefits.

When we also look at many of the states that do have SDUs, they even had them before this law took place, but the ones that did not are involving employers. The more successful ones, like Connecticut, Minnesota, Michigan, who are involving employers, are finding benefits by getting their input up front. In fact, I am personally involved with the Michigan on their Business Rules Oversight Committee, to try and do things right to make sure that the money is going to get processed as quickly as possible.

Now, when we talk about H.R. 1488 and the effect on employers, there is a days-and-days issue. For example, it takes, under the bill, 30 days to initiate a certificate, 20 days to verify it, 20 days to get to the employer, 30 days for a correct order to take effect in monthly payrolls. So you are extending the time, that I think I heard on my right in today's process, dramatically from what is currently being available.

Another issue is with the handling of the W–4 in HR 1488. Additional handling of withholding certificates, copies being sent into the secretary, employee changes jobs, you are constantly redoing those W–4 withholding certificates. W–2 HR 1488 impacts reporting. We are being asked to submit things on W–2s that we have never done before. We are being asked to do a whole retooling with a huge expense to employers and states, to something that we feel is working at this point from our perspective. We feel that the SDUs are working from the employer's perspective. We are able to talk to those states on an individual basis when we have issues or problems.

Some of the successes of the SDUs include open lines of communication, which I mentioned; our team member productivity and fewer costs from team members having late custodial payments; fewer issues with correct mailing addresses, because there is only one address; and state SDUs—there are 42 in operation, nine in process of operation—and this is done by a survey that the American Payroll Association along with other employers did—and there is a lot of work being done to bring everybody up-to-snuff so that they can process the payments that employers do send them. Thank you.

[The prepared statement follows:]

**Statement of James Owen, Payroll Operations/Services Payroll Manager, Meiger Stores, Grand Rapids, Michigan**

My name is James Owen, Payroll Operations/Services Payroll Manager for Meijer Stores. Meijer Stores is a retailing firm which employs nearly 80,000 team members. We receive and react on many child support withholding orders each year, including 1,610 active orders. In addition, we remit money in 18 states. These orders respond to directives from 218 courts and agencies totaling some $6 million in payments annually.

I would like to address the impact of the State Disbursement Units on Employers and the potential impact of Bill H.R. 1488. Specifically, I’d like to address:

- Burden reduction for employers.
- How H.R. 1488 would affect employers.
- Successes of the State Disbursement Units.

**THE NEED FOR BURDEN REDUCTION—SDU AND EMPLOYERS:**

As an employer, Meijer Stores joined with many other employers in strong support of a centralized system for remitting child support payments. I might add that the American Payroll Association, which represents some 18,000 individuals and businesses including Meijer, also backed the concept of establishing SDUs. We had

many reasons for seeking this dramatic reform to the current system. Among the key reasons:

1. For large employers like mine, remitting to multiple jurisdictions was extraordinarily burdensome and time consuming. As I stated earlier, my company alone was responding to orders from more than 200 jurisdictions. Each jurisdiction had its own requirements. States like Texas, with county based child support programs, were particularly difficult for us. That one state alone has more than 200 counties, each with its own set of rules for us to follow.

2. Various jurisdictions within one state could vary significantly in how they collected remittances from employers.

3. Each remittance required us to carry-out a separate check processing and reconciliation program.

4. We believed—as did many states—that the consolidation of remittance locations would promote the use of electronic payment technologies in the states. In other words, it would be far more economical for a state to receive payments from one location than to have multiple remittance sites all doing essentially the same thing.

5. We were looking for some standardization of organizational structure within the states. Depending on how a state's child support program is organized, we may be sending payments to a court, an administrative agency or in some instances directly to a custodial parent. We were optimistic that in revamping their remittance procedures, states would invite input from employers; much the way the federal Office of Child Support Enforcement always has. In many instances we were not disappointed. States such as Connecticut, Minnesota and Michigan involved employers in every phase of their SDU's development. I have personally been involved with the development of the Michigan SDU and sit on the state's Business Rules Oversight Committee. The systems that have been developed through these kinds of partnerships have resulted in SDUs that are cost effective for the states, manageable and cost effective for employers and most importantly, get money to children more quickly.

**HOW H.R. 1488 WOULD AFFECT EMPLOYERS:**

H.R. 1488 is geared at transferring the responsibility for child support collection and disbursement from the states to the Internal Revenue Service. Employers tend to favor programs that are centralized, since they tend to reduce redundancy of data and reporting. This program (H.R. 1488) has many issues for concern. These issues, along with some brief concerns of employers are listed below:

1. **Cost.** Employers have invested huge amounts of resources to accommodate a state-based withholding system. The costs associated with retooling their systems to accommodate a new IRS system could be enormous.

2. **Information Submission Requirements.** It is not clear what information employers would be required to remit with our payments. We are concerned that giving over collection and remittance authority to the IRS would require us to collect, remit and track information we don't already handle. This of course, would carry a whole new set of costs.

3. **Multiple Use of Tax Forms.** The bill seems to suggest that some business tax forms would be used for child support collection purposes as well. However, in practice, the person who deals with business taxes is often not the same individual who deals with child support payments.

4. **BILL:** Standardized information that the States would have to report to the IRS could potentially impact what the Employers would have to report. Employer's may be asked to report information that is currently not tracked or maintained today.

**CONCERN:** As the IRS develops standards and other pertinent information it may require from the states on withholding certificates, this would be additional information that may impact what the employers are required to send to the States *and* potentially to the IRS.

5. **BILL:** The employee must submit a revised withholding certificate, if the obligation changes, within 30 days of the change. If the employee has multiple employers the employee may split up the obligations as long as the separate payments equal the total obligation.

**CONCERN:** Again, there is an issue here of impacting the paperless withholding certificates many employers have implemented. The splitting up of the employee obligations complicates the withholding process for employers. It allows the employee full autonomy with the employer and will produce frequent changes to certificates as many people move from job to job. Employers are used to requiring a document from a third party that details the withholding obligations.

6. **BILL:** Employees are to specify, on each withholding certificate A) the monthly amount (if any) of each child support obligation of such employee and B) the TIN of the individual to whom each obligation is owed.

**CONCERN:** The transition to the Internal Revenue Service is vague, if this were to take place. Transitioning this type of processing out of the state systems and into the IRS would be extremely difficult and expensive. Employers will be handling these forms multiple times. Also, the efforts of making subsequent withholding certificates filed electronically after the original form will be greatly impacted. This will impact employer's ability in reducing paper flow because many paperless systems do not have fields available to process the additional required fields. In addition, somehow theinformation is to be sent in to the Secretary.

**7. BILL:** The employer who receives a certificate that specifies a child support obligation, must withhold during each month that such certificate that is in effect, an additional amount equal to the amount of such obligation or such other amounts as may be specified by the Secretary.

**CONCERN:** The determination of what to withhold when would be very complex and confusing to employers. We would apparently be receiving the amount to withhold from the employee and then an additional document from the Secretary indicating other withholdings. The timing of all these notices, processing the paperwork and accuracy of withholding would be a significant burden on the employer community. The lack of proper documentation, like the Standardized Income Withholding form, would cause significant confusion to the origination of any deductions made by the employer of the employee wages.

8. **BILL (Remittance of certificate):** The bill states that every employer who receives a withholding certificate shall, within 30 business days after such receipt, submit a copy of such certificate to the Secretary. This seems to imply that additional information is going onto the withholding certificates.

**CONCERN:** Employers are currently sending new hire information to the states. Multi-state employers are sending information electronically to the states. The bill is now indicating employers will have to send another copy to the Secretary. There are also no provisions of eliminating the paper flow and allowing employer's paperless filing options. It appears this may not be cited because of the need to have the employee's signature for the income withholding amounts, otherwise the IRS would be lacking in legal cases for non-compliance of the employee.

9. **BILL (Exception Processing):** Employers would need to review exceptions if; 1) a previous withholding certificate is in effect with the employer and 2) the information shown on the new certificate with respect to child support is the same as the information with respect to child support shown on the certificate in effect.

**CONCERN:** Allowing employees to change withholding as much as they change jobs will cause a significant burden on employers in tracking this activity and maintaining all the withholding certificates for multiple purposes; income tax deduction determination and withholding of child support amounts.

10. **BILL (Time-lapse):** Within 20 business days after receiving withholding certificate of any employee, the Secretary will verify the obligation connected with the certificate.

**CONCERN:** This Bill is allowing more time to pass than is currently recognized, in ensuring the correct withholding amounts are withheld from the employee's wages. This will cause, at minimum, more frequent changes to existing withholding orders or certificates under this Bill than ever before.

11. **BILL:** If the Secretary determines that an employee's child support obligation is greater than the amount (if any) shown on the withholding certificate in effect within 20 business days the employer will be notified of the change and the employer must then apply the adjusted amount.

**CONCERN:** With all the business days provided in the various steps of an income withholding deduction determination, under this Bill, it will take "DAYS AND DAYS" for a corrected withholding order to take place. The process described in this Bill tends to extend the amount of time for an order to begin and allows for more loopholes for the employee to evade the withholding. In addition, there appears to be much more paper processing and handling of an order from the employer perspective. Instead of handling an order once....there are many updates, revisions, etc. that apparently would become inherent in the new system.

12. **BILL:** Withheld Child Support is to be shown on W–2 forms.

**CONCERN:** Many Payroll systems do not track the total withheld in Child Support. This has not been an obligation of the employer in the past. This would cause significant changes for employers to both their current systems and maintenance of balances as well as the rework to providethis information on W–2s.

13. **BILL:** A new withholding certificate is required to each of theemployee's employers within 90 days of the enactment of this law.

**CONCERN:** This provision appears unclear. If this really means a new certificate on all employees, this would be an extreme burden on employers, especially large employers like our company with nearly 80,000 Team Members.

**SUCCESSES OF THE STATE DISBURSEMENT UNITS:**

From the development of New Hire Reporting and now the implementation of the State Disbursement Units, employers and state agencies have developed significant teaming relationships. Employers are able to provide input and the States are listening in order to make their programs successful.

In the first year of New Hire Reporting 1.2 million parents who owed child support were located. Last year that figure doubled, resulting in nearly $16 billion being collected for children. Much of this success is due to the partnership between states and employers. Olivia A. Golden, Assistant Secretary for Children and Families at the U.S. Department of Health and Human Services stated, “Receiving the Hammer Award (presented by Vice President Al Gore) is a tribute...to the millions of employers who make it work everyday.” David Gray Ross, Commissioner of the OCSE, replied, "I am very proudof the nation’s child support workers and the nation’s employers...this is a government-private sector partnership at its best, truly achieving results Americans care about” (Press Release, 2–9–00).

With the State Disbursement Units established in most states, employers have experienced many gains. As in any new process there have been some issues to work through, but the significant gains for employers include:

1. One place for employers to go for problem resolutions on payment processing.
2. Open lines of communication between courts and state agencies with employers on procedural issues because less time is being spent on payment processing at the local levels.
3. Employers team member’s productivity increased and fewer calls from team members and custodial parents on late payments. A few start up states have had issues, but are now involving employers more to assist in the process.
4. Fewer issues with correct mailing addresses and returned checks with multiple orders.
5. Employers and states are now able to assist one another on undistributed funds.

H.R. 1488 would be changing the new processes and procedures that employers and States have been working so hard to implement in the last couple of years. The programs have been developed with emphasis on accuracy of payments and reducing the time it takes for withheld funds to make it to a child’s custodial parent. H.R. 1488 could cause the Child Support program to take a very large step backwards at great cost to employers and greatly minimize employer involvement in developing and maintaining withholding related programs.

Thank you for your time and consideration of my comments on the State Disbursement Units and Bill H.R. 1488. Please feel free to contact me if you have any questions or require clarification of any of my comments.

## MEIJER STORES

- 60 to 75 new orders per week.
- 1,610 active orders.
- Distributed dollars to 218 various courts/agencies around the country.
- Sending payments to 18 states.
- Approximately $6 million in payments each yea for the children.

## BURDEN REDUCTION FOR employers(LARGE AND SMALL)

- One location per state for disbursements.
- Opens opportunities for more electronic payments and using the E-commerce technologies.

## BURDEN REDUCTION CONT.

- Many states already had SDUs before Welfare Reform.
- Many states establishing SDUs are getting employers involved.
  - Connecticut, Minnesota, Michigan.
  - Involved with Michigan and on their Business Rules Oversight Committee.

## H.R. 1488 AFFECT ON employers

- "DAYS AND DAYS"
- Additional handling of withholding certificates.
- Information Gathering vs Information Processing.

## SUCCESSES OF THE SDU

- One place for employers to go for problem resolutions.
- Open lines of communication between Courts, States and employers on procedural issues
- Team member productivity increased.
- Fewer issues with correct mailing addresses ar returned checks with multiple payments.

## SUCCESSES OF THE SDU CONT.

- Ability to work more closely with States on undistributed funds.
- Reduced costs to employers in processing distributions.
- Availability of large and small employers, working with the State Agencies, to automate collection's processing.

## STATE SDU SUMMARY

- STATUS:
  - 42 in operation
  - 9 in process of operation.
- CCD+/CTX
  - 15 currently accept CCD+ only.
  - 2 will eventually accept CCD+ only.
  - 14 currently accept CCD+ and CTX.
  - 9 will eventually accept CCD+ and CTX.

## STATE SDU SUMMARY CONT.

- PAYMENTS REDIRECTED
  - 8 currently accept IV-D only.
  - 38 currently accept IV-D and Non IV-D.
  - 5 will eventually accept both.

Chairman JOHNSON. Thank you very much, Mr. Owen.

Mr. Rogers.

## STATEMENT OF R. MARK ROGERS, ECONOMIST, FEDERAL RESERVE BANK OF ATLANTA

Mr. ROGERS. Thank you, Madam Chair. As a formality, the following are my personal views and do not in any way reflect those of the Federal Reserve Bank of Atlanta nor the Federal Reserve Board of Governors. I am here as a professional economist, one who was a member of the 1998 Georgia Commission on Child Support and is familiar with the economics and regulations regarding child support. I am a split-custody parent and am familiar with the needs of both custodial and noncustodial parents.

The key concerns I have about H.R. 1488 are the bill's apparent lack of constitutionality, the need for regulatory compliance by states and the IRS, the IRS' loss of confidentiality, the unintended political developments, and the loss of a broad appreciation of noncustodial parent needs for their children.

First, does the Federal Government have authority to broadly transfer child support enforcement from the states to a Federal agency? Under the Tenth amendment, governance of domestic relations generally is reserved to the states. Specifically, the issuance or modification of marriage, divorce, award of child support or of alimony are reserved solely for the states, as spelled out in U.S. Supreme Court decisions, such as Ankenbrandt v. Richards.

On another constitutional issue, states have different child support guidelines, and each state enforces its own guidelines. If the IRS is given national child support enforcement responsibility, will the IRS be open to complaints of violation of equal protection? In contrast, the IRS does not impose different income tax rates on different states.

Next, under Federal-state financial agreements, states are to have met Federal regulations regarding the nature of the guidelines and protections for obligors, but no state has completely done so. Not only should these issues be resolved before transferring authority to the IRS, but resolving these regulatory issues is likely the best solution for child support compliance problems.

As a Federal agency, the IRS would not be able to dodge lack of compliance with Federal regulations the states have. The IRS would face legal challenges in the following areas: 1) Child support guidelines should be rational and based on economic data for child costs, but are not; 2) Guidelines are supposed to take into account basic living needs of an obligor, but often do not and push obligors below the poverty level; 3) Employers are forbidden from withholding child support that exceeds limits set by the Consumer Credit Protection Act, but guidelines do exceed those ceilings in some states; 4) Child support obligors are not given the same subsistence protection that other debtors are given under the CCPA likely violating equal protection; 5) Guidelines that the IRS would be enforcing are supposed to comply with the Administrative Procedures Act, but generally do not.

As a nationwide enforcer that is directly required to comply with Federal regulations, the IRS would face many legal challenges attempting to enforce noncompliant state laws.

Next, as holder of record for child support cases, the IRS would lose the confidentiality of taxpayer files. As a matter of due process, parties in child support cases enforced by the IRS would be entitled to access to IRS records through standard requests for disclosure for court.

Finally, there is the broad issue of the IRS not addressing both parents' needs. Placing child support enforcement under the jurisdiction of the IRS would be a move that runs counter to the recent and long overdue trend to look at child support enforcement as just one facet of children's needs. Focusing on collections alone is not in the best interest of children.

After two decades of educating HHS, that Department, in the last few years, has acknowledged that the whole picture needs to be addressed, including the need for children to be nurtured by noncustodial parents.

Visitation access programs, parenting skills classes, job training and education programs have been initiated by HHS, and these would be lost by focusing only on collections through the IRS. Noncustodial parents will be seen as only a checking account. Instead, the IRS would be viewed by noncustodial parents as siding with custodial parents and not being neutral. The IRS would see the political needs of custodial parents as being in the IRS' interest.

I do not believe this Congress should set in motion these political developments with that of the IRS attaching itself to the politics of custodial mothers. This politicizing of the IRS would reduce the credibility of the IRS in its more traditional role of collecting general revenues for the Federal Government. However, should the IRS be granted this authority, I believe it is important that child support obligors be given a bill of rights analogous to a Taxpayer Bill of Rights. I have brought a draft version for your consideration. Thank you for your attentiveness.

[The prepared statement follows:]

**Statement of R. Mark Rogers, Economist, Federal Reserve Bank of Atlanta**

Madam Chair and Members of this Committee, thank you for permitting me to speak today. First, as a matter of tradition in accord with my employer's policies regarding employee public statements, I would like to state that the following are my personal views and do not in any way reflect those of the Federal Reserve Bank of Atlanta nor the Federal Reserve Board of Governors.[1]

Second, I would like to mention my background. I'm a professional economist. I have authored books on analyzing economic data. Also, I served as the only economist on the 1998 Georgia Commission on Child Support. While on that commission I conducted extensive research on child costs and on the history of child support guidelines, and compared guideline impact on custodial and non-custodial parents. I have been a non-custodial parent since 1991 and have been an advocate for equality for both parents after divorce. Over one year ago, one of my two children moved to my household with eventual transfer of custody. I now can say that I have seen the needs for both custodial and non-custodial parents first hand.

I would like to arrange my comments into several categories: (1) first, and most importantly, broad philosophical and political concerns about this proposed transfer of enforcement authority (2) legal and regulatory issues and, finally (3) implications for proper policy. Before beginning, I would like to state that I am completely in favor of appropriate child support enforcement. However, appropriate can only be defined in the context of the proper legal framework—including due process, as part

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[1] The speaker presents this testimony as an expert as a member of the 1998 Georgia Commission on Child Support (not necessarily representing other commissioners' views), as an economist published on child costs and other areas of economics, and as a representative of non-custodial parents as an officer of the Atlanta, Georgia based advocacy group, Fathers Are Parents Too. Presenter's email:rmrogers@mindspring.com.

of broadly encompassed domestic relations issues, and in the context of implementation using true economics of child costs.

**Broad Issues**

My first reaction to placing child support enforcement under the jurisdiction of the IRS is that this would be a move that runs counter to the recent and long overdue trend to look at child support enforcement as just one facet of children living in two households. Putting child support enforcement in an agency that is technically focused on collections alone is not in the best interests of children. After perhaps two decades of educating personnel in DHHS, that department has only in the last few years acknowledged that the whole picture needs to be addressed—including non-custodial parent needs and children's needs in regard to being nurtured by non-custodial parents. Visitation access is now recognized as an issue that DHHS should be and is beginning to address. Only a department with a broad focus can properly address such a multifaceted issue of providing the proper legal and enforcement framework for not just financial support but emotional support as well. Transfer of child support enforcement to the IRS will likely result in a reversion to the old mode that non-custodial parents are good only for being a checking account for the custodial parent. This non-recognition of the other needs of children is not in children's best interest. Additionally, the IRS would be viewed by non-custodial parents as being solely concerned about the vested financial interests of custodial parents. The IRS would not be viewed as neutral by non-custodial parents. Given Federal incentives for states to enact various child support enforcement procedures, the IRS also would be seen as a profit center for states with the child support profits being obtained at the expenseof non-custodial parents.

The political issue is not a small one. It is one that in the long run will have a negative impact on the credibility of the IRS. It is generally acknowledged that any government agency will eventually develop close ties with its clientele if there are mutual benefits to reinforcing those relationships. Should child support enforcement be transferred to the IRS, the IRS would be viewed by custodial parents as their benefactor. Similarly, the IRS would see the political needs of custodial parents, as related to childsupport, as being in the IRS's interests in terms of maintaining or expanding its role. I do not believe that it is appropriate for this Congress to set in motion these long-run political developments with the IRS. I do not believe it is appropriate for the IRS to eventually attach itself to the politics of custodial mothers, however subtle or not-so-subtle such politics may become. In an agency solely focused on collections of child support, rather than in an agency that has authority to address the broader issues of visitation access, these inappropriate political ties are more likely to develop. Such political ties would be in sharp contrast to current policies of the IRS and also would reduce the credibility of the IRS in its more traditional role of collecting general revenues for the Federal government.

**Constitutional Issues**

HR 1488 proposes to create a nationwide presumption that child support orders will be enforced by the Internal Revenue Service. In essence, a Federal law will mandate that a Federal agency will presumptively enforce individual state domestic relations orders. It is my understanding that under the Tenth Amendment to the U.S. Constitution that domestic relations issues that are not intertwined with specifically stated Federal issues, that those are matters specifically reserved for the states. Certainly, there are domestic relations issues that the Federal government can regulate as related to other Federal matters, but the U.S. Supreme Court has continued to hold to a well-defined domestic relations abstention doctrine in which specific domestic relations issues are completely reserved to the states. Specifically, the Federal government is not given authority for the granting, the issuance or modification of marriages, divorce, award of child support, or of alimony. This is spelled out in decisions such as *Ankenbrandt* v. *Richard.* [2] HR 1488 attempts to use Federal statute to presume that the IRS shall enforce and collect child support, which would mean that a Federal agency would become entwined with part of the issuance of domestic relations orders as issued by individual states. The Federal government would be telling states how to issue these domestic relations orders, in part.

On another constitutional issue, currently, there are 51 different sets of child support guidelines (including Washington, D.C.) but each state enforces its own guidelines. If the IRS is given child support enforcement responsibility, will the IRS be open to complaints of violations of equal protection? In other words, when a single

[2] *Ankenbrandt* v. *Richards,* 112 S.Ct. 2206 (1992).

Federal agency is enforcing child support, why should an obligor in Oregon pay child support based on one guideline and an obligor in Wisconsin based on another if both obligors have similar financial standing and the children similar costs? Should a single Federal agency enforce very different child support guidelines? This would be a sharp contrast to collection practices for Federal revenues. Certainly, taxpayers would complain and file suit if the IRS charged tax payers in different states different tax rates.

**Legal Issues Regarding Compliance with Federal Regulations**

Before the IRS is given nationwide responsibility for child support enforcement, a number of key regulatory issues need to be addressed. In fact, these issues are the key reasons for an apparent lack of compliance by child support obligors. Not only should these issues be addressed before the IRS is given child support enforcement authority, but resolving these regulatory issues is likely the best solution for child support compliance.

When the Federal government first offered incentive grants for adoption of statewide guidelines for child support, Congress had the wisdom to establish criteria under Federal regulation that the guidelines should be based upon. Most of these are and have been found in the general vicinity of 45 CFR 300.[3] Child support guidelines were to be based on economic data on the cost of raising children within each state, were to take into account the economic necessities of the non-custodial parent, and modifications were to be readily obtained when economic circumstances justified such a modification. Congress left enforcement of these regulations with DHHS. Additional legislation with the Consumer Credit Protection Act set limits on withholding for child support, to be enforced by the U.S. Department of Labor.

However, no state has completely complied with these Federal regulations with the effect that states commonly award child support that exceeds the cost of raising children. In turn, many obligors cannot meet their obligations, leaving the impression that the fault with child support arrears is theirs rather than the lack of state compliance with Federal regulations. The problem is that for political considerations and financial gain from Federal incentive monies, states have deliberately chosen to pick and choose which regulations they wanted to comply with and DHHS has chosen to not enforce regulations related to the economic basis of the guidelines and the affordability of the awards. As you likely know, individuals have no right to sue DHHS to enforce its own regulations with the states. In contrast, if the IRS took over child support enforcement, it would no longer be a situation of states ignoring Federal regulations and states enforcing non-compliant state laws but rather a matter of a Federal agency directly interacting with individual citizens in the implementation of Federal regulations through enforcement of child support guidelines that are supposed to meet Federal regulations. The non-compliance of child support guidelines with Federal regulations could not be ignored as the IRS would likely face immediate legal challenge for enforcing non-compliant regulations—the awards based on non-compliant guidelines.

Let's examine how these non-compliant child support guidelines will create regulatory problems for the IRS unless resolved first. Let's look at one of the more basic regulations. In 1990, CFR required that states base guidelines on—among other factors—a non-custodial parents basic living needs. Many states, however, do not have non-custodial income guaranteed for at least poverty level existence. For example, Georgia has the same before-tax percentages for child support for an obligor earning $800 a month as for an obligor earning $6,000 per month. An obligor in Georgia (and in many other states) earning modestly above the poverty level is pushed below the poverty level by presumptive child support obligations and is forced to make a choice between eating to survive and not making full payment on child support. Lack of state compliance with CFR creates this alleged deadbeat parent. Would the IRS be able to enforce such a guideline when not meeting Federal regulations?

The Consumer Credit Protection Act (CCPA) sets limits for debtors on garnishment by their employers. Wage withholding generally does not exceed 25 percent of after-tax income unless there are child support or alimony withholdings in which case employer withholding can go up to 50 percent of after-tax income (the percentage rises somewhat when there are arrears). Federal regulations have required states to enact statutes or regulations that employers cannot exceed these percentages for child support withholdings. However, Federal regulations do not require that presumptive child support guidelines and awards comply with the CCPA—only the withholdings. This means arrears develop when awards exceed CCPA ceilings

[3] See specifically 45 CFR 302.56.

on withholdings. Indeed, a number of states do not constrain child support guidelines to fall under the CCPA ceilings.

Georgia, for example, has presumptive awards that exceed CCPA ceilings when the obligor makes as low as $3,100 per month gross for 5 children cases and $4,500 month gross for 4 children cases. This is for a basic award and does not include add-ons, such as medical insurance, which push the gross income levels lower for which presumptive awards exceed CCPA ceilings. Further problems arise when obligor income falls after presumptive awards are set and courts refuse to downward modify obligations. Would the IRS be allowed to enforce child support awards that exceed CCPA limits?

Other CCPA issues have not been resolved. Most realize that the CCPA sets limits on withholding as a percentage of after-tax income. Few realize that the CCPA exempts the first 30 times minimum wage weekly earnings for standard types of debt payment withholdings. This is intended to help guarantee subsistence income. However, this exemption does not apply for child support withholdings. There is no subsistence earnings guarantee. As long as the percent requirement is met, the wage earner can still be left with almost no take home pay after child support withholdings. How can subsistence earnings be protected for one type of creditor but not another? What is the rational basis for this distinction? Will the IRS become embroiled in equal protection issues again because of inconsistencies in the CCPA?

Federal regulations require that child support guidelines be based on economic data. This is intended to ensure that both custodial parents and non-custodial parents are treated fairly in these matters. Yet, no child support guidelines implemented by the states are truly based on data on child costs. Some states such as Wisconsin and Georgia simply took welfare case guidelines (fixed before-tax percentages that are high to reflect child costs high share of expenses at low incomes) and applied them to all income situations—even in the context of rapidly rising income taxes.[4] In these states, it has been documented that in most situations, the custodial parent ends up with a presumptively notably higher standard of living than the non-custodial parent—even when the custodial parent earns significantly less than the non-custodial parent. The Supreme Court of Oregon issued an opinion that welfare case guidelines are inappropriate for non-welfare situations.[5] Will the IRS face constitutional challenges for attempting to enforce guidelines that have no rational economic basis—such as welfare percentages applied to high-income cases?

Other states have taken guidelines from studies allegedly based on child costs. So-called income-shares states do not base their guidelines on actual expenditures on child costs but are instead based on indirect measures of child costs. This may come as a shock to some, but income-shares guideline states use guidelines that are based on comparisons of *adult* consumption of alcohol, tobacco, and adult clothing in intact households—not child expenditures. This methodology estimates the income needed to restore the custodial parent's standard of living after supporting children by restoring certain discretionary prior adult consumption—specifically for the above-mentioned adult goods.

This indirect measure is used to award "child support" so as to cover the full cost of raising children and to restore the adult lifestyle to its pre-divorce level for an intact household. The adult lifestyle-restoration bias has the effect of incorporating an alimony component into child support plus it ignores the added overhead for non-intact families. In turn, with these types of guidelines the custodial parent at moderately low to moderately high incomes generally has the higher standard of living than the non-custodial parent—assuming that child support can and is paid.[6]

Essentially, we are judging child support compliance on badly estimated and inflated me assures of child costs. Reports of non-compliance may look especially high for states which do not incorporate self-support reserve components into their guidelines as required by Federal regulations. Those states are failing to assure that obligors can actually afford to support themselves while paying presumptive child support awards.

Next, the Administrative Procedure Act (APA) requires that all implementations of Federal regulations have a stated "basis and purpose." Without Administrative Procedure Act-compliant guidelines, validity of the orders that the irs seeks to enforce may be subject to Federal court challenges. Many states have enacted guidelines without complying with APA. For example, Georgia's statements concerning

[4] R. Mark Rogers, "Minority Report of the Georgia Commission on Child Support," July 1, 1998.

[5] *Smith* v. *Smith,* 626 P2d 342 (1980).

[6] R. Mark Rogers, "Wisconsin-Style and Income SharesChild Support Guidelines: Excessive Burdens and Flawed Economic Foundation,"; *Family Law Quarterly,* Spring 1999, pp.141–162.

child support guidelines appear to lack any basis showing how the state considered "the cost of raisingchildren" as required by Federal Regulations. No economic basis is stated. There is no explicit economic basis for rebutting the presumptive awards. The state of Georgia expresses no requirement that "child support" monies be used for the benefit of the children. Because Georgia gives no guidance—as is required under APA, these transfer payments that are characterized as "child support" may or may not trickle down to the children, but no one-neither the father nor the children-has any standing to sue for an accounting of use of the funds. Since many states such as Georgia do not have a stated basis and purpose, the IRS may have difficulty enforcing these guidelines until such time states are forced to comply with APA.

Other complications would arise for the IRS as child support enforcement agent. The IRS would become holder of records for child support cases. As a matter of due process, parties in child support cases enforced by the IRS would be entitled to access to IRS records. Likely, IRS confidentiality would be compromised as a legal right for parties involved. The IRS clearly would be subject to standard requests for disclosure for court and perhaps FOIA requests. The IRS would regularly be put on the witness stand to disclose its records and practices—including for IRS records for child support purposes. It does not appear that the IRS would be able to continue its current policies of confidentiality should the IRS become chief enforcer for child support.

Before the IRS is assigned child support enforcement duties, these state compliance lapses should be addressed so as to prevent embroiling the IRS in conflicts grounded in failures to comply with Federal regulations. More importantly, forcing states to comply with current Federal regulations would solve most of the child support enforcement problems and preclude the need for building a huge and expensive administrative agency within the IRS that would duplicate existing agencies at the state level and at DHHS.

However, should the IRS be granted this authority, I believe it is important that child support obligors be given a bill of rights analogous to a tax payer bill of rights. I've brought a draft version for your consideration.

Madame Chair and committee members, thank you for your attentiveness and thank you again for allowing me this opportunity to speak.

**ADDENDUM:**

**A CHILD SUPPORT PAYER'S BILL OF RIGHTS**

**I. Use of Child Support**

1. Child support shall be used solely for support of the child, not support of the parent's lifestyle.

**II. Calculation of Child Support**

1. Generally Accepted Cost Accounting Principles shall be employed in developing child support guidelines. Child support estimates shall be based on the incremental cost of supporting a child. Those cost estimates shall control the finder of fact in determining the amount of child support to be allocated between the parents.

2. Individualized estimates of child support to be awarded shall employ Generally Accepted Cost Accounting Principles and shall be based on the incremental costs of supporting the child.

3. If a parent has multiple children from multiple marriages, child support shall be calculated only on the incremental cost of supporting each child.

4. Child support shall not reduce a parent's income to a level that entitles that parent to any form of need-tested government entitlement.

6. A non-parent shall not collect more child support from both parents than either parent would be obliged to pay separately.

**III. Who Shall Pay Child Support**

1. Child support may not be imposed on any individual other than the biological father or mother or an adoptive parent.

2. No parent who has been shown by DNA testing to not be the father shall be obliged to pay child support for that child.

**IV. Payment through a Financial Intermediary**

1. Child support shall be treated as any conventional debtor-creditor relationship.

2. Separation of duties shall be accomplished by utilizing lockbox, automatic transfer, or other commercial banking services to receive and deposit funds.

3. Funds shall be handled in accordance with good fund accounting practice and with Generally Accepted Accounting Principles.

4. Child support collection operations shall comply with all statutes and regulations that apply to financial intermediaries in general.

5. All payments received shall be credited to the obligor's account within two business days and posted as of the date received.

6. The obligor may direct application of payments: The recordkeeper shall apply payments to current and past obligations as directed in writing by the obligor. Those writings shall be accepted and acted upon as if they were endorsements to a financial instrument as described in the Uniform Commercial Code whether the obligor pays directly or through some intermediary, e.g., through income deduction.

7. All funds received by a child support receiver or its contractor by 2 PM shall be assembled into a deposit to a commercial bank and physically deposited in that bank the same day.

8. All payments shall be disbursed within two business days.

9. No child support payment may be deposited to any account where it might be commingled with any funds excepting other child support payments.

10. Child support collection activities and workers shall be subject to fiduciary obligations as they apply in general to governmental officers or employees who handle or control funds. All individuals who handle or control funds shall be bonded in the same manner and amounts as other government officials and employees with similar fund handling duties.

11. An arms-length relationship shall be maintained between the organization that receives, posts, and disburses payments and the organization that enforces collections.

12. Upon inception of any child support order requiring payment through any financial intermediary, and upon any change of organizational address or telephone number of the organization(s) (governmental office or contractor) that maintain(s) records of that payor's payments received, application of those payments to obligations, and disbursement of payments to the ordered recipient, the obligor shall be notified of the identity of the organization(s) which maintain(s) authoritative records of that information.

13. The obligor shall be notified at inception, and upon any change, of the address for mail and in-person requests, and phone numbers for telephonic and (if available) facsimile requests. The recordkeeping organization shall accept written requests for information telephonically, by in-person delivery and by facsimile transmission during their entire working day. Mail delivery by U.S. Postal Service employees directly to the recordkeeping unit shall be maintained.

14. The obligor shall, on request, be permitted to inspect and optionally, to copy, a history of posting dates and amounts of child support payments posted, application of those payments to current and past-due obligations, and amounts and dates of payments disbursed to the recipient in the most concise form available to the recordkeeper. For any account paid through income deduction, the recordkeeper shall retain and permit inspection and permit copying at no charge of the employer's transmittal letters detailing payments remitted on the employee's behalf.

15. If the child support recordkeeping organization is unable to provide employer transmittal letters, the employer shall, at the obligor's request, provide copies of transmittal letters and canceled remittance checks endorsed by the child support receiving organization within 7 working days after the request.

**V. Collection Operation Audit**

1. Each such individual child support recordkeeping unit (including all contractors) shall operate in accordance with Generally Accepted Accounting Principles and individual obligors accounts shall be audited annually applying "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," issued by the U.S. Comptroller General and, supplementally, state administrative policies and proceduresmanuals.

2. A separate annual audit shall be performed at each child support recordkeeping location of individual obligor accounts, using those same definitions and requirements. The audit shall be unannounced and shall test the timeliness and accuracy of posting of obligations and payments, and of disbursement of remittances to obligees, and accuracy of obligor's account balances and transactions. Substantive tests of balances and transactions shall be performed in sufficient number to support an opinion based on an estimate to a 95% confidence level of the maximum number of accounts in which errors will be found and the percentage such number of accounts bear to the total number of currently active accounts. Substantive tests shall be performed to estimate the average and maximum days from receipt of a payment to posting for each recordkeeping location to a 95% confidence level. For

all locations for which obligees disbursements are issued, one hundred percent testing by EDP auditing shall be performed to determine the average and maximum days from posting of a payment to its disbursement for each recordkeeping location.

3. An audit report and management letter incorporating recommended improvements shall be issued for each recordkeeping location. A copy of all audit reports and management letters shall be made available for inspection at the recordkeeping location upon walk-in request during regular working hours and copies shall be made available to the general public at a cost no higher than that charged for FOIA requests.

4. Certified copies of such records of obligations, payments and application of payments maintained by a recordkeeping location for which an audit in each of the two previous years estimates errors of less than 1% to a confidence level of 95% shall, without further proof, be admitted into evidence in any legal proceeding in this state. Records showing a failure to meet these standards shall be admissible in court in support of a defense of inaccurate recordkeeping.

**VI. Child Support Determination**

1. There shall be no ex parte child support decisions.
2. A parent is entitled to a jury trial in a request for modification of child support.
3. Child support obligations shall not be exempt from generalized statutes of limitations.

**VII. Alternative Payment Arrangements**

1. Both parents may agree to binding arbitration in any matter concerning child support by any individual who is not a government employee or grantee directly or indirectly. That arbitration shall be binding upon the courts and child support collection and enforcement personnel. Parents may agree to direct child support payments without the intervention of any governmental collection process.

2. Payers shall be permitted to authorize any federally insured financial institution to automatically deduct child support that may be disbursed either directly to the recipient or to another (government-sponsored) financial intermediary.

**VIII. Income Deduction Orders and Implementation**

1. An income deduction order shall not emanate from a criminal proceeding. Child support is a civil obligation.
2. The term of an income deduction orders shall not extend beyond the term of the underlying obligation.
3. There shall be no statutory exclusion of defenses to income deduction orders.
4. The payor shall be notified in the manner of personal service two weeks before an employer is notified of an income deduction order.
5. An employer may not take any action against an employee because of an income deduction order.
6. Existence of an income deduction order may not be inquired about nor taken into consideration in hiring decisions.
7. While an income deduction order is subject to appeal, all funds deducted shall be held in escrow pending a final determination.
8. The income deduction order shall state all fees or interest that have accrued and shall be accompanied by a computation of the components of those amounts.
9. Proof of deduction from a paycheck shall be a complete defense to non-payment by the obligor. Proof of remittance shall be a complete defense to non-payment by the employer.
10. Employers shall permit employees to inspect and copy records of withholding and remittance of child support withheld from the employee no less than once per year and whenever an allegation arises as to status of child support.
11. Annotations on pay stubs shall clearly indicate "child support" so as to facilitate legal defense.
12. Child support payments in controversy may be collected but shall be held in escrow until the controversy is resolved.

**IX. Enforcement**

1. Administrative Procedures prescribed by HHS OCSE publication "Essentials for Attorneys in Child Support Enforcement" shall be employed.
2. Any notice issued in enforcement of child support obligations shall be accompanied by a summary of obligations met and unmet, payment history, and application of payments sufficient to permit a finder of fact to review the relevant transactions.

3. Obligors in arrears shall be notified if the arrearage exceeds one month's obligation. The arrearage shall be treated as unknown to the obligor until notified by certified mail.

4. In addition to any other adjudicatory authority, an adjudicatory officer with the authority to temporarily restore license privileges shall be available in the same times and business locations as is authority to issue an arrest warrant.

5. No government employee or contractor may act in a matter of law on behalf of a parent who is not a current recipient of needs-tested governmental entitlement.

6. Payers and recipients files shall be merged and both parties shall have access to all contents of the merged file.

7. Warrantless searches for financial information shall not be permitted in the context of child support. Financial institutions shall not divulge information without a court order. Financial institutions shall not divulge under the guise of child support enforcement any personal financial information concerning persons merely alleged to owe child support or persons who are not alleged to owe child support.

8. Levies upon property shall not issue without notice and hearing.

9. Collection organizations shall be liable for withdrawal penalties and loss in market value in the case of unjustified liquidation of financial instruments, securities, and accounts.

10. No license may be revoked or suspended without personal service on the licensee nor without hearing and a showing of arrearage at the time of the hearing.

**X. Paternity**

1. Accused fathers shall have access to all DNA testing work product and shall be permitted to obtain an opinion by an analyst of their choice as to the indications of that test. That analyst shall be permitted to testify. An accused father shall be entitled to a jury trial.

**XI. Enforcement of These Rights**

2. A child support recipient and a child support obligor shall be entitled to take legal action in any court of record in the state in which an alleged violation occurs.

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Chairman JOHNSON. Thank you very much, Mr. Rogers, for the detail of your considerations of the legal implications of IRS involvement.

While we have you at the table, what are some of the things that we could do to improve the child support enforcement system, from your point of view? Mr. Cohen?

Mr. COHEN. There are several things. Aside from allowing us a little time to digest the massive changes from the 1996 amendments, for the next go-around I think there are some things that are developing in the states that are worth consideration. One I know Nick is familiar with is booting vehicles as a way of getting compliance, and that cuts across people who are employed and not employed.

Another development that is taking place in New England is intercepting insurance settlements. A fair number of noncustodial parents have insurance claims pending and they receive considerable lump sums from personal injury settlements, and they are working on a match similar to bank matches.

Another one relates to money, it might be considering resources for the Office of Inspector General or U.S. Attorneys to prosecute the cases that they are now responsible for. They have authority now to prosecute both misdemeanor and felony nonsupport, but I am not sure they are fully staffed up to do that.

As well, following on my presentation, considering what it might take in those states that are not doing well to have those states

invest more in the child support effort, if that is the reason for their low performance.

Mr. YOUNG. Madam Chairwoman, I would add two things. You have passed the laws, you have given us the responsibility, you do not see the child support community coming in here trying to give this mission up. It is someone who has come up with an idea, and not a particularly good idea, to give it to an agency that does not understand the needs of fathers and noncustodial parents, nor would I expect the IRS to understand that. And if the order is not correct or if they have issues with the guidelines in the quadrennial review, I can hardly see the IRS paying attention to those. They would just say, "I just enforce the order. You owe the money, send us a check".

I would ask that we would stay the course we are decisively engaged and not lose the momentum that we have achieved with such as the New Hire Directory, the wage withholding, the driver's licenses, even the booting. I think if we work through the distribution simplification issue, it will be the crowning blow on having the entire cake, and within 2 years you will see remarkable improvements in the collection rates as well as in the satisfaction of people that previously have found this to be unsatisfactory.

Chairman JOHNSON. In that regard, we are going to do a bill, and it is going to address simplification, and if any of you have concrete suggestions about how to simplify the system we would be interested because every time you simplify it, you do get a pretty good cost estimate on the Federal side.

Mr. YOUNG. I really don't like using the words "distribution" and "simplification" in the same sentence. It is sort of like "slim fast" or "free money", it really doesn't fit.

Chairman JOHNSON. I just invite you to write follow-up letters, if you would care to do that, we would be happy to hear from you. Mr. Owen.

Mr. OWEN. From an employer's perspective, the one thing that I have heard some discussion about, but I haven't heard in this discussion on H.R. 1488, is independent contractors and undistributed funds and some of those other kinds of things that should be addressed, and employers can help participate in some of that as the SDUs develop.

I think what we have happening is the SDUs haven't had an opportunity to fully mature, so we are not, from an employer's perspective, able to participate in a real partnership with the states to make sure that they are getting the full benefit of those kinds of things. And we are developing our systems to do EFT/EDI processing with the states and all those kinds of expenditures, and to stop those efforts where there is a very large payroll service provider, for example, that does 22 states through EFT/EDI, and for all of that to stop and be retooled is just a huge expense.

The other thing, just quickly, too, on the withholding certificates, people seem to think that just filling something out on their withholding certificate is going to provide all the answers for people and get the information to the secretary and so on, but it really is a challenge for employers, particularly under this bill where they say that every time a person changes a job you have to fill out a new W–4 along with your child support obligation. Also, people

change jobs quite frequently, and that would be a huge burden on employers to process all that paperwork on a consistent basis.

Chairman JOHNSON. Thank you. Mr. Rogers.

Mr. ROGERS. Well, this is going back to the economics perspective. The basic issue we are dealing with here is the cost of raising children, and why are there arrearage problems? Why are there noncustodial parents who are not paying orders that are outstanding or when there aren't any orders?

The issue frequently—and we forget, it is merely a matter of how much money is available, how much money does a noncustodial parent earn, and how do the guidelines themselves reflect what a good child support award should be. I don't think the states have adequately paid attention to the true economic cost. For example, a lot of states use—well, a dozen or so states use the Wisconsin style guideline, which is truly intended only for welfare situations, that they apply it to higher income levels basically forcing obligors to be obligated for a level they cannot afford. And I believe the basic data show that arrears ⅔ of the time when the noncustodial parent cannot pay. I think we need to refocus on the very basic foundation of the issue—what are some true costs? How do we guarantee a subsistence level of income for the obligor? And only then can we have a true picture of what the arrears are, and then enforce it properly.

Chairman JOHNSON. I think that is a very important point. In our Fatherhood Bill, we do give a preference for states who develop some way of helping parents to deal with arrearages, and that has been very controversial, but any thoughts you have about how to encourage that or deal with it—and your point about realistic support orders is one thing that we are not planning to get to this year, but ultimately we will have to.

Mr. ROGERS. Just very quickly, I think most fathers want to be able to support their kids. They don't want to be called deadbeats. But they also want to be able to feed themselves. We really just need to basically look at what is a subsistence level of income, how do we train someone to get beyond that and do not overtax the increments to income moving beyond that. There are, I believe, a significant number of fathers who are forced by states that have guidelines that do not allow subsistence, they are forced to go from working for well respected employers because of automatic withholdings and they have to go to cash in order to be able to live, and the children lose income from that because there is not adequate consideration.

Chairman JOHNSON. This is a good point at which to yield to my colleague who prefers to distinguish between deadbeat dads and dead-broke dads.

Mr. CARDIN. Thank you, Madam Chair, and I appreciate very much this panel, I think it has been extremely helpful. Mr. Owen, I want to at least thank you, the business community, for their support on child support collections. It is very clear that the success that we are enjoying today is because employers around the nation know the importance of parents contributing to the support of their children. It certainly is not without a cost, as you point out, and your requests are certainly very reasonable for us to try to make it a little bit easier, but certainly your willingness to endure

a lot of the administrative burdens on the collection of child support is very important, and we thank you for that.

I want to follow up on the Chair's question. The Administration has brought forward several suggestions on improving child support collections around the country. I sense a reluctancy to move forward with additional mandates at this point with the current law being implemented, but I do think some of these are worthy of consideration by Congress, and if you want to comment on it I would be glad to listen to any of your response.

We have already talked about the simplification of the distribution rules, so I won't go through that again. And I have mentioned several times the encouragement of more passthrough of child support to the families, the administration suggesting that the Federal Government would match the greater of $100 or $ 50 over current state policy.

We have talked about vehicle booting, the administration is recommending that we require vehicle booting for registration to noncustodial parents owing $1,000 or more in overdue child support. There is a proposal here to deal with intercept of gambling winnings. I could go through some of the others—there is a proposal to expand work requirements for noncustodial parents in arrearage, and so forth, reducing the passport denial from $5,000 to $2500. Any comments on these suggestions whether Congress should act or not?

Mr. YOUNG. I would speak to the passport. I would think that would be a pretty good bill. Many people try to game the system. I have people who will attempt to get their passport back by buying under the $5,000 criteria trigger that would have caused a revocation, and don't allow it. You pay the whole amount, or no passport.

Mr. CARDIN. On the passport, let me point out that we have also tried to bring equity to have a similar restriction on nonresidents who want to come into the United States that owe child support, to allow them to come in here for the child support issues, but not to do business until they have settled up their child support arrearages.

Mr. YOUNG. Absolutely. Booting is now statewide in Virginia. I would remind everyone that booting is not something we do lightly. It is similar to your remarks, sir, in Maryland, about the driver's license suspension. The threat thereof, of booting, is what is causing people to become more responsible than the actual booting themselves. I have booted very few cars in the State of Virginia, and it is time-intensive, it takes a lot of effort. I think the law should be on the books. I do not think it should necessarily be mandated in every state. If it doesn't work in Maryland or Connecticut of Michigan, then it shouldn't be a law enforcement tool that is brought out, but it should be on the books as an option.

Mr. COHEN. Another issue, too, when it comes to these high arrearages. The gentleman at the end mentioned child support guidelines. Very often, it is not the guidelines that are the issue, but the fact that a parent's circumstance is changed, whether upward or downward, and the state process for modifying support orders is very time-consuming and burdensome and, unfortunately, a lot of noncustodial parents don't go back to court, they leave the old order on the books, and the buildup an arrears. On the flip side,

a lot of custodial parents don't get the benefit of increases in non-custodial parent's income where a support order should go up because of that process, and I think whatever we could do to simply establishing the amounts or modifying them and speeding that process up would be very beneficial.

Mr. CARDIN. On that last point—I want to give the other two witnesses a chance to respond—one of my concerns about the specific bill before us is that I think the more you make this a Federal issue, the less likely you are going to get the updating of child support orders. I know that it is still going to be a local function, but the incentive locally is not going to be as strong. It will be perhaps if there are TANF funds that are involved, but if there are not, it is going to be very—just removing it more from where the direct interest is.

Mr. YOUNG. That is what I was trying to say about the IRS is not going to listen to the issues of either review and modification, quadrennial review issues, guidelines. They are not going to do that, that is a social services type of issue that needs to be dealt with with a person that is generally in a social services network, and that is not the Internal Revenue Service. And I think you would further remove people from the very people that could help them, by turning it into a revenue only issue.

Mr. CARDIN. Mr. Owen? Mr. Rogers?

Mr. OWEN. The one comment I would have on that, as well, is that when they are talking about these withholding certificates and setting them up under the bill, there is nothing that I saw under lump sums or bonuses or incentives, and there is a lot of communication on a one-on-one basis with the state agencies to say, "Look, this person is receiving $1,000 or $2,000 bonus, what should be withheld on that?" And that would be lacking in this type of a program that is being presented, and there are some significant dollars that go to the children in arrearages as well as just lump sum payments that somehow would get missed in this particular bill. So, the one-on-one—employer, state, SDUs, courts and so on—is a good thing, and I think that should be maintained.

Mr. ROGERS. I had a reaction to Mr. Cohen's comment about the need to modify more frequently, and I think that is a very important issue, especially when we are dealing with low-income fathers, fathers that don't interact well with the system. Basically, we have an arrangement where the state provides legal services for the custodial parent—maybe not as timely as they would like—but in terms of if a noncustodial parent has a loss in income or earnings decline, that father generally may not have the resources to go to court, may not be able to hire an attorney, basically becomes in a vicious cycle in which there is no way out. We are going to have to address the issue of arrears, how to modify them, and try to find some type of procedures to help these low-income fathers deal with the legal system that they are just not accustomed to dealing with.

A quick final comment on the booting, states make mistakes. I am very reluctant to encourage a public airing of personal matters, especially when there is a strong opportunity for a mistake. And I think it would be a mistake to go down that road.

Mr. CARDIN. Thank you, Madam Chair.

Chairman JOHNSON. I thank the panel very, very much for your comments, I appreciate it.

[Whereupon, at 1:27 p.m., the hearing was adjourned.]

[Submissions for the record follows:]

**Statement of John Smith, Research Analyst, Alliance for Non-Custodial Parents' Rights**

Combining one bad idea with another will not produce a good idea. Child support enforcement (CSE) agencies have demonstrated their inability to perform simple invoicing functions. The IRS has earned a reputation as one of America's most brutal, out-of-control and insensitive agencies as the American public witnessed during the Senate Finance Committee's 1997 Hearings on IRS Abuse. Combining these two organizations is a recipe for disaster.

This is how William Roth, R-Del, Chairman of the Senate Finance Committee described the IRS in a press release: [1]

"Our six month long look at the IRS shows a troubled agency, with widespread, serious problems."

- "...an unresponsive agency with some employees who do not care about the taxpayers they serve."
- "...an agency in which a subculture of fear and intimidation has been allowed to flourish..."

Child support collections are at an all-time high, yet child well-being is at an all-time low. If money is the solution, why hasn't it worked? Children's lives are not improving, even on a proportional basis, proving that money is not the answer. Why haven't any studies been commissioned to investigate the links between child support paid, family structure and child well-being? Prof. William S. Comanor shows that 80% of child support is not spent on the children.[2]

Child support is a single-parent household enabler, guaranteed to diminish parental involvement by forcing noncustodial parents into exile through excessive awards and draconian punishments. It is a well-known fact that it costs much less to raise a child than to pay child support.[3] Everyday we are seeing the results of the lack of parental involvement: school shootings, violent crimes, drug abuse and teen pregnancies. Until the practice of rewarding family disintegration is ended, society will continue to pay a high price under the guise of "supporting the children."

Instead of escalating the war on noncustodial parents, all efforts should be aimed at preventing the further erosion of families and reuniting children with their biological parents. This can be accomplished by:

- Withholding federal funds to states that fail to make equal shared parenting* the presumption in law; penalize states that frequently override this presumption
- Prohibiting custodial parents from moving away with or without their children; prosecute them under existing kidnapping laws**
- Withholding federal funds to states that fail to repeal no-fault divorce laws

In the event that this misguided bill gets out of committee, I would recommend the following changes:

- Apply the same IRS documentation rules that are required for tax deductible expenses to child support. That is, require documented proof that the child support received from noncustodial parents was actually spent on the child.
- Apply the same IRS documentation rules that are required for tax deductible expenses to child support. That is, require documented proof that custodial parents are paying their share of child support.

Prosecute custodial parents that embezzle or otherwise misuse child support under existing IRS tax fraud laws.

The only thing both sides agree upon, is that child support policy has been a failure. After 25 years of failed policy, billions of taxpayers' dollars squandered and millions of families destroyed, it's time to try truly new solutions, not re-implementations of proven failures.

Sincerely,

JOHN SMITH
*Research Analyst*

*—Under shared parenting, the only way visitation can be increased through voluntarily reached agreements. This equalizes custodial and noncustodial parents, re-

[1] Press Release #105–167, ROTH TO TAKE UNPRECEDENTED LOOK AT IRS, September 11, 1997.

[2] Comanor, William S., "Child Support Feels Different on Male Side," The Los Angeles Times, Feb. 22, 1999.

[3] Winner, Karen, "Divorced From Justice," 1996, ReganBooks, p. 52.

wards responsibility and eliminates fighting, because there is nothing to fight for. If one parent wants more visitation, they both have to agree to it. With equal shared parenting, the need to pay child support disappears. If one parent wants to pay support, they are free to negotiate that too.

**—Geraldine Jensen, founder of ACES (the country's largest child support lobbying organization), is the poster girl of "Move-Away Moms." Jensen violated court order after court order and deliberately moved for the sole purpose of thwarting the father's visitation. Jensen is a darling of Henry Hyde and Hollywood (ABC made a movie of the week featuring her story, which left out all of her harassing and illegal behavior). Toledo newspaper reporter D. C. Burch wrote an extensive account of Jensen's shenanigans in a May 1995 article "Gerri Stacks The Deck." This article, along with others on ACES, can be found on the ANCPR website at: *www.ancpr.org/indexenemy.html*

APPENDIX A—BRIEF COMMENTS ON THE TESTIMONY OF R. MARK ROGERS

R. Mark Rogers presented testimony to this committee. He makes many insightful observations and offers brilliant action items in his Child Support Payor's Bill of Rights. However, even Rogers feels the need to perpetuate the "money is the solution" myth when he states "Before beginning, I would like to state that I am completely in favor of appropriate child support enforcement." As long as the law is obsessed with this fixation on money instead of parental involvement, the problem will continue.

Rogers, like many people, feel that if child support could just be made "more reasonable" or base it on the "true economics of child costs," this policy would be fine. The problem is, it is impossible to determine the cost of raising a child and attempting to do so and enforcing it through statutes violates a person's freedom of religion (set of beliefs). There are too many factors and dynamics to do this, and if tried, the bureaucracy would be huge and cost more than any imagined benefit it might produce (remember, CSE organizations cannot adequately perform simple invoicing).

The solution is very simple, requires minimal government involvement, would increase parental involvement and would free up court caseloads-all saving taxpayers' money. The solution is to make equal shared parenting the presumption in law and make it next to impossible to override this presumption, unless both parents reach their own voluntary agreement. When each party realizes that cannot "win" or gain through fighting, the fighting will cease. When allegations must be backed up by physical evidence and tough penalties for perjury are vigorously enforced, parents won't dare make false abuse charges for fear of losing everything.

Because it is so much cheaper for a parent to provide for his/her children than to pay child support, equal shared parenting is the solution. There is no need to attempt to calculate child support based on bogus methodologies or chronically outdated economic statistics. Given the choice of being forced to pay abnormally high child support under constant threat of legal punishments and expensive litigation required for downward modifications or not having to pay anything, but providing for your children—who wouldn't opt for the latter?

Everyone wins with equal shared parenting. Children win by gaining equal time with each parent (approximately emulating their former two-parent household). Each parent wins because they have access to their children and free time too. This prevents overload, which leads to burnout, which can lead to ignoring or even abusing their children. Society wins, as children raised with lots of active parental involvement (quantity time), are better disciplined and less likely to commit violent crimes, get involved with drugs and have fewer behavioral problems.

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**Statement of Paula Roberts, Senior Staff Attorney, Center for Law and Social Policy**

**STATEMENT OF INTEREST**

My name is Paula Roberts and I am submitting this statement on behalf of the Center for Law and Social Policy (CLASP). CLASP is a public interest law firm that focuses on the plight of low-income families. For the last two decades, a major part of our work has been directed toward improving the child support enforcement system so that it provides a steady, reliable source of income to single-parent families.

Since passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) the need for improvement has become even more compelling. Many families are leaving public assistance for low-wage employment and need reg-

ular, timely child support payments to supplement that income if they are to provide even the basic necessities for their children. Other families—cognizant of the time-limited nature of public assistance—are making every effort to live on their earnings, trying to avoid the need to use up precious months of public assistance eligibility. Many are able to doso only if child support is a timely, reliable source of income to support the custodial parents work effort.

Past efforts to improve the ability of states to locate absent parents, establish paternity for non-marital children, set reasonable awards pursuant to numeric child support guidelines, and periodically modify support awards are beginning to pay off. Many states have improved their performance in these areas. However, the collection and timely distribution of ordered child support payments remains problematic. The problems are particularly acute in interstate cases. **For this reason, as detailed below, CLASP supports H.R. 1488 as the best way to reform the current collection and distribution efforts so that low and moderate income families will obtain the child support they desperately need.**

## THE NEED FOR CHANGE

*The Needs of Families.*

According to the National Survey of Americas Families, there are 21.7 million children living in single parent families. Thirty seven percent (37%) of these children live in families whose income is below the poverty level and another twenty-five percent (25%) live in families with income between 100 and 200 percent of poverty. Child support could be an important source of income to these children. Indeed, a recent Urban Institute study indicates that, when a low income family **receives** child support, that money constitutes **25 percent** of family income.[1] The average amount is nearly $2,000 a year. For somewhat higher income families, the average payment is close to $4,000 per year.

Efforts by states to locate absent parents, increase the number of children who have their paternity established, and quickly obtain child support orders will lead to an increase in the number of children who have access to this potentially valuable source of income. Recent data suggests that these efforts are beginning to pay off. However, unless those orders are fully enforced, the state efforts will not translate into better lives for children. For children to reap the benefits of the states efforts to obtain support orders for them, the money must be collected regularly and on time each month. It must be a steady, reliable source of income. If it is not, the children will live in deep poverty or their families will have to rely on Temporary Assistance for Needy Families (TANF), exactly the opposite result of Congress intention in PRWORA.

Unfortunately, as noted in the testimony by the Association for Children for Enforcement of Support (ACES), the child support collection rate for those with orders has remained stagnant. This is true for all single parents whether in or out of the state IVD system. Most disturbingly, of those with orders, the percent who receive full payment appears to be declining as does the percent who receive partial payment. **In fact, the majority (55.7%) of those with child support orders receive partial payment (20.5%) or no payment at all (35.2).**[2] This is actually **worse** than the situation uncovered by the Census Bureau in **1984,** when 52% of those with orders received either partial payment (26%) or no payment at all (26%).[3]

*The Needs of Employers*

About sixty percent of all single parent families use the state child support (IVD) system to help them with their child support issues. The other forty percent use private attorneys or act *pro se.* Whether they use the public or the private system, however, the major method of collecting child support is through the use of income withholding.[4] The role of employers in making this system function properly cannot be overemphasized.

Employers are a major part of the process for enforcing most child support orders. Because they now play such a major rule—at some inconvenience and cost to themselves—it is important that the wage withholding system accommodate the needs and concerns of these private entities to the maximum extent possible. PRWORA recognized this and attempted to make the withholding process easier for employers.

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[1] Elaine Sorensen and Chabva Zibman, "To What Extent Do Children Benefit from Child Support?". Discussion Paper from the Assessing the New federalism Project, January 2000.

[2] Sorensen and Zibman, *supra* note 1, Table 2.

[3] US Bureau of Census, CHILD SUPPORT AND ALIMONY: 1985, Series P–23, No. 152 (August 1987), pp.1–2.

[4] Since 1984, Congress has required all child support orders to be enforceable through income withholding when there are arrears; since 1994, all IVD orders and all private orders must be enforceable through immediate income withholding unless (in private cases) the parents opt for a different method of enforcement. 42 USc Section 666(a).

A major change was the requirement that each state create a State Disbursement Unit (SDU) so that employers would only have to send payments to one location within each state. Moreover, the SDUs are supposed to have the capacity to receive payments electronically, allowing employers to use the most convenient technology to transmit payments. SDUs are also supposed to have the authority to receive payments in IVD cases and private cases being enforced through income withholding. All of this was to be in place by October 1, 1999. Unfortunately, a recent survey reveals that:

- eleven (11) states do not yet have an SDU.
- of the forty-three (43) states which do have an SDU, six (6) serve only IVD cases. They do not process non-IVD withholding cases as required by federal law.
- of the forth-three (43) state which do have an SDU, fourteen (14) have no capacity to receive electronic payments. This too is a violation of federal law.

Among the states which do not yet have an SDU are four of the largest states: California, Michigan, Ohio and Texas. These states contain thirty (30) percent of the entire IVD caseload. The failure of these states effects the citizens of those states: it also effects the citizens of other states when they are trying to enforce an interstate child support order. Moreover, employers are and will continue to be asked to be non-paid partners in child support enforcement while their ability to meet their income withholding obligations is undercut by the very states seeking their help. This situation needs to be addressed.

In addition, PRWORA required employers to participate in New Hire Reporting. Employers must now report all new and re-hires to the State New Hire Directory in their State. That directory then forwards the information to a National Directory of New Hires operated by the federal Office of Child Support Enforcement (OCSE) and housed at the Social Security Administration (SSA). The National Directory is used to find matches in interstate cases. If the National Directory of New Hires matches a report with a case found in the National Case Registry, information is sent out to the state where the case is being enforced. That state is supposed to initiate interstate wage withholding. Unfortunately, as documented by ACES testimony, many states are not readily processing information being sent to them by the National registries. Either the information is not used, or there is a substantial delay so that by the time the state does act, the obligor has moved on to a new job. In the meantime, the family is without support and employers are processing a good deal of unnecessary paper work. This problem needs to be addressed.

**THE PROBLEM OF INTERSTATE CASES**

Historically, the collection of support in interstate cases has been difficult and time-consuming. Collection rates in these cases are even lower than the national average collection rate. Only forty-three (43) percent of mothers with orders in interstate cases report receiving regular payments as compared to sixty (60) percent in one-state cases.[5] PRWORA contained a number of provisions designed to improve this situation, including a mandate that all states adopt the Uniform Interstate family Support Act (UIFSA).[6] Unfortunately, these efforts have not been as successful as anticipated. As aresult, one of OCSEs project priorities for federally-funded demonstration projects this year are projects designed to foster improvement in interstate case processing.[7] As OCSE has noted: Although a great deal of progress has been made over the last couple of years, states are still facing many challenges in the implementation of UIFSA.”

**THE HISTORIC ROLE OF THE FEDERAL GOVERNMENT IN COLLECTIONS**

States and employers are not the only entities involved in the collection of ordered child support. The second largest source of child support collections is the **federal** tax intercept program. This program has been in existence **since 1981**, and has played an increasingly important role in obtaining arrears for public assistance and non-public assistance families using the IVD system. Originally operated by the Internal Revenue Service (IRS), in 1999, it was moved to the Department of the Treasurys Financial Management Service (FMS).

In addition to this program, FMS also operates an administrative offset program which allows payments from the federal government (e.g., expense reimbursements,

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[5] US General accounting Office, INTERSTATE SUPPORT: MOTHERS REPORT RECEIVING LESS SUPPORT FROOM OUT-OF-STATE FATHERS, GAO/HRD 92–39FS (1992).

[6] Many of the changes were proposed by the US Commission on Interstate Child Support in its report to Congress titled SUPPORTING OUR CHILDREN: A BLUEPRINT FOR REFORM (1992).

[7] See, 65 Federal register 489–491 (January 5, 2000).

travel payments) to be seized for the payment of child support arrears. The FMS also operates the passport revocation program authorized by PRWORA in 1996.

In other words, **for the last twenty years, the federal government has had a strong role in enforcing child support obligations. The provisions of PRWORA enhanced this role. It is a logical next step to move all enforcement to the federal level, streamlining the process for employers as well as creating a system with national scope that can, move quickly and efficiently to ensure that child support is a regular and reliable source of income to single parent families.**

**THE HYDE-WOOLSEY CHILD SUPPORT BILL (HR 1488)**

The Hyde-Woolsey bill provides a framework for creating such a system.. It gives the IRS primary responsibility for this enforcement function. All other child support functions in IVD cases (e.g., establishing paternity, issuing support orders) would remain state responsibilities. **In this sense, it is not a radical departure from the current system. States would retain responsibility for those parts of the system best done at the state and local level.**

The basic elements of the proposed system build on the federal governments historic role in this area. They include:

- Each state would create a presumption that in every child support order issued or modified in the state, that the custodial parent had assigned her/his right to collect child support to the IRS. The IRS would be responsible for collecting current support, arrears, and any fees or interest owed under the child support order.
- Parents who did not want to use IRS enforcement system could opt out. If they opted out, they would be able to opt back in at any time they wished to do so.
- Those who choose to use the IRS system would receive notice of how collections and disbursements would be made. They would also be given information about where any questions or complaints about collections and disbursements could be directed.[8]
- The Federal Case Registry created by PRWORA would continue to function. Courts and administrative agencies which establish or modify child support orders would continue to provide standardized case abstracts to the Federal Case Registry. These abstracts would contain information about the parents, the amount of the order and any arrears owed. The IRS would obtain basic case information through interface with this Registry.
- The W–4 form would be modified to provide an employee with the opportunity to declare that he/she owed child support, the amount of the obligation, and the tax identification number of the person to whom the support was owed. Thereafter, if a new order was issued or an old order was modified, the employee would be required to file a new W–4 form within 30 business days of the change. A covered employee who willfully failed to provide correct information could be prosecuted and fined up to $1,00 and sent to jail for up to one year, or both.
- If the W–4 indicated that the employee owed child support, the employer would be required (within the limits of the Consumer Credit Protection Act) to begin withholding child support from the employee's first/next paycheck. The employer would also send a copy of the original or revised withholding certificate to the IRS for comparison with information in the Federal Case Registry. The IRS would compare the information provided by the employee with the information contained in the Federal Case Registry. If the W–4 declaration understated the amount of the child support obligation, the IRS would notify the employer of the correct amount of withholding. The employer would then adjust the withholding accordingly.[9]
- The employee's annual W2 form would tell him/her how much child support had been deducted from his/her wages. This would be credited against the actual obligation. If the employee had overpaid, he/she would get a credit. If he/she had underpaid, any support still owed would have to be paid to the IRS along with any taxes owed by the employee. If an employee failed to pay all child support due on or before April 15, the IRS would proceed to collect the delinquent support using the same methods it uses to collect unpaid taxes. Moreover, the employee would face the same penalties and interest as apply to delinquent taxes.
- For the selfemployed, the IRS would collect child support along with estimated tax payments. Adjustments would be made for those who are also employees and are having support withheld from their wages.

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[8] These are the basic elements of the customer service component of the program. They go well beyond what most states now provide to those parents using the IVD system.

[9] Provison is made for dealing with situations where the employee has multiple employers. So long as the amount owed is paid, an employee can have some of the support withheld from one paycheck and the rest withheld from another.

• Support would be disbursed as soon as practicable. Generally, the PRWORA disbursement rules would be used to determine who would receive payment. One major difference is that the special rules for disbursement of monies collected through the federal income tax intercept program would be deleted so that the same distribution rules would apply to all collections.

• Since the IRS would be collecting support, states would no longer be required to provide this service and the federal government would no longer fund state collection efforts. Therefore, all language contained in Title IVD of the Social Security Act relating to a state's responsibility to collect and distribute child support would be removed. The only enforcement obligation left to the states would be for medical support. Also eliminated from Title IVD would be the state incentive payment system. In addition, states would no longer be under a mandate to have certain state laws relating to the collection of child support. Gone would be the requirement that state law must provide for immediate wage withholding, state income tax refund intercept, liens, bonds, or credit reporting.

• It would be a federal felony to willfully fail to pay child support being enforced by the IRS for a period longer than two years or in an amount larger than $10,000. The Attorney General would be required to submit a report to the appropriate committees of Congress which details the impact that these changes have had on the workload, personnel, staffing and budget resources of Department of Justice and the federal courts.

**CONCLUSION**

There are many benefits to the Hyde-Woolsey approach. These benefits include:

There would be a universal system for collecting child support which would function irrespective of the residence of the parents. This would lead to substantial improvement in interstate case collection.

2. Employers would be able to interface their income withholding obligations with their current obligations to withhold income tax and social security payments. This would create a system which was much less difficult for employers to handle.

3. Income withholding would be implemented as soon as an employee obtained a new job. The current lag time to process new hire reporting information and then issue an income withholding order would be eliminated. This means children would get their support much faster than they do under current law.

4. All employers would be able to use electronic processes and computer-driven technology to process payments. This would greatly reduce the amount of time between withholding and when the money actually reaches the children <P>All of these benefits would help children. They would be particularly helpful to low-income children whose families rely on child support payments for a substantial part of their income. The ability to improve the collection of child support for these post-TANF families and families trying to stay out of the TANF program is essential if PRWORAs mandates are to translate into better lives for children.

Moreover, as Congress places increasing emphasis on efforts to improve the ability of low-income non-custodial parents to contribute to the well-being of their children, there is new hope that such parents will be helping to support their children. The next logical step in these efforts is to make sure that those parental contributions are collected and swiftly sent to the children who need them.

Thank you for your attention to these comments.

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**Statement of Dr. Richard Weiss, Director, Children's Rights Council of Alabama, and William Wood, Coordinator, Children's Legal Foundation and Justice Coalition**

**H.R. 1488, THE "HYDE-WOOLSEY" CHILD SUPPORT BILL, MARCH 16, 2000 WRITTEN TESTIMONY FOR THE HUMAN RESOURCES SUBCOMMITTEE OF THE HOUSE WAYS AND MEANS**

We would like to thank the Honorable Nancy L. Johnson and the other committee members for this opportunity to contribute written testimony on this very important issue. It is an indication of the greatness of this country when our citizenry has direct input into the National Political process. Dr. Richard Weiss is an Associate Professor of Veterinary Pathology, College of Veterinary Medicine, Auburn University. Richard is a non-custodial parent of two daughters, 11 and 12 years old and he has recently served on several Alabama Supreme Court Committees on Custody and Divorce. William Wood is a Business Management and Technology Consultant volun-

teering his time to help families and children in the State of North Carolina and around the country. William is a custodial father of an 8 year-old little girl and can appreciate Ms. Woolsey's challenges in trying to raise children as a single parent.

**INTRODUCTION**

As is increasingly evident today, families and relationships are fragile. We have a divorce rate surpassing 50% and many of these broken marriages include children who represent our nation's next generation of leaders, scientists, doctors, lawyers, politicians, policemen, etc. More and more children find themselves in the midst of a money war. Caught between feuding parents, feuding lawyers, and a state "Family" Court system who's purpose is the division of property, apportioning "visitation," awarding child support, and dissolving their parent's marriage.

Child support compliance is a 50 state plague on the United States of America with 55,000 ENFORCEMENT AGENTS. I would like to reiterate, that is 55,000 ENFORCEMENT AGENTS which does not include the police officers involved with jailing "deadbeat dads," judges, advocates, administrative personnel processing claims, OCSE staff and expenses, attorneys, (at a rough average of some $185 an hour), and other ancillary individuals and costs.

Let's consider that number for just a moment: 55,000 ENFORCEMENT AGENTS each at an estimated average salary of $25,000 a year is approximately 1.375 BILLION DOLLARS a year in just ENFORCEMENT AGENT wages alone, excluding associated fees such as jails, courts, administrators, computer systems, lawyers, judges, and other ancillary costs associated with tracking down "deadbeat dads." Child Support collections in the United States have become BIG BUSINESS represented by special interest lobby groups offering testimony to this US House Committee. Child Support Collections in the United States has become a new millennium FEDERALLY FUNDED GROWTH INDUSTRY.

The entire industry relies on junk data and junk statistics inflated by half-truths and deceptions. These are designed to perpetuate the "deadbeat dad" myth in spite of considerable evidence that indicates more fathers are instead just "deadbroke"[1].

For this new growth industry to flourish, it constantly needs more destroyed families and children to harvest more "deadbeats." This divorce industry seems to have now leveled off at 50% of BROKEN FAMILIES to plunder, creating a pervasive need to recruit more "deadbeats." As a result, further distortions, fabrications, half-truths, and increasingly harsher draconian measures have been instituted to ensure greater levels of "non-compliance." The more COLLECTIONS, the fatter the "bonus check" from the Federal Government to the states and other vested interests in this new growth industry. The entire domain of Child Support Enforcement has become a haven for Junk Science by those with an interest in the destruction of the family and obsessive collection of Child Support checks.

Junk Science and Junk Data have been used to manipulate the entire lawmaking process. "Peter Huber coined the phrase "junk science" to refer to questionable expert testimony in the courtroom. [FN28] "Junk science," Huber writes, "is the mirror image of real science, with much of the same form but none of the substance." [FN29] He complains that courts permit "self-styled scientists" to engage in "pseudo-scientific speculation." [FN30] A central issue in the junk science debate is the admissibility of expert opinion in the adjudicative process. [FN31]"[2] Though this quote deals with the courts, the entire legal process, including legislative hearings have been virtually hijacked by self-serving special interests who pretend to "protect children" but do not care what destructive side affects their advocacy may have on those children.

**Background and Case Law**

The Hague Convention on Recognition and Enforcement created an international cooperative in the enforcement of child support orders in 1973. "Coincidentally," in 1974 Senator Russell Long came to the conclusion that there was a connection between "fathers who abandon their children" and a growth in Aid to Families with Dependent Children (AFDC). With no study and no basis for this conclusion, his efforts led to the original federal child support and paternity legislation enacted in

[1] BAD DADS [Dead beat vs. Dead broke dads], ABC News program 20/20, John Stossel and Barbara Walters, January 7, 2000.

[2] Partially Quoted from 72 N.C. L. Rev. 91 at 97; "[FN28] PETER HUBER, GALILEO'S REVENGE: JUNK SCIENCE IN THE COURTROOM 2 (1991); [FN29]. Id.; [FN30]. Id. at 3. Huber notes that "[t]he best test of certainty we have is good science—the science of publication, replication, and verification, the science of consensus and peer review." Id. at 228.; [FN31]. In Daubert v. Merrell Dow Pharmaceutical Inc., 113 S. Ct. 2786 (1993), the Court dealt with the admissibility of expert testimony about scientific evidence..."

January 1975[3]. The new agency's purpose was to collect Child Support from those fathers whose children were on welfare. This was done to try to reduce welfare expenditures by funding states through their legislatures if those states would create guidelines. These "guidelines" replaced legal due process procedures for determining the actual cost of raising a child.

A landmark case occurred in the Oregon Supreme Court in 1981 that substantively explained child support doctrine[4]. This case found that the welfare formula for Child Support Collections did not apply to cases outside of the welfare system and required a special burden of ascertaining financial details appropriate for the support of children.

It frustrated the Courts to deal with the details of determining actual needs based on gross and net income, property values, forms of compensation, and then attempting to equitably apportion them because these cases were often appealable[5]. From this original evidentiary based "rebuttable presumption" of actual costs and needs, we moved to more uniform "guidelines" presenting a facade of a rebuttable presumption (45 CFR 302) but whose outcome often prevents appeals. Today, appeals are difficult because the defining facts and specific data for the guidelines are unknown and have never been published. Therefore, the "rebuttable presumption" is only a concoction fabricated by the states to meet Federal requirements. There are, in fact, no actual costs or data available to rebut.

All of these guideline problems make the "rebuttable presumption" mandated by the Federal Government (under 45 CFR 302) a useless facade. The PSI guidelines and Income Shares exacerbate this problem by failing to meet the Federal requirement of the most recent economic data on child rearing" required for the stipulated quadrennial state reviews.

One pending case in Alabama challenges the rebuttable presumption of the child support guidelines.[6] There is a related followup case to this that seeks to force the courts to abide by their own contracts with child support awards.[7]

The State of Kansas has filed a Federal Appeals case against the United States Government[8] and stated in opening arguments on January 20, 2000 in the 10th Circuit Court of Appeals that current Child Support guidelines are "unconstitutionally coercive."

A Michigan attorney has successfully challenged the constitutionality of some of the Child Support Enforcement practices in the State of Michigan[9]. Based on this initial victory about the UNCONSTITUTIONAL nature of Michigan's practices, another Class Action has been filed representing the 2,000,000 obligors (predominantly fathers) in the state[10]. The Michigan papers are beginning to recognize the Courts and the Child Support "system" are out of control[11].

In a March 1, 2000 Louisiana appeals case, the lower Court engaged in blatant, capricious, and malicious gender bias[12]. The husband and wife had similar seasonal jobs. The husband's wages were imputed with low points of the seasonal job ignored, and the wife's wages were treated differently. The lower court's ruling was reversed on appeal. In a March 7, 2000 Minnesota appeals case[13], the lower court refused to correct imputed income and it too was reversed on appeal. An Ohio court of appeals remanded a case back to the lower court[14] on March 6, 2000 for reconsideration because Tax adjustments for the obligor were not appropriately factored into the guidelines and should have been considered as part of the "rebuttable" presumption.

These are just a few of the cases heard within the last couple of months. The fact that such cases have been routinely overturned on appeal demonstrates not only that the "guidelines" are faulty but also that lower courts are reluctant to consider

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[3] The Child Support Guideline Problem, Roger F. Gay, MSc and Gregory J. Palumbo, Ph.D., May 6, 1998

[4] In the Marriage of Smith, Or 626 P2d 342 (1981).

[5] Silvia v. Silvia, 400 N.E.2d 1330

[6] *Blackston* v. *Alabama,* 30 F.3d 117. (11th Cir. 1994);

[7] U.S. District Court for the Middle District of Alabama Case #99–A–295–N

[8] State fighting feds in appeals court, The Topeka Capital-Journal, Robert Boczkiewicz, January 22, 2000

[9] Tindall v. Wayne County Friend of the Court, 98–CV–73896–DT, Eastern District of Michigan, Southern Division; 9/30/99

[10] Child Support Collection Leads Divorced Fathers to Sue the State of Michigan, Current Events in Law—Online Section, Paul Reed, January 26, 2000

[11] Michigan Court out of Control, Wayne County FOC & Circuit Court Accused of Fraud and Abuse, Sierra Times Exclusive, Franklin Frith, February 9, 2000

[12] Otterstatter v. Otterstatter, No. 99–1481 (Louisiana Court of Appeals)

[13] Behnke v. Green-Behnke, No. C7–99–820 (Minnesota Court of Appeals)

[14] Topp v. Topp, No. 1999CA0243 (Ohio Court of Appeals, District 5): Relying on Singer v. Dickinson, 63 Ohio St. 3d 408 (1992)

reasonable "rebuttals" to the guidelines. These "guidelines" have in fact become rigid de facto laws.

**JUNK SCIENCE—Distortions, Deceptions, Data Manipulations, and Misunderstandings**

Census Bureau data from 1989 indicated that **75 percent of all child support owed is paid** [15], and showed that the TOTAL amount of Child Support owed was 14.8 BILLION dollars. Of that amount, 11.1 BILLION had been paid (7.6 BILLION was paid in full, and 3.5 BILLION was partially paid). According to a 1992 report by the Government Accounting Office, Child Support non-payment is NOT by choice This report showed that 66% of the fathers were not able to pay, 5% were unable to be located, and 29% were classified as other[16].

Analysis of methodology used by the Census Bureau Child Support to compile data is even more disturbing. Dan Weinberg, who heads the census division that collects Child Support data, has stated that this **data is based solely on the custodial mother's recollection, and there is no cross-check or verification with the non-custodial parent OR any requirement for documentation** [17]. This statement was made on the ABC 20/20 program on January 7, 2000, where it was concluded that "deadbeat dads" are actually "deadbroke dads." Let's reiterate, the Census Bureau data is based solely on the custodial mother's memory, influenced by her personal bias or anger, and with NO verification to support the claims.

In 1992 custodial mother SELF REPORTED figures didn't quite fit the expected "deadbeat dad" outcomes [18] indicating that 66% of non-support by fathers was from inability to pay. In fact, the rate of child support noncompliance by non-custodial MOTHERS is greater than that of non-custodial fathers [19] yet there are no slogans about "deadbeat moms" or social ostracism.

License revocations, property liens, contempt jailing, and referrals to the US Attorney General enacted under Federal authority are not generating significantly more collections. This indicates that many targeted fathers are just "deadbroke." Simple logic dictates that revoking a license will likely result in the inability to work and therefore exacerbate the problem.

"The Federal Office of Child Support Enforcement has nearly a $4 BILLION annual Budget. Of the $12 billion CS arrearages, about three-fourths of them are categorized as "uncollectable"—this is largely due to unemployment." [20]

Reviewing testimony before this committee, we are now supposed to believe that some 50 BILLION dollars in Child Support is owed. That would be over 3 times the amount owed just over 10 years ago, based on inaccurate, unverified, and likely inflated numbers (see fn17 above). This assumption would require us to believe that any one or all of the factors underlying Child Support collections have increased by over 3 times as well: salaries have increased 3 times, divorce rates have skyrocketed 3 times, "awards" have increased 3 times, or any combination. resulting in 3 times the problem. This 50 BILLION dollar figure professed by Nick Young, Geraldine Johnson, and others testifying before this committee defies logic [21]. Those with the most to gain by this system perpetuate this 50 BILLION dollar junk data.

US Census Bureau data indicates there are 11.6 million custodial mothers (85% of all custody awards) collecting support. It seems a fair assumption that there are 11.6 million Child Support obligors for an average ARREARAGE of $4,310. If this figure were in fact accurate, this would indicate that there are nearly 11 million obligors who are within a couple of support payments (the $5,000 threshold) of incarceration [22]. With the number of states that engage in mandatory pay check withholding, this shows that either the 50 BILLION figure is false, child support "awards" are too high, or most likely, both. Will America soon require a massive penal system to house all these poor fathers?

"The Bureau of the Census reported on child support payments in the spring of 1995 [23]. According to that report, the so-called "deadbeat dads" are few and far be-

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[15] Current Population Reports, Series P–23, No 173, 1989

[16] GAO/HRD–92–39FS, January 9, 1992; page 19

[17] BAD DADS [Dead beat vs. Dead broke dads], ABC News program 20/20, John Stossel and Barbara Walters, January 7, 2000.

[18] GAO/HRD–92–39FS, January 9, 1992; page 19

[19] Bureau of the Census, Statistical brief—SB/95–16; June 1995

[20] Divorced Fathers: Shattering the Myths, Sanford Braver.

[21] Statement of Nick Young, Division of Child Support Enforcement; Statement of Geraldine Jensen, Association for Children for Enforcement of Support, Inc. March 16, 2000

[22] 3/99 U.S. Dept. of Commerce, Current Population Report (P60–196 Child Support For Custodial Mothers and Fathers: 1995), there are 11.6 Million Custodial Mothers (85%).

[23] Who Receives Child Support? Bureau of the Census Statistical Brief, June 1995.

tween in the population of fathers with legitimate child support orders [24]. Comments on child support compliance often focus on the estimate that only about 66% of the child support that has been awarded is paid. This does not consider the fact that more than 14% of the amount under study had been recently awarded and was not yet due. Considering custodial parent reporting bias and adjusting for awards not yet due brings us closer in line with the information provided by Braver et al.[25] as well as information collected by commissioners in the states. Approximately 80% of the total amount of child support awarded in the U.S. has historically been paid each year. The compliance rate was not significantly affected by reforms." [26] This indicates that special interests are manufacturing a problem when none exists.

The Honorable Lynn Woolsey has stated *there were child support enforcement reform laws in 1984, 1988, 1993, and 1996. None of them resulted in any significant improvements in the rate of child support collections."* [27] The data would seem to indicate this is because the numbers used by those with a financial stake in Child Support Enforcement are false or misleading, and that most of the non-support is from inability to pay. To wit, a mandatory withholding experiment conducted in 10 Wisconsin counties yielded only a 2.89% increase in compliance, INDICATING THOSE WHO COULD PAY WERE PAYING! [28]

Child Support enforcement has criminalized Fatherhood.[29] Yet it is interesting that there is little or no information about bad mothers. If this were truly about children, there would be more public vilification of mothers based on the high rates of child abuse perpetrated solely by mothers [30]. The lack of concern about children's health, safety, and welfare, coupled with the insatiable lust of the divorce industry for the FATHER'S PAYCHECK exposes the financial motivation of the entire system. This system LIES about "child" support while neglecting the welfare of children. The rhetoric about "deadbeats" advances a family destructive agenda when considering the US has historically had one of, if not the highest compliance with child support orders in the world.[31]

**When Child Support becomes TAX FREE Alimony**

Robert Williams, the father of the Income Shares model, worked as a consultant with the US Health and Human Services (HHS) Office of Child Support Enforcement from 1983–1990. In 1984 he started Policy Studies, Inc. In 1987 he developed and introduced the "Income Shares" model now used by over 30 states. Williams currently consults states in Child Support guidelines while owning and operating his child support collection service with some 500 employees creating a direct conflict of interests [32]. In the Mid 80's, under the "guise" of a need to raise child support, a 250–350% increase was suggested without specifically focusing on the child. The name of the report itself betrays the unstated motive to include Alimony or Spousal support under the pretense of increasing basic child support needs: 350%: Estimates of National Child Support Collections Potential and the **Income Security of Female-Headed Families** [33][*emphasis added*].

At about this same time (mid 80's), women's groups rallied around Lenore Weitzman's statistically flawed "73%" study in a frenzied attempt to gain alimony. This "study" with its erroneous math and questionable methods, helped dispropor-

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[24] Although according to the data used in that report, child support had been awarded for only 56% of all separated custodial parents. Part of the lack of support orders however, can be explained by the death of an ex-spouse, agreement not requiring a court order, and other reasons. A significant part however is simply because paternity has not been established.

[25] Non-Custodial Parent's Report of Child Support Payments, Braver, Sanford, Pamela J. Fitzpatrick, and R. Curtis Bay, 1988, presented at the Symposium "Adaptation of the Non-Custodial Parent: Patterns Over Time" at the American Psychological Association Convention, Atlanta, GA, August, 1988. Compared Bureau of Census custodial parents reports (approx. 70% received) with father survey (approx. 90% paid).

[26] The father of today's child support public policy, his personal exploitation of the system, and the fallacy of his "income shares" model, James R. Johnston, August 1998.

[27] Statement of Lynn Woolsey, M.C., CALIFORNIA, March 16, 2000.

[28] Journal of Contemporary Policy Issues, Garfinkle and Klawitter, 1992—after instituting mandatory wage witholding of child support in Wisconsin, 10 pilot counties collected only 2.89% more of what was owed than the ten control counties that didn't garnish

[29] Beating Up on "Deadbeat Dads," American Spectator, Stephen Baskerville, August 20, 1999.

[30] Donna Shalala, "National Child Abuse Prevention Month" and Child Maltreatment 1994: Reports from the States to the National Center on Child Abuse and Neglect. Patrick Fagan, Heritage Foundation, THE CHILD ABUSE CRISIS: THE DISINTEGRATION OF MARRIAGE, FAMILY, AND THE AMERICAN COMMUNITY, Rick Thomas, The Dirty Little Secret: Abuse in Foster Care

[31] id. at footnote 25 (Non-Custodial Parent's Report of Child Support Payments)

[32] id. at footnote 25 (Non-Custodial Parent's Report of Child Support Payments)

[33] Ronald Haskins, Andrew W. Dobelstein, John S. Akin, and J. Brad Schwartz, Final Report, Office of Child Support Enforcement, April 1, 1985.

tionately increase child support payments for the custodial parent—, 90% of whom are mothers [34]. This egregiously flawed data has been used in discussing child support reforms. Typically, income differences between men and women are used as an excuse for the need to increase child support. This "logic" is a direct appeal to include some form of spousal support or alimony in the "child" support calculation. Williams "model" then accepted presumed "increases" in his 1987 report.

Williams widely used Incomes Shares model is not based on separated or divorced household expenses for children, and it arbitrarily under-accounts for shared parenting time [35]. Standard of living adjustments aren't properly factored; Williams simply raises the numeric tables arbitrarily producing results so high that they often grossly inflate "child support" to include alimony [36] (more junk "science"). Apportioning support based on time with each parent has been suggested and some judges and lawyers openly oppose these equitable determinations factoring the amount of time with each parent in child support amounts [37].

Williams (the owner of PSI) regularly advocates increasing Child Support awards with little or no credit for time with the non-custodial parent. This creates a hardship on non-custodial parents (generally fathers) struggling to remain involved with their children. This increases the pool of child support obligation, or arrearage for the non-custodial fathers. Williams' (PSI) collection division can then exploit them for their personal financial gain.

"Economic analysis comparing pre and post divorce standard of living is highly speculative, is based on unsubstantiated assumptions about family spending patterns, and leaves out many important considerations that would tend to show that *post-divorce standard of living is more nearly equal among the households of split parents.* [38]"

Williams underlying data is flawed in its "economic" studies and information that are in fact based on non-like groups of intact families to arrive at major "statistical" conclusions [39] (i.e. junk science) "...*the presumption that underlies the focus of much of the empirical research and policy debate on income distribution [within households] seems born of ignorance and is supported by neither theory nor fact.*" [40].

Williams' company, PSI, uses data erroneously based on the study of costs of raising children in INTACT households [41]. PSI data relied partially on the Rothbarth estimator **which concludes family well-being depends on the amount the family spends on alcohol and tobacco**! [42]. The Williams PSI "income shares" model also relies on the Engle estimator which is based on century-old findings of an economist, Ernst Engle. The premise appears valid at first and then Williams (PSI) extrapolates completely unrelated data from this study which dramatically inflates guideline numbers [43]. Gross Income versus Net Income as well as Day care and Medical costs are estimated with no proper basis. The underlying data is erro-

[34] The Divorce Revolution: The Unexpected Social and Economic Consequences for Women and Children in America, Lenore Weitzman, PhD, 1985. Discredited because of simple mathematical errors in her calculations and a fatally flawed methodology. She did not admit to these mistakes for 11 years until 1996 when they were openly exposed in A re-evaluation of the economic consequences of divorce. American Sociological Review 61:528–36, Peterson, R.R. 1996. As a result of Weitzman, a huge number of states—virtually all—have upwardly revised their child support guidelines by using and citing this work.

[35] The Child Support Guideline Problem, Roger F. Gay, MSc and Gregory J. Palumbo, Ph.D., May 6, 1998

[36] Gay, Roger F. The Alimony Hidden in Child Support, New Scientific Proof that Many Child Support Awards are Too High, The Children's Advocate (NJCCR, Box 316, Pluckemin, NJ 07978–0316), January, 1995, Vol. 7 No. 5.

[37] Parents Get Way to Lower Child Support, Dow Jones Newswires, Greg Winter, July 28, 1999

[38] Weitzman and Betson use the same approach to estimating pre-and post-divorce standard of living differences. Betson's paper provides a short list, including items such as visitation and tax consequences that are not included in his standard of living analysis. For a critical review of Weitzman's analysis, see the following. Abraham, Jed H., 1989, The Divorce Revolution Revisited: A Counter-Revolutionary Critique, Northern Illinois University Law Review, Vol. 9, No. 2, p. 47. (as quoted from New Equations for Calculating Child Support and Spousal Maintenance With Discussion on Child Support Guidelines, Roger Gay, July 20, 1994)

[39] The Child Support Guideline Problem, Roger F. Gay, MSc and Gregory J. Palumbo, Ph.D., May 6, 1998

[40] Allocation of Income Within the Household, Lazear, Edward P. and Robert T. Michael, University of Chicago Press, 1988.

[41] May 26, 1999 Memorandum from Richard J. Byrd, P.C. to the Virginia Quadrennial Guideline Review Panel. Analysis of the PSI Study and Recommendation. (page 1 of 13) The Panel requested this law firm to review the Guidelines and offer commentary. Richard Byrd is also the Chairman of the Family Law Section of the Fairfax Bar Association.

[42] See Footnote 41at page 2.

[43] See Footnote 41at page 3.

neous and not disclosed. Most states using the Williams model also add additional amounts as separate and distinct items for daycare, health insurance, and medical expenses, yet PSI did not parse those items from the expenditures for children and are at least partially included in the base "guidelines" creating double allocations for obligors[44] (all junk "science").

Some states allow for "child support" to continue AFTER a "child" is 18 and even living away from home. This comes in the form of post-secondary support for college. If a "child" is over 18, and no longer living at home, and the check is still drafted to the custodial parent and NOT the child, how can this be called "child support"?. Though supporting children through college is important, this additional burden is clearly little more than Alimony or spousal support. Ten states allow this, 11 states have restrictions, 7 are silent on the issue, and the remainder forbid it through statute or case law[45]. Also, there is no accountability to the obligor for a "child" in college getting grants, loans, or other public assistance from the government.

"Robert W. Braid, an accounting, finance and economics professor, performed a detailed cost analysis in his own case in New Jersey[46]. Based on a comprehensive cost and cash flow analysis, he calculated that he should pay approximately $180 per month to the mother in addition to sharing the direct costs of education for one child in college. Based on the established New Jersey formula, he was ordered to pay $903 per month, plus half his daughter's college expenses. Mr. Braid found that the judges decision implied that it 'must cost $21,672 a year in after tax money to support one child at home full-time (excluding any medical expense and any money the father spends on vacations, entertainment and hobbies with the boy), and one child spending about 25% of her time at home and the rest in college.'"

For example, using NY income numbers shows how child support impoverishes the obligor. A non-custodial parent (fathers 90% of the time), earning $55,000 per year pays child support for 2 children and ends up with an income of only $14,000. The mother, earning $26,000 per year, ends up having a disposable income of over $44,000. Tax cost of all this to American Taxpayers? Over $22 Billion![47]. The cost to the obligor is virtual financial oblivion so severe that the obligor can rarely even afford an appropriate residence for maintaining a relationship with HIS children (predominantly fathers). These poor, but carefully manufactured living conditions through financial destitution are often the basis for the Courts restricting or removing even more of the father's relationship with the child.

Requirements do not exist for child support recipients to provide proof that the money was being spent in support of the children. This is clearly an "open door" to use this money for virtually any non-child related wish the custodial parent may have (alimony). The lack of accountability is violative of supporting children and promotes personal use of the "award" by the recipients[48].

The press is also starting to understand that the whole "child support" shell game is about alimony or spousal support. ABC Market Watch recently did an article defining this as plainly biased against men and is by design to "hide" alimony[49]. The errors and additional expenses included in the "guidelines" support the claim that there is much more than just child support included in the "award."

A fully informed challenge of the current Support "Guidelines" in effect in most states would not likely stand the reliability, validity, and methodology standards erected by the US Supreme Court for "expert" testimony. These more stringent standards recently imposed by the Kumho case were designed by the justices to create an affirmative responsibility by lower courts to invalidate the junk science that permeates the courts and legal system today. The Supreme Court, in a rare move declared that admitting unreliable, questionable, or invalid data was an ABUSE OF JUDICIAL DISCRETION[50]. Robert Williams and his "Income Shares" model would likely not fare well in a direct, substantive, and well-prepared court challenge.

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[44] See Footnote 41at pages 5–9

[45] Allowed –CA, CT, IL, MS, MO, NJ, SC, TN, WA,WY; Restricted –AL, CO, IO (to age 22 only?), MD, MA, MI (to age 21 only?), MN, NY, OR (declared unconstitutional, under appeal), TX, UT; Silent –AR, HA, IN, NE, NV, NH, WV.

[46] The Making of a Deadbeat Dad, Robert W. Braid, Trial Lawyer, March 1993. (as quoted from New Equations for Calculating Child Support and Spousal Maintenance With Discussion on Child Support Guidelines, Roger Gay, July 20, 1994)

[47] Melanie Cummings of Children's Rights Council, illustrative Excel Spreadsheet to show the actual and real distribution of "child" support.

[48] In re Marriage of Hering, 84 Or App 360, 733 P2d 956 (1987). "the money is for the support and welfare of the children, not for the enrichment of the custodial parent."

[49] When men lose the divorce game, Courts often feel what's his is theirs, but what's hers is hers, Alan Feigenbaum, CBS Marketwatch, December 27, 1999

[50] Kumho Tire, Inc. v. Carmichael, 119 S.Ct.1167 (1999) Justice Scalia, with whom Justice O'Connor and Justice Thomas join, concurring opinion clarified stating in part "Rather, it is dis-

**PAYING FOR THE DESTRUCTION OF OUR CHILDREN**

It is finally becoming widely understood that father-absence is one of the most destructive forces to children in our society—; fatherless homes account for 63% of youth suicides, 90% of all homeless and runaway children,[51] 85% of all children exhibiting behavioral disorders,[52] 80% of rapists motivated with displaced anger,[53] 71% of all high school dropouts,[54] 75% of all adolescent patients in chemical abuse centers,[55] 70% of juveniles in state-operated institutions,[56] and 85% of prison youths.[57]

Contrast this with 37.9% of fathers have no access/visitation rights [58]. Non-compliance with court ordered visitation by custodial mothers prevents 77% of non-custodial fathers from being able to "visit" their children [59]. Non-compliance with court ordered visitation is three times the problem of non-compliance with court ordered child support and impacts the children of divorce even more. 40% of custodial mother SELF-REPORTS indicate they interfered with the father's visitation to "punish" them,[60] 50% see no value in the father's involvement with the child,[61] and many use the children to retaliate against the father for their own ongoing personal problems.[62]

The court system does not enforce orders for "visitation" but jails for non-compliance with a "child" support order. This is a clear indication that the whole DIVORCE INDUSTRY is about money and children are just the "poker chips" in this high stakes "game." Their destruction is just "collateral damage" for the marriage hating special interests pushing their junk data.

**Conclusion**

The entire arena of Family Law has become a domain of Constitutional violations and usurpation of civil rights. What a normal person would consider a Debtor's Prison has been instituted. To usurp the Constitution, the courts have "legislated" a perversion of the law declaring "contempt" as the new Debtor's Prison Mantra by stating it is not a debtor's prison because the jailing for contempt can be remedied upon clearing the contempt (i.e. paying the DEBT! aka Debtor's Prison). One man who earns $70 a week as a street musician is in jail now and will NOT be allowed to get out unless he can come up with $28,000 [63]. After all, the courts have REFUSED to allow visitation with his son for the last 6 years but DEMAND his money... Fathers in similar situations abound. The cost of the jail cell, incarceration, court time, and other fees associated for those who obviously CAN'T pay make for the state sponsored destruction and eradication of fatherhood.

A California appeals court also declared that some Child Support incarcerations were a violation of the 13th Amendment for involuntary servitude [64]. Federal enforcement of Child Support through the IRS, as proposed in H.R. 1488, is arguably unconstitutional by forcing the states to comply with Title IV–D [65]. The United States Supreme Court stated[66], *"Congress is without power to enlist state cooperation in a joint federal-state program by legislation which authorizes the States to vio-*

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cretion to choose among reasonable means of excluding expertise that is fausse and science that is junk... the Daubert factors are not holy writ, in a particular case the failure to apply one or another of them may be unreasonable, and hence an abuse of discretion."

[51] U.S. D.H.H.S., Bureau of the Census

[52] Center for Disease Control

[53] Criminal Justice & Behavior, Vol 14, p. 403–26, 1978

[54] National Principals Association Report on the State of High Schools

[55] Rainbows for all God's Children

[56] U.S. Dept. of Justice, Special Report, Sept 1988

[57] Fulton Co. Georgia jail populations, Texas Dept. of Corrections 1992

[58] p.6, col.II, para. 6, lines 4 & 5, Census Bureau P–60, #173, Sept 1991

[59] Visitational Interference—A National Study, Ms. J Annette Vanini, M.S.W. and Edward Nichols, M.S.W. (September 1992)

[60] p. 449, col. II, lines 3–6, (citing Fulton) Frequency of visitation by Divorced Fathers; Differences in Reports by Fathers and Mothers. Sanford Braver et al, Am. J. of Orthopsychiatry, 1991.

[61] Surviving the Breakup, Joan Kelly & Judith Wallerstein, p. 125

[62] Journal of Marriage & the Family, Vol. 51, p. 1015, Seltzer, Shaeffer & Charing, November 1989

[63] Man is jailed again in Child Support battle, The [New Jersey] Star Ledger, Timothy O'Conner, March 19, 2000.

[64] LLR No. 9609060.CA Moss V. Moss, September 25, 1996

[65] Blessing, Director, Arizona Department Of Economic Security v. Freestone et al. [1997, US SupCt, 95–1441]. Child Support Enforcement is not a federal right that can be used to force states to substantially comply with Title IV–D.

[66] Shapiro v. Thompson, 394 U.S. 618, 22 L.Ed.2d 600, 619, 89 S.Ct. 1322 (1969) citing Katzenbach v. Morgan, 384 U.S. 641, 651, n. 10, 16 L.Ed.2d 828, 836, 89 S.Ct. 1717 (1966) et. al.

*late the Equal Protection Clause." and "[W]hile the Fifth Amendment contains no equal protection clause, it does forbid discrimination that is 'so unjustified as to be violative of due process.'* "

Nearly every state has legislation to seize bank accounts and real property without a court order (for "child" support) eliminating due process without a sworn statement that the money is owed.

In child support politics, the Constitution has become passé and encumbers or impedes the cash machine that has been created. In child support politics, the Constitution has become pass and encumbers or impedes the cash machine that has been created. In this entire domain of "Family Law" the Constitution as we know it has ceased to exist. "*State judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights.*"[67] This responsibility has been abandoned to pursue Title-IV funding for the states.

State and Federal Governments now expend HUNDREDS OF BILLIONS of dollars each year to support the marriage and family destruction INDUSTRY with little to promote or support marriage and families. There is some indication that the press is starting to take note of Child Support and the Multi-BILLION dollar Divorce INDUSTRY that destroys families and thwarts the Constitution[68]. Many "deadbeat" dads are just plain "deadbroke." They are humiliated and bankrupted by a system that hides "alimony" in child support payments designed to support single mothers and their children[69] making it "profitable" for women to divorce. Under Child Support Enforcement efforts, draconian measures including "badges of infamy" like the fabled "scarlet letter" have been instituted in the form of jack boots for cars. In a Washington Times article, Nick Young has STATED the intent of such measures is humiliation[70].

Family Courthouses in America, in practice, have become Family slaughterhouses. Families, children, and our futures are being plundered through the use of junk science represented as 'gold standards.". Destroying families and children in America has become BIG BUSINESS... A MULTI-BILLION DOLLAR INDUSTRY. The deadbeat dad myth, is just that, a myth. Fathers want accountability and equity in a system that is both unconstitutional and out of control[71].

Fathers are being destroyed by a system that seeks to squeeze every ounce of money possible before discarding them, with disdain for father's essential roles as nurturing parents, protectors, role models, and caretakers of their children. A father in Canada (a country with similar custody policies and child support "guidelines" as the US) recently killed himself after being ordered to pay TWICE his income in support payments[72]. With the current junk rhetoric like the unsubstantiated 50 BILLION dollars arrearage amounts(not based on ANY FACTUAL STUDY, i.e. junk data), we are not far from this kind of tragedy being commonplace in America[73]. This destructive DIVORCE INDUSTRY must be dismantled.

Robert Williams involvement with Child Support Guideline creation through PSI, and his Child Support Collections business creates a conflict of interest and an inherent need for his "junk science" to manufacture more "deadbeats." US citizens, as well as Federal and State governments should DEMAND A full reimbursement of all PUBLIC FUNDS that his Child Support Collections business has received for the destruction of families.

The IRS does not have a stellar reputation for resolving financial issues while observing the rights of the citizenry and the Child Support Guidelines are a mess. Giving them to the IRS to enforce with its reputation would likely create even more of a mess[74]. To resolve some of this mess the Federal Government must require states to define what the child support presumptions are, and then assign appropriate values to each of those presumptions making them truly rebuttable to qualify for Federal Funds.

The Federal Government MUST get involved, but not through Child Support Collections via the IRS. Rather, the government must now demand Justice and Equity

[67] Goss v. State of Illinois, 312 F2d. 1279 (US App Ct, Illinois, 1963)

[68] Q: Is court-ordered child support doing more harm than good? Yes: This engine of the divorce industry is destroying families and the Constitution. Insight Magazine, Stephen Baskerville, Vol. 15, No. 28—August 2, 1999.

[69] Some 'Deadbeat' Dads Are Dead Broke, David Crary, Associated Press, November 7, 1999

[70] Pink and blue car boots shouldn't be forced on police, Police Beat—Fred Reed, The Washington Times, Jan. 10, 2000; page C2.

[71] Father's protests deserve airing, Kathleen Parker, USA Today, November 8, 1999

[72] Anti-Male Bias in Family Courts blamed for Man's Suicide, couldn't afford support payments, backers say, Donna Laframboise, National Post, March 23, 2000

[73] Throwaway Dads, Houghton Mifflin, Ross Parke and Armin Brott, 1999.

[74] Everyone Loses in the Daddy War, Wall Street Journal, Stuart Miller, May 31, 1995, page A–17

in the state "Family" Courts, and promote the preservation of intact families and protect the rights of children to be raised and supported—both financially and emotionally—, by BOTH parents. Federally subsidized collection agencies need to stop taking from the children what their RHETORIC pretends to protect[75].

The social fabric of society is built upon the strength of its family structure. Impoverishing and vilifying parents by misguided and flawed practices of government, joined at the hip to a multi-billion dollar divorce industry, is rapidly exsanguinating and killing the American family.

Restore Constitutional protections to the "Family Court" process. It's time to look past the marriage and family hating special interests, marriage hating gender politics, and the bureaucracies. Look to the families and children of America, or tomorrow there may not be an America.

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D. LUKE DAVIS
TACOMA, WA 98402
*March 24, 2000*

A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representative
1102 Longworth House Office Building
*Washington, DC 20515*

Subject: Statement against H.R. 1488 Child Support Collection

Dear Committee;

This bill is simply an attempt to correct the symptom of Child Support variations versus repairing the root cause. First weed out the women who does not or will not tell the name of the father or fathers of her children. These figures of child support arrears should not be added until a father has been identified by paternity testing and given the opportunity to correct the arrears.

You should also weed out the people who are dead, permanently disabled, or in prison. True, all these people need to do is get child support modified by explaining the situation. In my jurisdictional state I have to file motions affidavits and orders in the district court and this takes money to hire legal help to do this. The reason the people listed above are in arrears is because they have no money.

My jurisdictional state does not require the sole custodial parent to pay child support so in essence the state is taking a chance without the children's well being in mind by expecting one person to support the sole custodial parent and the children. This is not child support but rather alimony. People do in fact become underemployed/unemployed from time to time so consequently the children suffer because the non-custodial parent is without work and the sole custodial parent refuses to work.

Let us talk about compliance to child support now that we have weeded out the people who can not pay because of undetermined paternity, death, disabled, unemployed/underemployed, and incarcerated. The compliance rate of child support is highest in custody cases where both parents have Joint Physical Custody. The compliance rate of child support is lowest in custody cases where one parent has Sole Physical Custody and the other parent has an injunction against seeing the parent's own children which in domestic law is referred to as visitation.

I am not a lawyer and I am not going to go ad-nausea about joint physical custody and the advantages including but not limited too; high child support compliance rate, lowest teen pregnancy, highest high school graduation rate, lowest crime rate among children who were allowed to see both parents frequently under Joint Physical Custody. I will not go on either about the highest rate of child abuse occurs in single head of households where the female has sole physical custody.

The issue is child support compliance. Whether intentional or other wise, the sole custodial parent uses the child as a weapon like the sword of Damocles hanging over the parent. The non-custodial parent who is enjoined legally or by the other parent from seeing the children except during the joke of parenting time called visitation. The sole custodial parent will use everything from the threat of moving to

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[75] More for SRS Collections but less for Children, Kansas is taking a larger percentage of the child support payments it collects—and parents are not happy about it. Wichita Eagle, Jennifer Comes Roy, January 24, 2000

another state and filing abuse charges to saying that unless you buy the children shoes do not come over.

The two most common reasons why parents without custody deliberately refuse to pay child support is not because they are deadbeats but rather, the custodial parent is one, interfering with visitation and/or, two, spending the money on things other than the children such as the boyfriend, crack, pull tabs, the lotto, and bingo.

Enclosed is the affidavit and order to show cause that I am having to file to get a child support review because of my underemployment. These document's lists the states refusal to follow their own state laws as well as federal law such as the Work Responsibility Act of 1996 which requires all states to implement simplified child support reviews creating the appearance of arrears on my part.

SEE ATTACHMENT Pages 5–8 Inclusive.

I simply can not pay the present level of child support and the state refuses to follow federal and state law, statutes, and regulations for which their organization receives budgeted funds at my expense and the children. My children's mother has been telling the children since the age of seven to ask me why I am not current on child support. My children's mother has been telling me repeatedly that I can not see the children because I am not current on child support.

I also can not pay child support if I am incarcerated for contempt of court for being in arrears causing me to fall even farther behind in arrears. Arrears caused by a state without administrative process to correct child support which is available in most states, not forcing custodial parent to pay child support, and a state which is only one of two states in the country without legislation forcing judges to consider and grant Joint Physical Custody. I will not embarrass Senators Byron Dorgan and Kent Conrad and Representative Pomeroy by naming this state.

Child collection services, just like law enforcement and the IRS, receive bigger budgets by being inefficient and lazy. Funds that are then wasted in the bureaucratic nonsense of more office buildings, bigger offices, more corner offices, and more friends and relatives on the payroll. Where is the budgeted money going that is deliberately not being used for the enforcement of laws, statutes, and regulations. These organizations can say that the lack of money is why the collections and arrest are dropping. The organizations budgets are based upon their mandates to perform certain functions based upon laws, statutes, and regulations which they ignore with the excuse of being overworked and understaffed.

This women Jensen from ACES who is pushing for this legislation is the Poster Woman for the Sole Custodial Parent. Using the excuse that her ex-husband was not visiting the children and not paying child support Jensen filed for adoption of their two children by her new husband. Jensen took the children out of Jurisdiction without court order by taking the children 1500 miles to the city where the paternal grandparents lived.

Jensen refused to allow the grandparents and the father to visit with the children and the father gave the child support to the grandfather with the stipulation that Jensen would get the money if she stopped interfering with visitation. Although the father had to go to an appeal court, the father did convince the court that Jensen committed one fraudulent act after another and the appeals court rejected the adoption.

To solve the problem of sole custodial parents treating child support payments as alimony and spending the money on things other than the children is to issue a debit card just as welfare entitlements are disbursed. The system, the equipment, and the trained people are in place. Just like welfare entitlements, child support payments would be spent on specific allowable items only.

The following reasons listed demonstrate child support legislation including HR 1488 is only attempting to correct a symptom not the disease whose compliance rate has been quoted being from 6 billion to 40 billion in arrears by members of Clinton's cabinet, the US Congress, for profit groups, non-profit groups, and the states to insure votes and budgets without helping the children, the parents, and society.

Deliberate polices, processes, and refusal by bureaucratic agencies to follow federal and state laws, statutes and regulations creating artificial arrears

Assuming not assuring by bureaucratic agencies that child support is reaching the children and not the Sole Custodial parents who treats child support payment as alimony to support crack habit

Stop using arrears caused by undetermined paternity, death, disabled, and incarcerated.

Stop Sole Custodial Parents interference with visitation which has been written and surveyed with an incidence rate as high as 70% when the female has sole physical custody.

High incidence of Parental Alienation by sole custodial parent demonstrated by physical visitation interference and money as stipulation for visitation

The following items listed are solutions other than HR 1488 to correct the disease and not the symptom of child support compliance . An additional benefit besides increased child support compliance to the parents, children, and society would be mandatory Joint Physical Custody. If Clinton's cabinet, the US Congress, for profit groups, non-profit groups, and the states had the best interest of the children, the parents, and society in mind, they would cure the disease and not the symptom.

Force the states through federal legislation to grant all parents Joint Physical Custody which has a 95% compliance rate for child support

Force the states through federal legislation to require both parents to pay child support which helps the children especially when one parent has a period of underemployment/unemployment

Force the states through federal legislation to limit child support moneys to items consumed and or used by the children and not the parent

Force the states through federal legislation to create administrative child support reviews which are free when parent goes through underemployment/unemployment

Force the states through federal legislation to grant all parents Joint Physical Custody which reduces visitation interference and legal kidnapping by the Sole Custodial Parent.

This would limit child abuse by parent, child murders by parent, sex abuse by parent, low drop out rate, incarceration rate, low drug abuse rate, and teen age pregnancy rate by the children. This would increase child support increase child support compliance through Joint Physical Custody.

D. Luke Davis

STATE OF NORTH DAKOTA
IN DISTRICT COURT
GRAND FORKS COUNTY
NORTHEAST CENTRAL JUDICIAL DISTRICT

Pamela Gordon Davis
*Plaintiff*

97–C–277

D. Luke Davis

Defendant

AFFIDAVIT TO SUPPORT ORDER TO SHOW CAUSE RE: MODIFICATION OF JUDGMENT, COLLECTION OF CHILD SUPPORT, AND VIOLATION OF CONSTITUTIONAL RIGHTS

I, D. Luke Davis do swear and affirm the following;

That a judgment of divorce was granted between the above parties September 9, 1998 in the case captioned above. That both parties reside in Grand Forks, North Dakota.

That Plaintiff has interfeared with, shamed, and embarrased children and defendant during authorized and ordered visitation. Two examples are plaintiff came to the hotel where the children and defendant were staying September 98 with a police officer and yelled and screamed at the defendant by the hotel pool in front of the children and dozens of hotel guest. Plaintiff repeatedly stated to the defendant and defendants parents that visitation would not be allowed August 1999. Plaintiff has demonstrated an active and persistant interferance with defendants visitation with children. Plaintiff is not happy that defendant was granted in plaintiffs eye excessive visitation.

Plaintiff has demonstrated: physically; by withholding sex, Religiously; requiring defendant to use birth control and refusing to raise children in the Catholic faith, morally; by failing to support wedding vows by dumping husband the first time he was ever unemployed using lies and omissions to get out of the marriage, the complete and utter disrespect for the defendant yet wishes to continue using the defendants name.

The defendants professional and educational background is in the field of Human Resources. The openings for this position in Grand Forks are rare and limited. Grand Forks has no manufacturing but excessive government and service jobs. The college population drives the wage scale down excessively leaving a low median earning potential in Grand Forks.

The State of North Dakota as trustees of the obligees support payments is giving the obligors child support payments directly to the custodial parent who is not the obligee without insuring that the support payments are in fact being received by the obligees.

The Judgment does not contain the plaintiffs social security number.

The State of North Dakota is requiring only one parent, the non-custodial parent to pay child support.

The State of North Dakota has refused to allow the obligor any administrative process to address sudden and frequent unemployment/underemployment.

The State of North Dakota has told the obligor repeatedly that child support reviews request by the obligor will be granted only if an attorney is hired to represent the obligor.

Obligor was informed by the State of North Dakota that only the State of North Dakota could request a child support review with a referee and the obligor could only use the circuit court to request a review.

The State of North Dakota has repeatedly told the obligor by letter and verbally that they will not act upon the obligors request to review child support until 36 months have passed since last adjustment or review.

The State of North Dakota has repeatedly stated; what obligor can not do and that the State of North Dakota will not conform to NDCC statutes; but has repeatedly refused to help or explain how the obligor can efficiently and correctly implement child support review procedures other than to say that lawyers are exempt to the 36 month minimum period between reviews and we can not give legal advice.

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D. Luke Davis

*Defendant*

STATE OF NORTH DAKOTA
IN DISTRICT COURT
GRAND FORKS COUNTY
NORTHEAST CENTRAL JUDICIAL DISTRICT

Pamela Gordon Davis
*Plaintiff*

97–C–277

D. Luke Davis
*Defendant*

ORDER TO SHOW CAUSE RE: MODIFICATION OF JUDGMENT, COLLECTION OF CHILD SUPPORT, AND VIOLATION OF CONSTITUTIONAL RIGHTS

1) That Judgment in above captioned case be modified by changing visitation from every other weekend to every odd weekend of the month.

2) That Judgment in above captioned case be modified by removing suitable habitation as stipulation for overnight visitation.

3) That Judgment in above captioned case be modified by adding that defendant is not required to gain permission of the plaintiff when defendant wishes to participate or volunteer with the children's organized activities that fall outside of the normal visitation schedule.

4) That Judgment in above captioned case be modified by stating plaintiff no longer use Davis as part of legal name and revert to maiden name of Pamela Kay Gordon.

5) That Judgment in above captioned case be modified by adjusting amount of child support to meet the wage earning level and potential of defendant.

6) That Judgment in above captioned case be modified by stating Petitioner as custodial parent be ordered to pay child support meeting the child support guidelines in line with wage earning level and potential of petitioner.

7) That Judgment in above captioned case be modified by requiring Trustees of obligee child support payments develop and implement procedures to insure that child support is going for minor non-married children's support and not custodial parent support.

8) That Judgment in above captioned case be modified by including Plaintiffs social security number.

9) That Judgment in above captioned case be modified by stating the State of North Dakota act on obligors request for child support review regardless that 36 months have not passed since last review if Respondent meets 12 month rule or material change of circumstance since last review.

10) That Judgment in above captioned case be modified by stating Defendant be allowed the same ease and latitude as the State of North regarding processing procedures when requesting child support reviews by allowing the Defendant to use a circuit court or referee. The State of North Dakota develop and implement procedures to provide information and instruction simple enough that the obligor can effi-

ciently and correctly request and implement child support review procedures without benefit of counsel.

11) That Defendant not be responsible for fees and costs incurred by the State of North Dakota and the Plaintiff when challenging the defendants position on this order.

**Statement of Hans R. Dutt, Columbia, MD**

**Background**

Thank you for allowing me the opportunity to add input in evaluating this legislation which transfers child support collection activities to the Internal Revenue Service.. The entire House relies to a great extent on the expertise of subcommittee members on select issues involving proposed legislation. It is therefore of paromount importance that the subcommittee members be fully informated of ramifications from proposed legislation. However, there appears to be a lack of objective information on this topic. I believe that a significant part of this problem stems from the marketing concerns of academic journals and the press to reinforce existing stereotypes. Thus, a type of market failure has occurred concerning child support and child custody issues. Consequently, I am compelled to propose a more objective basis of evaluating this proposal.

I am a professional economist that has conducted economic research and policy analysis for ten years. Although I am employed with the Federal government, the work I have done in the area of child support has been strictly outside the scope of public employment. Consequently, the comments I present do not necessarily reflect the views of the Health Care Financing Administration, its staff, or any other component of the Federal government. I am writing representing my own views that are based on economic theory and empirical research. I am associated with the Project for the Improvement of Child Support Litigation Technology (PICSLT) that is a child support think-tank dedicated to objectively determining child support awards. I am not associated with any interest groups though certain groups may use my analyses because it supports their position.

In summary, I strongly oppose HR 1488. Under the current environment of inaccurate child support awards with respect the child rearing expenditures, the effects of increased child support enforcement efforts, including HR 1488, will likely result in unfavorable social outcomes including LOWER living standards of children. Other socially undesirable outcomes that I will not specifically address here include greater disenfranchisement of fathers, greater incentives for divorce, and fewer incentives for marriage. In the following pages, I lay down the theoretical and empirical support for opposition to HR 1488.

- *The prevailing assumption I make throughout this document is that the underlying social goal is to maximize the well-being of children who are involved in the divorce or other custody process.* In other words, I am assuming that the well-being of children is the end goal of this legislation and the proposal to strengthen child support enforcement is not a social goal in and of itself, simply a means to enhancing the well-being of children.
- *In my professional opinion, the income share and percentage-of-income models produce the same undesirable outcomes: inadequate child support awards for the poor, and excessive child support awards for moderate and higher income parents.* For example, Dutt (1999) has shown that the child support level relative to the child rearing costs in Maryland are too low for lower income parents, and too high for moderate and higher income parents. Other income share state's models will produce the same results. Percentage-of-income model states which assign child support as basis of the non-custodial parent's income will exasperate this phenomena to a greater degree.
- *Economic theory dictates that inaccurate child support guidelines will produce an excessive number of sole custody awards when coupled with gender bias in the court system (Dutt 1999).* When child support levels are too low, it will give parents the incentive to become the non-custodial parent, in effect, forcing the custodial parent to pay the non-custodial parent alimony. If the child support award is too high, it will have the effect of giving the likely custodial parent a financial incentive to fight for and win sole custody. Further, standard economic theory dictates that, when child support payments are excessive, a rational custodial parent will chose to spend some portion of the child support on his/herself and the other component on the child. Thus an economic incentive exists to obtain full custody. Because of gender bias in the court system, the father will not be penalized for taking the non-custodial parent role. Consequently, in the poorer parental income cases, it is

economicly rational for the father to chose not to take custody. In higher parental income cases, the mother can obtain sole custody simply by contesting custody. Courts will, with near certainty, award custody to the mother. Hence, for lower income parents, incentives exist to force sole custody on the mother. For moderate and higher income parents, incentives exist for the mother to pursue sole custody. The end result is that inaccurate child support awards promote excessive sole custody awards.

• *Empirical research in psychology suggests that children are better adjusted when both parents are actively involved in their rearing.* Courts have supported the 'one-home' model based upon developmental models put forth by mental health professionals and theorists. The model suggests that there is a primary mother-child bond and a peripheral father-child bond. The implication of this theory is that supporting the father-child bond comes at the cost of the primary mother-child bond. However, there is no scientific evidence to support the primary bond hypothesis and a significant amount that refutes it. Empirical evidence suggests the contrary, that children thrive under conditions where they form multiple bonds with parents, grandparents, stepparents and other relatives (Waldron 1999). The notion of child adjustment is considered the benchmark for child well-being. Child adjustment refers to the psychological, emotional, and developmental success of the child over time. These are measured by academic achievement, intelligence level, social skills and competence, sibling relationships, measures of mood, aggressive behavior, and quality of parent-child relationships. Empirical evidence consistently suggests that children raised in mother-only families have significantly greater risk factors for mal-adjustment. Single-mother households are nine times more likely to live in poverty with incomes less than half of the official poverty line. Children in single parent households are more likely to exhibit poorer school performance, be at greater risk of teen pregnancy, have higher rates of delinquency, suffer adverse mental health conditions and establish less successful future relationships (Eggebeen et al. (1991).

• *Economic research has placed the value of parental participation at a significantly higher level than the typical child support award.* According to two economists of the University of California at Santa Barbara, Llad Phillips and William S. Comanor, boys living without their father are much more likely to be delinquent. Girls were also found to face increased delinquency risk, but less so. To counteract the father's absence on boys and girls, they estimated that the mother-only household would need to have additional annual income of $54,000 and $17,000, respectively. In addition, they found that, in father-only households, the mother's absence had a negligible effect on the rate of delinquency for boys, but resulted in a 56 percent greater likelihood in teen pregnancy for girls. Thus, evidence shows that that parental participation may be of greater value than the typical financial support. It follows that, for most families, it would be difficult to order enough child support to adequately replace and absent parent

• *Research suggests that aggressively pursuing child support obligors that do not pay child support is likely to be ineffectual from a financial perspective and may cause non-compliant child support obligors to not participate in their children's upbringing to avoid enforcement sanctions.* According to Braver et al. (1998), the number one cause of child support non-compliance is unemployment. Braver et al. estimated that between there was between 80% (obligees claim)–100% (obligors claim) of full child support compliance when the obligor was employed. The true compliance rate for the employed is therefore probably around 90 percent. The implication is that most of the non-compliant child support funds are caused by obligors who have not earned the income that the child support order is assuming is earned. This puts into question whether any government sanction can force them to pay. Resulting sanctions will likely result in non-compliant obligors leaving the area to avoid harassment. To the degree that this occurs, affected children will now pay two costs (1) the financial loss and (2) the parental participation loss.

• *Economic theory suggests that better adjusted children will have greater opportunity sets and consequently enjoy greater living standard.* Well-adjusted children can more effectively work within society and therefore have greater opportunities. This greater opportunity set from routine interaction with both parents translates into greater expected living standards for children. This is consistent with 1998 Nobel Prize winning economist Armatya Sen's conception of the standard of living.

**Implications:**

Enhanced collection actions when child support guidelines do not accurately reflect the cost of raising children are likely to do two things detrimental to the welfare of children. First, it would increases incentives for sole custody awards since it increase chances for the sole custodial parent to get the payoff. Secondly, it would decrease dual-parent involvement in child rearing since non-custodial parents will

have greater incentives to stay away from their children. Both of these are detrimental to the dual-parental support that children empirically need.

To approach the objective of enhancing children's well-being, dual parent child rearing needs to be encouraged. If not encouraged explicitly by actions such as enacting a presumption of joint physical custody, child support awards should be brought into line with the cost of child rearing at given parental income levels. In short, this will take away the economic incentives of sole custody an increase dual-parent involvement indirectly.

In an environment where child support awards reflect actual child rearing costs, stronger enforcement efforts might be appropriate to enhance children well-being. However, under the current environment of inaccurate child support awards and gender bias, it can be severely detrimental to the short and long run welfare of children. Therefore, I strongly urge that Congress conduct in-depth research on appropriateness of child support accuracy before passing such legislation.

Specifically, I believe the following questions should be addressed to determine the effect of the current child support systems and the well-being of children. Due to the apparent market failure of objective reporting on these issues, I urge that Congress fund research to directly answer these questions. Further, I suggest that they be addressed by entities that are not associated with child support enforcement activities, given the inherent conflict of interest.

- *How much of the increase in child support collections has actually been collected on behalf of poor custodial parents?*
- *How much of the increased collections have been due to the general improvement in the economy?*
- *How much child support funds are being diverted to collection agencies and are these collection costs in line with the costs expended? In other words, are collection agencies earning a normal economic profit?*
- *How many obligors completely withdrew financial and parental participation as a result of enhanced collection efforts leaving children in a much worse plight?*
- *To the extent collections occurred on behalf middle and upper middle class parents, what proportion of the money actually was spent on the children?*
- *To the degree that excess funds were given to the custodial parent through child support awards resulting in some proportion of the payment being allocated to the custodial parent's personal desires, what was the impact on other obligor family members to whom the obligor had responsibility to support (of particular concern are children that relied on the non-custodial parent for support, but were not part of the custody proceeding)?*

**Recommendation:**

The legislation should not be passed until questions regarding its detrimental effects are fully understood.

If the goal is to make maximize children's well being, Congress should instead consider equalizing child rearing cost and child support awards to maximize chances of dual parenting. Perhaps a uniform national guidelines based upon real economic costs of child rearing (not per capita costs) with cost of living adjustments by locality would be appropriate.

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BROOKLYN, NEW YORK 11224
*March 30, 2000*

A.L. Singleton,
Chief of Staff,
Committee on Ways and Means,
U.S. House of Representatives,
1102 Longworth House Office Building,
*Washington, DC 20515*

Subject: Committee on Ways and Means, Subcommittee on Human Resources, Hearing Advisory HR 1488 3/16/00

FROM THE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
No. HR–18

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Johnson Announces Hearing on H.R. 1488,
the "Hyde-Woolsey" Child Support Bill

In accordance with the published requirements, I am submitting six copies of a single spaced document that I want included in the record. Additionally, I have included the statement on an IBM compatible 3.5-inch diskette in MS Word format(and also in RTF format), with their name, address, and hearing date noted on a label, by the close of business, Thursday, March 30, 2000, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

Please feel free to reproduce this document. This document is being submitted in response to the legislation currently being considered to turn over child support collection to the IRS.

My interest in child support collection started when I went through a state divorce in New Jersey. It was a very bad experience. From that experience, however, I learned that the current systems that are used by the HHS, Department of Families and Children, **defraud the American taxpayers.**

Before proposing new legislation and additional bureaucracy, the procedures that are used in the current system must be fixed. I have submitted for the record, suggestions for accounting and computer procedures that would save the Federal Government, I believe, at least 100 million dollars a year. If the state procedures were are reviewed, I believe even more money could be saved. HHS has been served with a FOIL **Number O–604FW that can be used to review their procedures.**

The procedures that are outlined in a Federal Complaint review the current computer systems that are being used by the State Governments. The States have a cash cow, and very little accountability. The economic models that are currently used for child support are not based on reality. One company, PSI, has a sweetheart deal and has assisted in developing more than 30 of the current child support guidelines. Since they also get paid to collect child support, and that payment is based on the amount collected, there is a clear conflict of interest, and FRAUD. The models and guidelines purposely omit categories that are used in other Federal Programs to reduce Federal Grants. In child support, however, these categories are not considered!

RE: US EX REL **Eisenstein vs. Christie Whitman et al.**

DOCKET NO. **98 CIV 8448**

### History Of The Complaint

The original complaint was filed December 1, 1998. The complaint remain sealed through March of 2000. However, the court failed to send the relator and the Justice Department the order unsealing the action. Relator had to file a Writ Mandamus and the Appellate Court found that the writ was moot since the District Court had unsealed the complaint (The writ of mandamus was filed in May of 1999.) during the time that the action was sealed the relator discovered another cause of action. Relator initially filed an order to show cause to expand the time to serve the original complaint. The Judge however, failed to hear this order to show cause. Only after a modified complaint was filed that included a new cause of action was a new summons issued by the clerk of the court. On December 3, 1999, the court heard argument based on the motions to dismiss. The court immediately dismissed the ac-

tions against PSI and Jeb Bush and the state of Florida. (The transcript pages 37 through 42 outline the court's questionable reasoning).

A BRIEF EXPLANATION OF THE CAUSES OF ACTION

This action is being brought on behalf of the United States by Relator (Eisenstein). The False claims act 31 U.S.C. 3729 et seq. is the federal statute that allows recovery for fraud. It allows an individual to sue on behalf of the United States when that individual recognizes fraud against the United States. It is not necessary that the relator suffer any damages in order to bring an action. The False claims act was passed and became law during the Civil War (1863). Congress at that time was paying excessive amounts for goods for the army. The goods were frequently not first quality. Several state officials became rich by brokering contracts and receiving kickbacks. The law was also called the Lincoln law because it was passed during the Lincoln presidency.

The law was drafted based on other law that existed in this country, and in England. The English called this law

**QUI Tam pro Domino rege quam pro si ipso in hac parte sequitur**"

(They used a long Latin phrase.) The Qui Tam action was for those who sued on their own behalf, and also on the behalf of the king. The dictionary says "**who sues on behalf of the King as well as for himself.**" The order is important.

These individuals would be rewarded for taking a chance when they prosecuted actions and placed themselves at risk.

The US Supreme Court on Nov. 29, 1999 heard argument related to the Qui Tam statute when the party committing fraud is a State.

The Commissioner of Child Support, Health and Human Services, 901 D St. SW, Washington, DC 20447, or a representative was to have been shown a copy of the complaint by the Justice Department, in Washington. Based on HHS's refusal to join the action initially, Plaintiff Relator is prosecuting the action on behalf of the United States.

There is currently a request under Federal Statutes to gather information from H.H.S. This is being addressed by HHS, but has not yet been satisfied(3–25–2000)

If HHS, has a change of heart, or at any time desires to join the action with the Justice Department, Plaintiff (relator), will assist in prosecuting this action along with the government. There are currently five causes of action in this complaint. Each cause of action is only being pursued against one or two states. Relator knows that several of the causes of action are applicable against many different states (about thirty Seven states (37)) emancipate children at eighteen, or upon graduation from high school (but before nineteen)). In summary, the causes of action are:

Arrears are an amount that states assess against individuals who the courts determine owe money. In this action it is alleged that New Jersey continues to collect Arrears in child support after the total amount owed has been collected. Arrears are frequently not assessed fairly or lawfully. Failure of New Jersey to *automatically terminate arrears when the amount is paid in full,* results in over collection and the resulting fraud against the Federal government(New Jersey continues to collect arrears even when the arrears amounts have been satisfied.) New Jersey gets a bonus for money collected. New Jersey also gets reimbursed for administrative expenses associated with child support collection.

1 Even after acknowledging the error, the state continues to collect excessive arrears. 45 CFR 307 relates to states maintaining up to date computer or manual systems. New Jersey is not in compliance with this statute) Each State receives administrative expenses for collecting child support (at least 66% of all expenses). Each state receives a bonus of not less than 6% of all money collected. Additionally, New Jersey over assesses arrears in order to collect federal reimbursement. Failure of New Jersey to keep accurate computer or manual records, and to have a uniform, statewide computer system, is in violation of Federal guiding and controlling statutes. The failure to have an accurate computer system is design, and allows the state to fraudulently over collect and assess.

2 Failure of New Jersey to allow, in practice, a rebuttable presumption on the low end of the child support spectrum. (Federal question—some states do allow a rebuttable presumption when a party is at or below the poverty level.). In New York law, in 1993 in a case called *Rose v Moody,* the highest court of New York(Court of Appeals) used the Supremacy Clause and said that the minimum amount of child support required in the New York guidelines and law violated federal law because it did not allow a rebuttable presumption. People who cannot afford child support must be able to say they cannot pay child support. When someone loses a job they should be able to apply for relief, and the state is supposed to insure that they receive 105% of the minimum living wage. New Jersey judges do not recognize this,

and frequently assess child support against individuals who are earning or receiving below the minimum livable wage. This results in failure to pay child support, and frequently incarceration. Individuals can receive unemployment benefits, and welfare, but still must pay child support.

3. Failure of New Jersey to automatically include individuals in the household budget, and to consider economy of scale when there is a remarriage, or a child who is emancipated remains in the household. In Welfare programs when the state makes payments, in New York, New Jersey and most other states, the states require that the recipient of benefits report any change in household composition so that a social service grant can be reduced based on an economy of scale. The purposeful failure to use the same economic standard in child support collections result in over assessments of at least 15–30 million dollars a year in New Jersey, and excessive Federal bonus payments to the state.

The persons who know when a child graduates from school, or quits school (college) is the child or the custodial parent. New Jersey does not recognize this, or recognizes this selectively. The failure to report this change in circumstance results in an over payment of child support, and continued administrative expenses being collected by the state. The person who pays excessive child support cannot get the money back. New Jersey, plaintiff believes, never notifies the Federal government that they over-collected, and received bonuses in excess of the lawful limit.

4. Failure of Florida to match the child support collections databases with school graduations or dropouts results in child support collection after a child is, by law, emancipated. This extra payment of child support also results in a bonus to the state, and additional funds for administrative expenses. (37 states emancipate children in intact families at 18, or upon graduation from high school (before 19) but may not terminate child support automatically in non-intact families). HHS automatically terminates Federal SSI payments when children have their eighteenth birthday. In the Interest of Judicial Economy, it should not require that actions be started in about twenty 20 other states for the same Federal Cause of Action!

5. PSI the company that assists in, and develops many states guidelines also collects child support. PSI failed to include significant groups in guidelines that they helped develop that would reduce child support. The child support that they collect, and the amount that they receive for collection is excessive. Any competent economist would recognize the groups excluded, and the economies of scale. This failure of PSI to include or exclude these groups results in excessive child support collection, and fraud against the Federal government. Plaintiff has included several Economic reviews in his response papers to the District Court.

Some of the factors that PSI failed to include are:

a. Children who are emancipated who remain at home. These children can be school graduates, or dropouts. They contribute to the fixed costs of a household and income must be imputed based on the fixed expenses that are now split and should include another party. In welfare actions, the grant amount is based on the number of people living in a household who share expenses. HHS the federal agency that monitors child support and welfare has two standards, or the states use two standards. This results in overpayment. PSI purposely omitted this group to insure that child support was excessive.

b. When there is a remarriage, (or cohabit) at least 16 percent of all custodial parents remarry, or cohabit) based on the income shares model, the new party in the household should be included when calculating costs. In households with 4, 5, and 6 children, the percentages are much less than the 16 percent in this group. (look at the census bureau for these numbers.)

c. There are very few adjustments for household expenses, when a couple has been in a house for a very long time, and have a very low mortgage. This results in separating the non-custodial parent from the children since he/she frequently can't afford to live in the area. Since there is no adjustment in child support when the rent or mortgage is reduced, the child support is excessive. The resulting child support payments are excessive.

The economic models and child support standards exclude other factors. However, the factors included in the above explanation should justify questioning the behavior of PSI, an economic expert. Other Federal Programs do include and use the factors that are not used by PSI or their state models.

Why would any sane person allow another Federal Organization to squander money? Why has it taken more than six (6) years to NOT recognize that the system does not work?

Sincerely,

*Irwin R. Eisenstein*

[By Permission of the Chairman.]

**Statement of Roger F. Gay, Project for the Improvement of Child Support Litigation Technology, Sweden**

Federal reform of the child support system has been the most significant part of welfare reform in the US over the past 25 years. The purpose of the reforms was to 1.) federalize the child support system, 2.) extend the welfare system's formulae and enforcement methods to non-welfare cases, and 3.) adapt to defined and as yet undefined international standards.

In 1973, The Hague Convention on Recognition and Enforcement established an international view of cooperation in the enforcement of child support orders. In 1974, apparently lacking any sense of coincidence, Senator Russell Long "perceived a connection" between "fathers who abandon their children" and a growth in AFDC spending. This led to the original federal child support and paternity legislation enacted in January 1975.

By the mid 1980s, it was clear that the proposed reforms were being promoted by people who could profit directly from them. The most aggressive promoters were private collection agencies which take a percent of the amount of child support paid in return for acting as middle-man in the payment process. These entrepreneurs worked together with other special interest groups, and unfortunately government employees and politicians, in a persistent and largely successful nationwide propaganda attack against a relatively peaceful, law-abiding, politically unorganized group of American citizens—fathers.

At the Hague Conference on Private International Law in 1995, a U.S. delegate promised the international community that federal legislation would "provide for services at the federal level through a Central Authority to ensure an efficient, workable and uniformly implemented system in cooperation with the states and with the foreign countries which are willing to take part. In addition, the federal government is considering the possibility of the United States becoming a party to one or more of the existing conventions."

The domestic political discussion has consisted almost exclusively of propaganda demonizing non-custodial parents. But not a hint of information has been fed to the general public on integration of or "cooperation" in an array of social programs or the impact of global integration on our domestic judicial system. Had the government made a greater effort at full disclosure, the American public would surely have responded with pressure to adapt newly proposed systems to Constitutional requirements. Such dramatic reform as has been undertaken was neither necessary nor appropriate even in the context of cooperation with other nations.

As a result of the Child Support Enforcement Amendments of 1984, the National Center for State Courts and the Office of Child Support Enforcement selected someone to write a report to "assist states in development of their child support guidelines." By that time, it was clear that funding of the OCSE and their state operations would be tied to the amount of child support paid. These government organizations selected someone with no expertise in the application of laws governing child support decisions who had done no previous work in developing child support decision models. They selected a child support collection entrepreneur whose interest in arbitrarily increasing child support awards for profit was at least as great as their interest in increasing the funding they received.

Due to federal legislation tying funding to the amount paid, states have a direct financial interest in increasing child support awards. They have increased payments, mostly by middle and upper income payers to middle and upper income recipients, largely by accepting the recommendations for arbitrarily increasing awards and by eliminating due process rights that would lead to correction of award levels.

While complaints from citizens pile up by the millions, states defend their use of the formula with bold-faced lies. Among them is that the National Center for State Courts has carried out extensive economic studies which have led to a highly credible formula for determining just and appropriate child support awards. In addition, I quite recently have read newspaper articles claiming that the reforms have been an economic success.

The child support decision model recommended by the child support collection entrepreneur, in slightly modified form is the most popular formula in the states. State child support commissions today, which control the review of child support guidelines required by federal law are largely controlled by government units that receive funding in relation to the amount paid. Not one state has ever shown that use of their child support guideline results in just and appropriate awards in each

case, as required by law. And the child support collection entrepreneur continues to be the consultant in highest demand in carrying out the reviews.

The second most popular child support formula in the states was first suggested by a group at the Institute for Research on Poverty and is part of what has been called the "Wisconsin Model" in relation to welfare reform. The Wisconsin Model for child support determination and enforcement was largely plagiarized from old Soviet law. Some, and probably most of it is still part of Russian family law today. There is no justification for its use in the United States.

Still today, there are defenders of the Wisconsin Model. There are those who will not admit the wrong that has been done. There are those who continue to blame the victim of the injustice, who continue to rely on the prejudice against fathers that was so skillfully built during the 1980s and 1990s. Instead of admitting the fault, they recommend a further reduction in human rights and the use of greater force against that target population. And we hear about it more subtly in political discussion today from candidates for office who want to "build on what has already been done."

A result of my own research that I should convey is that there is no credible research supporting the idea of the "adequacy gap" in the amount of child support awarded in the past. The "adequacy gap" served as the stated justification for increases in award amounts. It meant that courts had wrongfully awarded child support under rational child support laws and the prescribed correction was the use of rigid formula that promoters claimed would produce appropriate awards.

My own research led to an understanding that on the whole (overall result), judges did not award child support improperly (footnote *) and that the rational basis for the award of child support used before the federal reforms was appropriate. The so-called "adequacy gap" was nothing more than the arbitrary increase in award levels promised by formula promoters. Individual case results may have been wrong, but no one showed that such problems could not be dealt with in the best way through proper administration of justice in the courts.

Among other things, new federal child support enforcement services were thought to be required for families receiving assistance under AFDC, FC, and Medicaid programs. Even if true, it does not explain the expansion of federal government authority into non-welfare related family law, nor the mandate for use of rigid formulae for calculating child support awards in non-welfare cases. It came nowhere near explaining the import the expensive, dysfunctional, bureaucratic child support systems from other countries, which has been accomplished over the past two decades. This is particularly true since they have largely been a failure, both in the United States and in the countries of origin. Even the best of them simply achieves what parents most often do privately and none of them have achieved the high level of support for children by parents in the US (both current and historical).

All this might suggest that my testimony is in support of H.R. 1488, which would apparently reduce the profit potential in child support enforcement by shifting at least some of the collection process to the IRS. I do not however, support H.R. 1488. Still, it is apparent that something must be done. While child support reforms have not produced the reduction in welfare cost promised by their promoters, they have certainly produced a great deal of harm.

Footnote * One very important exception was found in the details. Prior to the introduction of the Income Shares model (most popular) after federal reforms were in place, many state judges and local bar associations developed and used "cost sharing guidelines" sharing the same logic. The difference was largely in the numeric values representing the "cost of children" and the judicious consideration of a wider range of mitigating factors before "guidelines" became presumptively correct. The logic expressed mathematically in this simple cost sharing model produces cost sharing proportions that unfairly reduce the amount of support awarded when the recipient's income is low, especially when the payer's income is much higher. The problem is easily corrected by proper inclusion of a self-support reserve as it is expressed in, for example, the Delaware-Melson formula.

LANCASTER NON-CUSTODIAL PARENTS
OF LANCASTER, PENNSYLVANIA
WRIGHTSVILLE, PA 17368
*March 20, 2000*

A.L. Singleton,
Chief of Staff,
Committee on Ways and Means,
U.S. House of Representatives,
1102 Longworth House Office Building,
*Washington, DC 20515*

Good morning Madam Chairman and members of the Subcommittee,

My name is Don Hank and I am the chairman of Lancaster Non-Custodial Parents in Lancaster, Pennsylvania.

I have been an admirer of Henry Hyde's ever since I heard him in a TV interview say that laws are too often made without considering the far-reaching consequences. Amen, Mr. Hyde.

Something we need to beware of today more than ever is the creeping expansion of central power. No one is better qualified to speak of central power than historian Robert Conquest, author of "The great Terror," a 1968 account of Stalin's purges, and "Harvest of Sorrow" the 1968 chronicle of collectivization of agriculture in the Ukraine which alone resulted in the deaths of 10 million people. I am particularly sensitized to past events in the Soviet Union and to manifestations mimicking them in this country because I studied there as a language student in the early 1970s. In an interview entitled "Control Freaks" appearing in the January/February issue of *The American Enterprise,* Conquest makes the point that "the slow drift toward bureaucratic centralism is harder to warn against than outright socialism." But for this author, there is little difference in final outcome between the two. I agree.

I want to go on record as opposing the Hyde-Woolsey Child Support Bill for several reasons, one of which is a justified fear of the kind of centralized power of which Conquest warns, and another that child support awards are based on an endemic gender bias of the family courts such that men are denied custody on little more than a gender basis. It is my belief that if gender bias were eliminated from family court, not only would child support awards be reduced by billions annually (resulting in enormous enforcement savings), but in fact divorce rates would plummet. All of this would redound to the best interest of children. Thus there is little justification in further stepping up of enforcement until measures are taken on the federal level to eliminate this bias.

In my activities with Lancaster Non-Custodial Parents (LNCP, listed with United Way) I have had personal dealings with hundreds of child support payers. As incredible as it may sound, probably less than 10% of these clients had issues with child support payment. The main reasons they stated for joining or contacting LNCP were in fact **overwhelmingly** their concern for their children and their desire to spend more time with them.

Certainly, it is by now redundant to dwell on the suffering caused by true "deadbeat dads" who turn their backs on their children. Indeed my own family has been particularly hard hit by these men and I have no time for them. Yet in my experience with LNCP, and from the messages I see daily from around the country on the Internet, it is clear that the salient issue with separated and divorced fathers in America is not child support payment but rather alienation of these fathers from their children with the willing assistance of the State. As Sanford Braver convincingly shows in his book "Divorced Dads, Shattering the Myths," (Penguin Putnam, 1998), tens of thousands of fathers are separated from their children by an endemic gender bias of family courts, which reflexively grant custody to women on the basis of gender alone, despite wording in state statutes vaguely alluding to the "best interests of the children."

**The Inherent Unfairness of Current Child Support Enforcement**

The existence of the true "deadbeat dad," a species quite a bit rarer than once suspected (see the above-mentioned book by Braver), will probably always make it fair for the State to enforce justifiable and true child support payments. The thorniness arises when the State also decides **how much** the non-custodial parent (NCP) should pay. Child support in this country is perceived by a growing number of men as **wife** support because it is predicated on the notion that the mother, to adequately provide for her children, must enjoy the same lifestyle she did when mar-

ried, a notion that is in turn predicated on the notion that she, as a woman, is powerless to maintain the lifestyle herself, while the father has enormous earning power simply because of the traditional status enjoyed by men as a group for centuries. I am personally acquainted with low-income working men who pay child support to their millionaire ex-wives. Indeed, one of the women in my group is now paying child support to her millionaire ex-husband because she made the mistake of turning the children over to him, thereby entering the man's world of child support obligation.

With 1.8 million more women than men attending colleges and universities today, women will soon be much more able to maintain a luxurious lifestyle than the men in their lives, and many already are.

Yet law and jurisprudence make no provision for this radical societal change, enshrining in statutes and case law the antiquated paradigm of the female as victim and the male as her oppressor, to the detriment of men.

Under no-fault divorce law, we encounter a frequent scenario where a man sincerely enters into a solemn marriage contract with a woman, who after having one or more children with the man, decides marriage is boring and exits the marriage, against the husband's will and at variance with his expectations. Child support laws then attempt to enforce against the man a contract that is in fact not a contract, because he had only agreed to the marriage, not to the divorce and hence to what amounts to quasi-perpetual wife support, while he himself is forced to live a lonely life without his wife or children. No amount of "deadbeat dad" propaganda can make this father "see" the fairness of this enforcement because it is not only unfair on its face, it is in fact a gross injustice in practice as well.

To illustrate how this works in practice, let me cite a call I received from a man who, though he makes a decent income as an electrical engineer, is now living out of a truck in a supermarket parking lot. It seems his wife started meeting and courting men on the Internet. She soon made arrangements to meet some of them for romantic encounters.

When the husband discovered the messages from the men on his computer (which she had been using to access the Net) and confronted her with this, she confessed everything. But then she went to court and asked for a restraining order against her husband. She admitted to the judge that the husband was not abusive but said she was afraid he might lose control because of **her behavior.** The judge granted the restraining order and the husband was immediately evicted. Then, in order to receive visits from her lovers in the family home (which **he** still pays on under court order), the wife placed their son in the care of his grandparents. Then she went back to court and won a child support order that pays her $800.00-a-month "child" support even though the son spends most of his time with his grandparents and his father, who has liberal visitation rights.

The judge will not award custody to the man or waive the child support obligation. In fact, the judge refused to listen to the man's story.

How is the "child" support helping this child? And by what right to we use the term "best interests of the child" to describe the current disaster that is family court?

**Child Support as Support for Irresponsibility**

After the government had for many years paid poor women welfare in direct proportion to the number of children they had, and for unlimited numbers of children, it finally realized that some women were having children for the sole purpose of collecting welfare, and therefore ultimately abandoned this policy, now paying them only for one child. Yet the government seems to have learned nothing from this experience with regard to child support. What it should have learned is that if women are capable of having unlimited numbers of children to collect welfare, then they may well be capable of having unlimited numbers of children to collect child support from fathers.

Could it be that we have forgotten the story of Charney Wise? In Philadelphia, little 5 year old Charney was persecuted and tortured by her mother, a welfare recipient, who admitted she hated her daughter and that she had had the girl solely to collect welfare. Her mother chained her in the basement and refused to feed her regularly or give her water. Naturally, Charney died. The mother was so convinced of the benevolence of the courts toward women that she bragged she would "walk."

It is clear that Charney never would have been born into this hell in the first place had it not been for a State welfare system that gives money to mothers for having children without requiring them to show even a modicum of love or care for these children.

It should be clear that child support can work analogously, inducing women to have children out of wedlock to a variety of men without any natural love for these

youngsters and without any constraint on the part of the government, which focuses its undivided attention on the largely mythical creature known as the "deadbeat dad." Though the outcome of the Hyde-Woolsey bill is not clear, the aforementioned statement of Henry Hyde himself regarding the hasty passage of legislation without due study ring in my ears. And the grievous wrongs perpetrated against fathers and children, which I have witnessed and testified to above, portend the tragic results that can be expected.

**A Little Victim of Gender Bias (Warning: Reading the Following May Cause You to Cry)**

Here in Lancaster, Pennsylvania, we have a case that epitomizes the monstrous outcome of unconsidered gender-based custody decisions in the lives of children. Jason Huff, a three-year-old toddler, was left in a dangerous home with a drug-addicted mother and her paramour. (See "Would Jason Huff Be Alive if Agency Had Heeded Warning?," Janet Kelley, *Lancaster New Era,* Aug 28, 1982.)

The boy had been removed from the home by the Children and Youth Agency and hospitalized when the mother forced him to drink hot coffee as a "punishment" for some misdeed.

At that point, the alarmed father, Larry Huff, intervened, suing for custody. The father had been involved in the youngster's life, keeping up regular visitation over a long distance. He spent thousands to sue for custody. He took off work to appear in court. He plead sincerely for his son's safety.

The judge's decision: "Children belong with their mothers." The judge further explained that Larry was not really a caring father and did not have the child's best interests at heart.

Those closest to the boy were alarmed. One of the father's witnesses remarked to another attendee of the hearing as he walked down the steps of the courthouse, "That boy won't live to see his fourth birthday." (Personal report by my friend Biddy Helton, who was mentioned in the above-cited New Era article).

Less than a month before Jason's 4th birthday, Larry Huff got a call from the emergency room of the Lancaster General Hospital and was told to come as quickly as possible. His heart in his throat, Larry raced to the hospital. On the scene he was guided by a nurse through a curtain surround to a small cot in a corner, where he saw the boy's little form, gasping and unconscious. Jason had a lump on his head "the size of a goose egg," according to a friend of mine who knew the boy.

Tears streaming down his cheeks, Larry sat down on the edge of the cot, took the little boy's hand in his, and gave it a gentle squeeze. The little hand squeezed back ever so faintly. Then Jason died.

The judge who rendered the custody decision now sits on a higher court.

**Something's Wrong Here**

According to abused women's advocates, there is a 70% correlation between spousal abuse and child abuse. This has been widely accepted among legal specialists as a valid argument to avoid joint custody legislation, which, it is claimed, would promote abuse of women. Yet according to the pamphlet "Child Maltreatment 1996," (US Department of Health and Human Services) 60% of all child abuses are perpetrated by women. Thus it is hard to understand why, in our country, fathers rarely get custody or even 50–50 shared custody or why it is primarily men who are forced to leave their homes under restraining orders. In fact, out of the first hundred parents who contacted my organization in Lancaster for help, only two were mothers, one of whom did not get custody because she willingly relinquished it to the father, and the other of whom lost because she had been served a restraining order for violence. Most of the men had no such justifying circumstances for losing custody and most seemed genuinely baffled as to the custody outcome.

In fact, three of the men had been victims of extreme violence (two were hospitalized, due to vehicular homicide attempts) at the hands of their ex-wives. Yet in all three cases, these violent women got custody of the children and the men were forced to pay handsome amounts to these women just to keep themselves out of prison. One was left with $78 a week to live on.

Under archaic state laws, some men who have sired no children are forced to pay child support simply because they were once duped into believing they were biological fathers and accepted the fatherhood role under these false circumstances. One of the fathers in my group falls into this category. DNA is on his side. PA, kafkaesque, pursues him like an animal. Should these non-fathers be hounded now by an IRS turned KGB? It seems our dragnet is far too wide and is misguided. As a result, child support collection is quickly becoming the new McCarthyism. Men-both white and black this time-are the new slave class.

These men in Lancaster, PA, and according to Braver, tens of thousands like them throughout America, are forced into secondary parental roles when in fact any reasonable person would admit they are the better parent. The fact that they are paying child support is due to an unacceptable bias on the part of judges who believe men are simply unsuitable parents, an assumption which Dr. Sanford ably demonstrates to be false.

Thus before child support enforcement is further strengthened, there needs to be a major reform to ensure that the custody awards are in fact for the most part fair.

**This reform cannot come from the states at this point. Here is why:**

The federal involvement in child support collection whereby the federal government pays rewards to states in porportion to child support amounts collected has led state legislators to avoid legislating a rebuttable presumption of 50–50 joint physical custody of children after divorce, despite pressure from fathers groups.

Such a presumption is now in place in several states which had the integrity to put the interests of children ahead of federal funding. However, children in many states, like Pennsylvania, for example, are not as fortunate. Here legislators avoid the issue of joint custody without stating why. Groups such as mine that approach state legislators with their comments are stonewalled or ignored. After divorce (63–67% of which are filed by women according to Braver), fathers become visitors, coming around typically twice a month yet supporting the ex wife and children with up to 50% of their salaries and sometimes more. Women, while encouraged by the wording on their custody order to be generous with father's time with the children, are in fact strongly discouraged from being too generous by legislation that allows a reduction of child support payments when father's time approaches parity with mother's time.

In my own case, my son was dumped into day care despite my offer to care for him while my ex went to work (I have a business in the home). Medical research has shown that constant day care at the ages of 1–3 can result in severe emotional damage (See "Ghosts from the Nursery" by Robin Karr-Morse and Meredith Wiley, Atlantic Monthly Press 1997). Nonetheless, there are no legal provisions for fathers taking over the child care role. The primary custodian is boss and she need provide no explanation-indeed my ex could not have provided one—or her decision.

It is therefore my conviction that, since the federal government has already entered States domain in a way that has had harmful fallout for children, then it must, to be fair to those children, also enter States domain to protect them, and to do so must mandate state legislation requiring a rebuttable presumption of 50–50 joint physical custody after divorce or separation or in cases of out—of—wedlock births as a prerequisite to eligibility for the federal CS collection award.

This would be the most effective legal means of protecting children from the now well—known ill effects of fatherlessness. It would do so by discouraging divorce in the first place by reducing the monetary rewards for mothers, and second by allowing children equal contact with both parents once a divorce does occur.

It would further redound to major tax savings since in joint physical custody each parent provides for the children with a minimum of money exchange between parents and hence with a minimum of State intervention. The federal reward would be substantially reduced in this elegant solution.

Finally, such equal treatment of parents provides for greater equality among children as well, in contrast to the present status of 2 administratively created classes of children, ie, those living in intact families with equal access to both parents and those living in divorce and unfairly separated from one parent by court decree in a manner inconsistent with our Constitution.

"Child" Support Clearly is not for Children, So Why the Focus on Enforcement When Reform is the Really Pressing Issue?

Another reason why current child support enforcement policy is unfair on its face is that, while it purports to be in the children's best interest, it clearly seems designed primarily to empower women, particularly divorced or unmarried women, thereby supporting the institution of single motherhood that has caused grievous harm to our society in the form of fatherlessness and the now well-known attendant ills. If the State merely wished to ensure that children's material needs were cared for, in addition to vigorously enforcing child support payment, it would:

1) establish accountability regulations ensuring that the custodial parent is indeed utilizing the funds for the children;

2) establish a minimum child support amount to be allotted for children within intact marriages, with specific amounts assigned to each parent depending on their incomes.

3) establish strict penalties, including jail terms, for persons who owe money to families, part of which could reasonably be expected to go for child support. Thus, if a plumber with children repaired a leaky faucet and the person who hired him failed to pay, that person would be charged with non-payment of child support corresponding to the amount that could reasonably be expected to be spent on the plumber's children.

One might be tempted at first to dismiss this argument as sophistry or glib banter. But in fact, a very large proportion of family-owned businesses go bankrupt every year due to insolvency, and the children suffer every bit as much as the children of single moms not receiving child support. Clearly the State is concerned not with the children's best interests but rather with the best interests of single mothers, placing the interests of the group of single mothers far above those of wedded parents and their children.

Further, what the State has in fact done in its child support enforcement and judicial system is to create, at variance with Constitutional provisions, two classes of parents, one with no dollar-specific legal constraints to support their children monetarily and another with a very specific obligation to pay, in most cases, far more than children ordinarily need to live, without providing a convincing rationale for so doing.

To add to the grievousness of this distortion, the State forces non-custodial parents, overwhelmingly males, to pay ill-justified sums of money to custodial parents, overwhelmingly females, in a system that seems clearly designed to hurt men and benefit women, at variance, at least de facto, with legal gender neutrality constraints.

**Children's Best Interests**

The very least that must be done before beefing up child support enforcement is to ensure that children are given optimal contact with both parents. This cannot be done with our antiquated adversarial system whereby one parent takes all, both money and children, while the other is left empty-handed and alone, and where children are left with one parent and one visitor.

**Compliance**

Sanford Braver, in the above-cited book, makes the point that, "When mothers received sole custody of the children despite the father's wishes, fathers reported paying 80% of child support they owed; according to mothers, fathers paid 62%. When joint legal custody was awarded over the mother's initial objections, child support zoomed to very high compliance: 93% by fathers' reports; 89% by mothers' reports."

Imagine the willful compliance rates that would result from awarding not only joint **legal** custody but also 50–50 shared physical custody. Providing on a **national level** for a rebuttable presumption of 50–50 shared physical custody would certainly be a more rational approach than strengthening child support **enforcement.** And psychologically, this is certainly the common-sense approach.

Centralization is a terrifying thing, and as Soviet history has shown, its outcome is dangerously unpredictable, but whether states or the IRS collect child support, what really matters is that the system be fair and that children's best interests be the bottom line. In a compassionate society, any bill of law that touches on child support must necessarily include ways to make the system fair and truly pro-children. As things stand now, with 40% of America's children living in fatherless homes (see "Fatherless America," by David Blankenhorn, Harper Perennial, 1996), America is fast approaching the Hegelian ideal of the State as parent.

We must find ways to reverse this trend rather than reinforcing it with legislation like the Hyde-Woolsey CS Bill, which would raise state involvement to an even higher level than before and hence promote to a higher degree the family breakdown deplored by Americans everywhere.

Specifically, we need national legislation mandating a rebuttable presumption of so-so shared physical custody in custody decisions on the state level as a prerequisite to federal CS collection incentive payments. Further, in the event the IRS should take over CS collection, we need to establish tax credits for fathers who do pay CS regularly. This way the emphasis is on rewarding good behavior rather than punishing bad behavior.

Thank you for your attention to my concerns.

Sincerely,

DONALD E. HANK